



Sharing Experiences, Tools and Methodologies in the Field of Implementation of Technical Assistance Activities: Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions

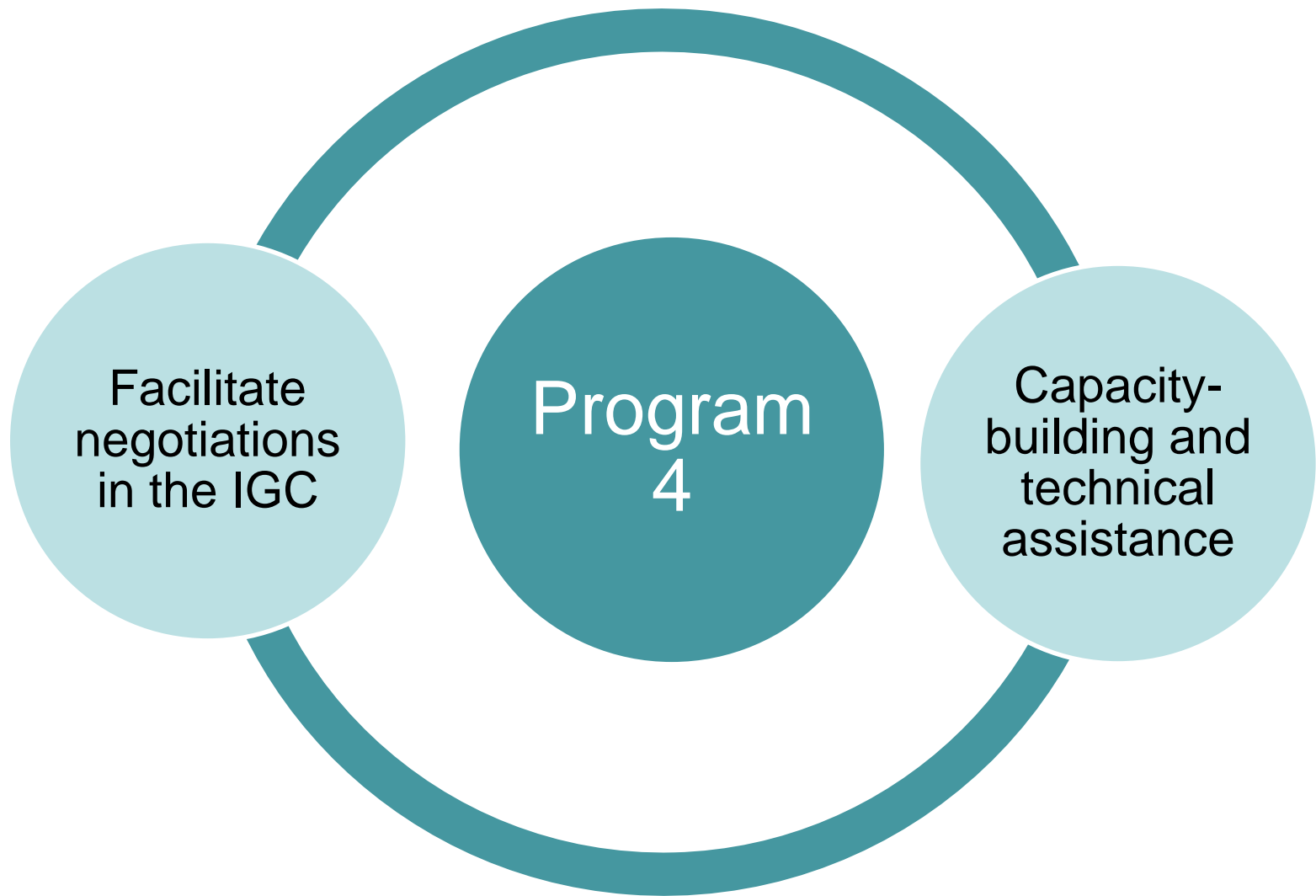
WIPO Roundtable, May 12, 2017

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Traditional Knowledge Division, WIPO

Genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions/folklore (TCEs)

Program 4 of WIPO's Program and Budget

Traditional Knowledge Division, in cooperation with Regional Bureaus, Academy, LDCs and others



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graph TD; A((Capacity-building and technical assistance)) --> B((More effective use of existing IP systems)); A --> C((Neutral information on issues and options for new "sui generis" IP systems));
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Capacity-building
and technical
assistance

More
effective use
of existing IP
systems

Neutral
information
on issues
and options
for new "sui
generis" IP
systems

What we do

Some principles



Sri Lanka
Traditional
Drum,
photograph by
Steve Evans



Facilitate

international, regional and national policy and legislative development



Inform

raise awareness, provide information on experiences, identify key issues, explain options and policy choices



Train

provide hands-on practical training and support on selected topics



Facilitate: international, regional and national policy and legislative development

Regional and national: on request, we help regional organizations and national governments develop strategies, policies, action plans and laws



Checklist of Key Questions and Issues

Databases of laws

Background Brief 3

Facilitating national policy development





Inform: raise awareness,
provide information on
experiences, identify key issues,
explain options and policy choices



Briefs

Case-studies

Databases of resources

Guides

Online distance learning course

Repository of national experiences

E-Updates

www.wipo.int/tk



This course aims to provide technical information on key concepts and international, regional and national experiences, policy options and legal mechanisms available or under consideration for the intellectual property protection of traditional knowledge and traditional cultural expressions. It is hoped that the course will strengthen capacity and stimulate consideration of these issues, share experiences and advance understanding of the range of issues and possible options in this area, in which legal and policy developments are still evolving at national, regional and international levels.

Curriculum

The course consists of 4 substantive modules and a final exam.

- Module 1: Overview and Key Concepts
- Module 2: Options for the IP Protection of TK and TCEs
- Module 3: Protecting TK and TCEs with Existing and Adapted IP Rights
- Module 4: Protecting TK and TCEs with a Sui Generis System of Protection
- Final Exam

Academic support is provided throughout each module by experienced tutors who are expert practitioners in the field of intellectual property.

Final Exam and Certificate

There is a written final exam at the end of this course for which participants are required to compose written responses to a series of questions within a specified timeframe and submit their responses, via the e-learning platform, to their tutors for marking. Participants are individually contacted regarding modalities for accessing the final exam approximately one week prior to the deadline for completion of the DL-203 course.

Basic Information

- **Venue :** Online
- **Language :** English
- **Duration :** 70 hours
- **Tutored :** Yes
- **Certificate :** Yes
- **Cost :** [Fee list](#)
- **Course administrator :**
DL203e.academy@wipo.int

Current session

DL203E17S1

- **Registration :** 12-Jan-2017 - 24-Mar-2017
- **Course :** 04-Apr-2017 - 09-Jul-2017
- **Next Exam :** 05-Jul-2017 - 09-Jul-2017

[Access Course](#)

Regional, National, Local and Community Experiences

This page includes resources available on WIPO's website on regional, national, local and community experiences regarding intellectual property and genetic resources, traditional knowledge and traditional cultural expressions.

Table of contents

1. [Laws, legislative measures and protocols](#)
2. [Fact-finding missions, surveys, submissions by member states and observers](#)
3. [Case studies](#)
4. [Lectures and presentations](#)
5. [Other resources](#)

No. 1

Traditional Knowledge and Intellectual Property

The current international system for protecting intellectual property was fashioned during the age of enlightenment and industrialization and developed subsequently in line with the perceived needs of technologically advanced societies. However, in recent years, indigenous peoples, local communities, and governments, mainly in developing countries, have demanded equivalent protection for traditional knowledge. WIPO member states take part in negotiations within the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). In order to develop an international legal instrument (or instruments) that would give traditional knowledge, genetic resources and traditional cultural expressions (TCEs) effective protection. Such an instrument could range from a recommendation to WIPO members to a formal treaty that would bind countries choosing to ratify it. Representatives of indigenous and local communities associated by the WIPO Voluntary Fund to attend the WIPO talks, and their active participation is crucial for a successful outcome. Background Brief No. 1 The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore is available at www.wipo.int/ipcr/talks/level2/en/resources/pdf/bk_brief.pdf.

Traditional knowledge (and so-called biocultural heritage) is a living body of knowledge that is developed, sustained and passed on from generation to generation within a community, forming part of its cultural or spiritual identity. It is not easily protected by the current intellectual property system, which typically provides protection for a limited period to new ideas and original works by individuals or companies. Its living nature also means that "traditional" knowledge is not easy to define.

Recognizing traditional forms of creativity as novel and protectable intellectual property enables indigenous and local communities as governments to have a say over their own. This may make it possible, for example, to protect traditional remedies, artefacts or agricultural products against misappropriation, and enable communities to control and benefit collectively from commercial exploitation.

Although the negotiations underway in WIPO proceeded mainly by developing countries, they are not really divided along "North-South" lines. Communities and governments do not necessarily share the same views, and some developed by governments, especially those with indigenous populations, are active.

No. 2

The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

Established in 1993, the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) is a forum where WIPO member states discuss the intellectual property issues that arise in the context of access to genetic resources and benefit-sharing as well as the protection of traditional knowledge and traditional cultural expressions (in the terms "traditional cultural expressions" and "expressions of folklore" are used interchangeably in WIPO discussions).

The IGC holds formal negotiations with the objective of reaching agreement on one or more international legal instruments that would ensure the effective protection of genetic resources, traditional knowledge and traditional cultural expressions. Such an instrument or instruments could range from a recommendation to WIPO members to a formal treaty that would bind countries choosing to ratify it.

This brief describes the origins and rationale of the IGC, the participation of members and observers including indigenous and local communities, its achievements and the state of ongoing negotiations under its mandate.

Origins and rationale

Work within the intellectual property (IP) community on the protection of traditional cultural expressions (TCEs) goes back to the 1930s. The impetus came from a growing sense in developing countries that folklore embodied creativity and was part of the cultural identity of indigenous and local communities. It was therefore seen as worthy of IP protection, especially since new technologies were making folklore increasingly vulnerable to exploitation and misuse.

The 1967 revision of the Berne Convention for the Protection of Literary and Artistic Works, where protection is based on originality and identifiable authorship, fell short of ensuring adequate protection for TCEs. The member states of WIPO and UNESCO (United Nations Educational, Scientific and Cultural Organization) developed in 1982 a set of Model Provisions for national laws to serve as a source of inspiration for interested countries. In 1986, the WIPO Performance and Phonograms Treaty succeeded in providing for the protection of the rights of performers of expressions of folklore.

Work on the relationship between IP, traditional knowledge (TK) and genetic resources (GRs) is more recent, and stems from concerns regarding the role that IP protection should play in achieving global policy objectives as set out in the Convention on Biological Diversity (1992), food security, fair and fair trade, and development.

No. 3

Developing a National Strategy on Intellectual Property, Traditional Knowledge and Traditional Cultural Expressions

This brief summarizes the legal, policy and operational issues that need to be considered in developing a national strategy for the intellectual property protection of traditional knowledge and traditional cultural expressions, also known as folklore.

At present, intellectual property protection of traditional knowledge and traditional cultural expressions, are mainly primarily for national governments. Negotiations are currently underway in the World Intellectual Property Organization (WIPO) to develop an international legal instrument (or instruments) for the effective protection of traditional knowledge and traditional cultural expressions, and to address the intellectual property aspects of the access to and the sharing of benefit arising from the use of genetic resources. These negotiations are taking place in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), established by the WIPO General Assembly in 2000.

Traditional Knowledge and Traditional Cultural Expressions

The meaning of "protection"

This brief is concerned with a very specific understanding of the term "protection", to mean the use of intellectual property (IP) laws, values and principles to prevent unauthorized or inappropriate use, by third parties, of traditional knowledge (TK) and traditional cultural expressions (TCEs). The objective of IP protection is to make sure that the intellectual innovation and creativity embodied in TK or TCEs are not wrongly used.

IP protection can take two forms – positive and defensive protection. Positive protection grants IP rights in the subject matter of TK and TCEs. This may help communities prevent third parties from gaining illegitimate access to TK and TCEs, or from using them for commercial gain without equitably sharing the benefits. It may also enable communities to achieve exploitation of TK and TCEs by the originating community itself, for example, to build up its own handicraft enterprises. Defensive protection, on the other hand, does not grant IP rights over the subject matter of TK and TCEs but aims to stop such rights from being acquired by third parties. Defensive strategies include the use of documented TK to preclude or oppose patent rights on claimed inventions that make direct use of TK.



Train: provide hands-on practical training and support on selected topics



- Practical guide on branding of TK-based community products (2017)
- Practical guide on IP clauses in ABS agreements
- Practical guide for indigenous peoples and local communities (2107)
- Study on patent disclosure requirements: key questions (2017)
- Patent examination guidelines (2017)
- Practical guide on managing IP in arts festivals
- Toolkit on TK documentation
- Guide for museums and archives

Multi-stakeholder practical workshops



COPYRIGHT

- ① EXCLUSIVE RIGHTS IN COMMUNITY MARKS
- ② RIGHTS AFTER DEATH
- ③ COMMUNITIES HAVE TO OPT TO REGISTER DESIGN
- ④ NOT IN SINGAPORE HAVE NOT BEEN REGISTERED
- ⑤ TRADEMARK TERM ONLY REGISTERED NON-RENEWED 100% legal, but not the TM. Example is based on goods & services
- ⑥ Not BUT → 5000+ NOT. Example TM: Tiffin (Singapore)



① A lot of confusion and a result is the least

② Purely/originally traditional - who owns the copyright?

③ There will be

- (1) Origin
- (2) Use

④ Design

- (1) Words
- (2) Images

⑤

⑥

Value

Lot

- ①
- ②
- ③
- ④
- ⑤
- ⑥
- ⑦
- ⑧
- ⑨
- ⑩



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Training Program

WIPO provides intensive, hands-on training to indigenous peoples and local communities on how to safeguard their music, performances, art, designs and other [traditional cultural expressions](#) (TCEs).

The aims of the program are to assist communities to create [intellectual property](#) (IP) rights in their cultural heritage (in the form of digital photographs, audiovisual material, sound recordings and databases), exercise control and make informed decisions on access and use by third parties. It also offers the potential for communities to draw income from the commercialization of their cultural assets, if they so wish and in a way that corresponds to their values.

The training has been offered in partnership with [The American Folklife Center](#) (AFC) at the Library of Congress and the [Center for Documentary Studies](#) (CDS) at Duke University. Donations for the program can be made through WIPO's [IP Development Matchmaking](#)



Video: Digitizing Tradit

Some principles



Sri Lanka
Traditional
Drum,
photograph by
Steve Evans

- Upon request
- Needs driven
- Absorptive capacity
- Sustainability

- GRs/TK/TCEs issues are not “separate”: part of national innovation/IP policies, action plans and strategies
- Not prescriptive: issues, examples and options: no “model”
- Inclusiveness: indigenous peoples and local communities and all affected Government departments

- The three P’s: Partnerships, People and Practical

- Transparency



All resources at
<http://www.wipo.int/tk/en/>
Sign up for our E-Updates

Contact the Traditional Knowledge Division at
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