

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT



**Report of the
UNCTAD-Commonwealth Secretariat Workshop
on Elements of National Sui Generis Systems
for the Preservation, Protection and Promotion
of Traditional Knowledge, Innovations and Practices
and Options for an International Framework**



Geneva, 4-6 February 2004



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Executive Summary

Some 90 participants with a range of perspectives and expertise (trade, environment, intellectual property, indigenous issues, enterprise development, etc.) participated in the workshop in their personal capacities as experts. They brainstormed on actions that could be taken at the national and regional levels to preserve, protect and promote for development traditional knowledge, innovations and practices (TK) as well as international dimensions. This report reflects the diversity of views and ideas expressed during this meeting.

To preserve TK, a number of actions were identified for *ex situ* preservation, notably TK registries and museums, as well as for the *in-situ* preservation of TK in living diverse communities. National actions aimed at the latter included media transmissions in local languages, including TK in formal education, training young people, preservation of the natural environment, securing land rights, and enhancing livelihoods.

Both defensive and positive TK protection were discussed. Possible national level actions included disclosure of the source of origin of genetic resources and related TK in patent applications, recognition of the ownership of TK-holding communities of their TK, recognition of customary law, contracts, prior informed consent, and use of conventional IP instruments such as geographical indications. Many felt that the current IPR instruments cannot adequately protect TK and that non-IPR options should also be explored.

To promote TK for development, the importance of sharing experiences among communities as well as countries was emphasized. Supporting community-based development requires actions that are similar to supporting any small enterprise, including capacity building in entrepreneurial skills, access to finance and markets, and facilitating partnerships with larger enterprises. Means of promoting and scaling up innovations were discussed. Benefit sharing with TK-holders was emphasized.

On international dimensions, a main concern was preventing inappropriate or unauthorized use or patenting. The disclosure of origin issue was debated, as were the relative merits of voluntary guidelines, MOUs and soft law approaches versus binding international instruments. An international framework for mutual recognition of national *sui generis* systems received special attention. Establishing a Global Biocollecting Society that could deal with TK-related patent applications, and using fairtrade channels to market TK-based products were two other avenues that could be further explored.

Discussion and background papers for the meeting are available on UNCTAD's Trade, Environment and Development Branch Web site, at www.unctad.org/trade_env/TK2.htm.

* The workshop was organized in collaboration with the Quaker United Nations Office (QUNO).

Contents

I. Introduction	1
II. Opening of the Meeting.....	2
III. Elements of National Systems	2
A. Preservation of TK.....	5
1. Actions aimed at Ex situ preservation	5
2. Actions aimed at In situ preservation of TK.....	6
3. Cross-cutting issues	8
B. Protection of TK.....	8
1. Actions aimed at the defensive IP protection of TK.....	11
2. Actions aimed at positive TK protection, including to prevent the unauthorized or inappropriate use of TK, particularly by third parties:	12
3. Measures aimed at promoting benefit sharing with TK-holders	14
C. Promoting TK for Development	14
1. Actions aimed at promoting the use and further development of TK, including TK-based innovations	15
2. Actions aimed at enhancing community livelihoods through sales of TK-based products.....	16
IV. International Dimensions.....	19
V. Areas for Further Research	25

I. Introduction

This workshop brought together some 90 experts with a broad range of perspectives and expertise to brainstorm in an informal setting on possible actions and policies that could be included in national *sui generis* systems for the preservation, protection and promotion of traditional knowledge, innovations and practices (TK) and options for an international framework. It was jointly organized by the Commonwealth and UNCTAD secretariats, in cooperation with the Quaker United Nations Office. Participants in the workshop took part in their individual capacities and discussed the topics as outlined in the programme (Annex 1).

The workshop intended to bring some clarity to the various TK-related objectives that policy makers might wish to pursue at national or other levels, and to match objectives with potential tools. The workshop focused in particular on the separate but inter-linked objectives of preserving TK, protecting TK, and promoting TK for development. For each of these objectives, a menu of possible actions was identified. It is envisaged that such a menu would be a useful input to national multi-stakeholder policy dialogues on TK.

Four draft discussion papers were prepared for the meeting¹. In addition, a number of documents were submitted by participants or invitees. These are available on the UNCTAD Trade, Environment and Development Branch Website at www.unctad.org/trade_env/TK2.htm.

This report summarizes the main points which arose during the workshop discussions and debate on these topics. It also incorporates some of the ideas contained in the above-mentioned documents. The report highlights in particular concrete actions which could be taken in pursuit of one or more of the three TK-related objectives listed above. Participants also emphasized the importance of a holistic approach to the subject, as actions aimed at one objective (e.g. protection) may have unintended effects in other areas (e.g. preservation).

The report is structured to reflect the debates. The meeting was opened by representatives of the UNCTAD and Commonwealth Secretariats. The first day was then devoted to identifying national actions that could be considered by policy makers interested in designing and implementing *sui generis* systems for the preservation

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