

MAIN PROGRAM 07

SELECTED ISSUES OF INTELLECTUAL PROPERTY

07.1 Genetic Resources, Traditional Knowledge and Folklore

07.2 Intellectual Property and Life sciences

07.3 Intellectual Property Enforcement Issues and Special Projects

Summary

145. This program deals with an array of interrelated IP issues that have come to the forefront of international debate, and are of concern in national policymaking in many countries: IP protection of traditional knowledge and traditional cultural expressions (or folklore), IP aspects of genetic resources, IP in the life sciences and IP enforcement issues. These issues range over a diverse set of interests and policy concerns, but overlap and interact in important ways; the manner in which these issues are managed in the future will determine how IP mechanisms function to promote economic and social development in key areas. At stake, also, is the potential of the IP system to yield benefits for a wide range of beneficiaries. The issues to be dealt with in sub-program 07.1 and 07.2 are characterized by complex and technically demanding policy debates, and pressing demands for technical information and factual analysis, for capacity building, for the development of new IP tools and for the application of IP mechanisms to new areas. WIPO will continue its integrated approach, which combines practical understanding of the operation of IP mechanisms with support for policy debate and complementary capacity-building, so that the untapped potential of individual, community and national IP assets can be realized.

146. The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) has, from 2001 to 2003, formed a key international forum for considering the relationship between IP and the broader interests concerned with traditional knowledge (TK), traditional cultural expressions (TCEs) or folklore, and genetic resources. It has conducted a broad ranging policy debate, dealing with IP and its interactions with related policy areas such as biodiversity and agriculture, but it has also sought to develop practical solutions for IP concerns raised in the policy debates. Current policy and legal issues

concern, for instance, the interaction between TK and the patent system, the role of customary law and cultures in relation to IPRs, collective interests in traditional cultures and the role of the public domain, and IP aspects of prior informed consent and benefit sharing relating to access to TK and genetic resources. WIPO will continue to provide an international forum for this policy dialogue, and will support this dialogue with more detailed information, legal analysis, and empirical studies, so that future directions chosen by Member States are founded on a solid factual base and a comprehensive understanding of the experience of different countries and of local and indigenous communities who have developed and applied various legal protection mechanisms. This debate reflects concerns that local and indigenous communities should benefit in a practical way from the use of IP protection mechanisms relating to TK and TCEs, and from IP aspects of associated genetic resources, especially given the background of concerns about potential misappropriation and the implications of documenting and otherwise making available TK, TCEs and genetic resources. There are also widely-voiced aspirations to use the distinctive elements of TK and TCEs as IP assets, so as to support the economic and social development, and cultural integrity of communities who consider these as crucial to their identity and well-being. Building on the deliberations of successive IGC sessions, supplemented by extensive consultations, surveys, national and regional policy dialogue, and legal and technical analysis, the IGC's work is reaching a point of maturity, when it can be expected to yield practical strategies that offer tangible benefits for the holders of TK, TCEs and genetic resources. WIPO has established a central core of information about practical options and understanding of the needs and expectations of TK holders. It is now time to put this material to use in useful, adaptable, appropriate and accessible forms at the service of Member States and the communities with particular concerns and interests in this area. These materials will blend policy and legal analysis, empirical study, and tools for capacity-building. Enhanced legal protection and effective use of available legal tools requires an holistic approach, so that policy developments are guided by a practical understanding of the needs, infrastructure and resource requirements of TK holders and other potential beneficiaries in local and indigenous communities.

147. The sub-program 07.2 on life sciences will provide a means for coordinating WIPO's continuing work in supporting and informing international policy discussion in this vital area. Rapid advances in the life sciences have provoked an extensive international debate on the appropriate role and actual impact of IP rights on life science technologies, and their ethical, developmental and health policy implications. These developments also pose challenges for public and private institutions and policymakers, for instance concerning the operational and policy implications of patenting biotechnology materials and research tools; the role of IP in relation to public health (such as the role of IP in relation to access to medicines, and in research on neglected diseases, including through public-private initiatives); and broader public policy issues. This sub-program will enable WIPO to enhance its support for international policy discussions and contribution to practical understanding of these issues, on the basis of program activities from previous biennia, including a renewed focus on the questions raised by the Working Group on Biotechnology (document WIPO/BIOT/WG/99/1).

148. The issues to be dealt with in sub-program 07.3 are characterized by on-going efforts for the reinforcement of international cooperation among national and regional enforcement authorities, relevant intergovernmental organizations and non-governmental organizations. Collaboration with those authorities and organizations in the implementation of existing obligations in the field of enforcement will be strengthened in accordance with the conclusions by the Chair that the Advisory Committee on Enforcement adopted at its first session held in June 2003 (document WIPO/ACE/1/7).

SUB-PROGRAM 07.1

GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE

Objective: To enable TK holders and custodians of traditional cultures to derive tangible benefits from the legal protection of their TK, traditional culture expressions (folklore) and associated genetic resources.

Expected Results	Performance Indicators
1. Strengthened international policy dialogue on how TK and TCEs can be legally protected and valorized as assets of indigenous and local communities; identification and articulation of the elements of an international consensus on the IP protection of TK and TCEs and on IP aspects of genetic resources.	<ul style="list-style-type: none">• Feedback from participants in policy forums and consultations, especially representatives of indigenous and local communities and other TK holders, with respect to their ability to legally protect and benefit from TK, TCEs and genetic resources; feedback from Member States on policy issues.• Specific outcomes from international policy processes convened by WIPO.
2. Implementation of specific policy and practical tools in Member States to support the IP protection of TK and TCEs, to enhance practical capacity to benefit from legal protection, and to manage the IP aspects of genetic resources, for the benefit of the owners of TK/TCEs and custodians of genetic resources.	<ul style="list-style-type: none">• Number of policy and practical tools applied in practice.• Evidence of specific benefits arising from the use of IP tools by holders of TK/TCEs and custodians of genetic resources.
3. More effective legal mechanisms for the protection of TK, TCEs and IP aspects of genetic resources.	Feedback from Member States and other stakeholders on usefulness of WIPO generated analyses and reviews of proposed and model legislation, and workshops on legal and technical aspects of legal protection.

149. This sub-program will integrate policy dialogue with practical outcomes, with the aim of yielding tangible benefits to owners of TK and TCEs, as well as benefits to developing country communities rich in genetic resources, building on the extensive information collected and policy dialogue already undertaken in the IGC. This will entail enhanced consultations with indigenous and local communities and their representatives, further legal and technical support for individual Member States and regional initiatives on legal protection, and the production of specific practical tools and information materials to assist indigenous and local communities to derive benefits from legal protection systems and to safeguard their interests against misappropriation, and the unintended loss or erosion of rights. The sub-program will support and facilitate the development of specific outcomes, such as recommendations or best practices, reflecting international consensus on IP issues concerning TK, TCEs and genetic resources.

150. In view of the increased activity in other international fora, and increased interest in civil society and public-private partnerships, and the establishment of the UN Permanent Forum on Indigenous Issues, this sub-program will also aim to enhance productive cooperation, based on WIPO's established IP expertise, with and legal and technical input into other international processes.

Activities

- Convening and supporting international and regional policy-level and expert working meetings to address IP issues concerning TK, TCEs and genetic resources;
- undertaking and supporting regional and national consultations, dialogue, policy development, practical programs, pilot programs, technical studies, legal and technical cooperation, and awareness-raising, with a focus on the enhanced involvement of indigenous and local communities, as well as local legal professionals, research institutions, and academics, including national and sub-regional information and training workshops;
- further development, deployment and adaptation for specific communities and national systems of practical tools for enhancing the positive and defensive protection of TK, including a multifaceted toolkit for the management of IP interests in the documentation of TK, a Guide for the Protection of Expressions of Traditional Culture and a survey of practical experience in legal protection of TK;
- studies and consultations on the use of existing IP systems and further international cooperation on the recognition of disclosed traditional knowledge and genetic resources for the purposes of patent procedure;
- consulting on and developing the elements of a potential international consensus on IP protection of TK and TCEs, and on IP aspects of genetic resources;
- the provision of technical and legal IP assistance and information to other organizations, United Nations bodies, fora and parties dealing with TK, TCEs and genetic resource issues, such as the UN Permanent Forum on Indigenous Issues,

the CBD, the FAO, the IUCN, UNCTAD, UNEP, UNESCO, the WHO, the WTO, the World Bank and the United Nations Human Rights Commission Working Group on Indigenous Populations.

SUB-PROGRAM 07.2

INTELLECTUAL PROPERTY AND LIFE SCIENCES

Objective: To support and enhance informed debate and policy making on intellectual property issues related to life sciences.

Expected Results	Performance Indicators
1. Enhanced international debates and national policy developments concerning life sciences and IP issues.	<ul style="list-style-type: none">• Scope of issues addressed and quality of substantive input to debates.• Extent of engagement with international debates on IP and life-science issues.
2. Strengthened capacity at the national level to promote beneficial public policy outcomes through strategic IP management in relation to the life sciences.	<ul style="list-style-type: none">• Range of activities and nature of feedback on policy developments in Member States concerning life sciences and IP issues.• Quality and impact of information materials developed.

151. This sub-program will seek to develop objective analysis and empirical information, with the aim of supporting debate and facilitating informed policy choices on IP-related questions arising in the area of life sciences. This sub-program will also seek to ensure that policy directions at national and international levels can be developed and reviewed with the support of a greatly enhanced base of practical information, legal analysis and documentation of policy options and strategic national approaches to use of IP in the life sciences. This should assist government agencies and legislators in assessing policy options and formulating recommendations at the national level, while ensuring full understanding of the range and implications of policy flexibilities within the established international framework.

Activities

- Undertaking and supporting national, regional or international consultations on issues on IP and life sciences, and supporting international policy dialogue on these issues, including on practical and policy options for public benefit from life science innovations;

- study of patterns of IP rights based on life science innovations, and compilation of information on trends in the use of IP systems concerning key genetic resources and biotechnologies in the agricultural sector, and their implications for the use of these resources and technologies, in cooperation as appropriate with relevant international organizations such as the FAO;
- preparation of and dissemination of a primer on life sciences and IP for policy makers and other information materials for use in policy formulation and implementation;
- analysis and dissemination of practical information on how policy mechanisms are developed and applied to enhanced public policy outcomes from the IP system in the life sciences;
- the provision of technical and legal IP assistance and information to other organizations, United Nations bodies, fora and parties dealing with issues relevant to IP in the area of life sciences and participation in relevant meetings;
- undertaking of selected activities agreed by the WIPO Working Group on Biotechnology subject to prior consent by the Member States, to the extent that these issues are not addressed under sub-program 7.1.

SUB-PROGRAM 07.3

INTELLECTUAL PROPERTY ENFORCEMENT ISSUES AND SPECIAL PROJECTS

Objective: To address the needs of Member States in developing and strengthening their systems and infrastructure for the enforcement of IPRs and to support discussions in the Advisory Committee on Enforcement.

Expected Results	Performance Indicators
1. Strengthened capacities in national and regional systems for the enforcement of IPRs, including improved understanding of enforcement issues and strategies.	<ul style="list-style-type: none">• Evaluation feedback on the impact of capacity building activities in the area of enforcement.• Strategies initiated and/or systems introduced in Member States in the area of enforcement of IPRs.
2. Enhanced public awareness in the fight against counterfeiting and piracy.	Number of projects and information materials developed at the national level to enhance public awareness in these areas.

Expected Results	Performance Indicators
3. Greater awareness among Member States and other stakeholders of the importance of enforcement of IPRs and exchange of national and regional experiences in the area of enforcement.	Information exchange in the Electronic Forum on Intellectual Property Enforcement Issues and Strategies (IPEIS).
4. Coordination and cooperation with other relevant organizations and the private sector.	Number of joint activities with other relevant organizations and the private sector.

152. This sub-program aims to assist Member States in enhancing national systems for enforcement of IPRs. An effective system for enforcement is essential to address counterfeiting, piracy and all other forms of IP infringement. The approach taken in the sub-program towards the creation of the IP culture is to meet the diverse needs of Member States in establishing an effective enforcement mechanism. The priority under this sub-program is to assist Member States in improving the use of their available resources to develop and strengthen their national systems for the enforcement of IPRs. In this regard, program activities will focus on WIPO's advice on national legislation for the protection of IPRs and effective mechanisms to deal with counterfeiting, piracy, and all other forms of IP infringement.

153. The sub-program will follow up activities previously initiated by the Advisory Committee on Enforcement of Industrial Property Rights (ACE/IP), the Advisory Committee on Management and Enforcement of Copyright and Related Rights in Global Information Networks (ACMEC) and the Consultation Meeting on Enforcement (CME). The Committee will facilitate international cooperation and coordination with relevant IGOs and NGOs, and with the private sector, to combat counterfeiting and piracy, by enhancing public education, technical assistance, national and regional training programs for relevant stakeholders, and the exchange of information on enforcement issues through the IPEIS.

Activities

- Convening and servicing the annual meetings of the Advisory Committee on Enforcement and undertaking activities giving effect to the decisions by the Committee;
- addressing the needs of Member States in developing and strengthening their national and regional systems for the enforcement of IPRs;
- providing, upon request and in consultation with other units concerned, technical and legal assistance to Member States, in relation to the development of strategies and systems for the effective enforcement of IPRs;

- promoting the use of the IPEIS, particularly as a forum whereby enforcement officials such as customs and police officers and staff of IPOs can share information on their respective national experiences;
- collecting, and providing upon request, information on good practices, including cost-effective measures for the enforcement of IPRs;
- collaborating with units responsible for Main Program 08, 09 and 10 to develop and implement structured training programs (including training and information materials) for the judiciary, customs, police and other relevant law enforcement agencies, and to carry out activities, including organization of meetings and seminars on enforcement issues;
- coordinating WIPO activities regarding enforcement and cooperating with other relevant organizations through the sharing of technical expertise and through organizing joint seminars, meetings and training programs on the enforcement of IPRs;
- developing projects and information materials for use in national, regional and international campaigns to enhance public awareness in the fight against counterfeiting and piracy.

Where appropriate, the activities will be carried out in cooperation with other relevant organizations, the private sector, and other Main Programs, including Main Programs 08, 09, and 10.

Resource Description by Object of Expenditure

154. Total resources of Sfr7,072,000 reflect a program increase of Sfr541,000 or 8.6 per cent with respect to the corresponding amount in the 2002-2003 biennium.

155. For staff resources, an amount of Sfr4,613,000 is shown, a program increase of Sfr623,000 or 16.7 per cent. This includes resources of:

- (i) Sfr4,266,000 for posts, reflecting one additional position with respect to the previous biennium, the reclassification of two positions including the regrading of one post as D-level and
- (ii) Sfr347,000 for short-term expenses.

156. For travel and fellowships, an amount of Sfr1,240,000 is shown, reflecting an unchanged amount with respect 2002-2003. This includes resources of:

- (i) Sfr340,000 for 70 staff missions,
- (ii) Sfr900,000 for 200 third party travel in connection with the holding of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, meetings on intellectual property enforcement and related meetings.

157. For contractual services, an amount of Sfr1,098,000 is shown, a program decrease of Sfr49,000 or 4.3 per cent. This includes resources of:

- (i) Sfr370,000 for conferences to cover interpretation and other costs of the Intergovernmental Committee, Working Group, Advisory Committee on Enforcement and related meetings,
- (ii) Sfr648,000 for consultants services,
- (iii) Sfr60,000 for publishing services and
- (iv) Sfr20,000 for other contractual expenditures.

158. For operating expenses, an amount of Sfr71,000 is shown, a program decrease of Sfr60,000 or 45.8 per cent to cover the cost of communications and other expenses.

159. For equipment and supplies, an amount of Sfr50,000 is shown, a program increase of Sfr27,000 or 117.4 per cent. This includes resources of:

- (i) Sfr30,000 for furniture and equipment and
- (ii) Sfr20,000 for supplies and materials.

Table 9.7 Detailed Budget 2004-2005 for Main Program 07

A. Budget Variation by Sub-program and Object of Expenditure (in thousands of Swiss francs)

		2002-2003 Revised A	Budget Variation						2004-2005 Proposed E=A+D
			Program		Cost		Total		
			Amount B	% B/A	Amount C	% C/A	Amount D=B+C	% D/A	
I. By Sub-program									
07.1	Genetic Resources, Traditional Knowledge and Folklore	4,758	(1,033)	(21.7)	124	2.6	(909)	(19.1)	3,849
07.2	Intellectual Property and Life Sciences	--	897	--	75	--	972	--	972
07.3	Intellectual Property Enforcement Issues and Special Projects	1,507	677	44.9	67	4.4	744	49.4	2,251
TOTAL		6,265	541	8.6	266	4.2	807	12.9	7,072
II. By Object of Expenditure									
	Staff Costs	3,739	623	16.7	251	6.7	874	23.4	4,613
	Travel and Fellowships	1,232	--	--	8	0.6	8	0.6	1,240
	Contractual Services	1,140	(49)	(4.3)	7	0.6	(42)	(3.7)	1,098
	Operating Expenses	131	(60)	(45.8)	--	--	(60)	(45.8)	71
	Equipment and Supplies	23	27	117.4	--	--	27	117.4	50
TOTAL		6,265	541	8.6	266	4.2	807	12.9	7,072

B. Post Variation by Post Category

Post Category	2002-2003 Revised A	Post Variation B-A	2004-2005 Proposed B
Directors	1	1	2
Professionals	6	1	7
General Service	3	(1)	2
TOTAL	10	1	11

C. Budget Allocation by Sub-program and Object of Expenditure (in thousands of Swiss francs)

Object of Expenditure	Sub-program			Total
	1 GRTKF	2 IPLS	3 IPEISP	
Staff Costs				
Posts	1,960	808	1,498	4,266
Short-term Expenses	164	94	89	347
Travel and Fellowships				
Staff Missions	234	50	56	340
Third Party Travel	645	--	255	900
Contractual Services				
Conferences	278	--	92	370
Consultants	418	--	230	648
Publishing	60	--	--	60
Other	10	10	--	20
Operating Expenses				
Communication and Other	50	--	21	71
Equipment and Supplies				
Furniture and Equipment	20	--	10	30
Supplies and Materials	10	10	--	20
TOTAL	3,849	972	2,251	7,072