



GENDER DIMENSIONS OF INTELLECTUAL PROPERTY AND TRADITIONAL MEDICINAL KNOWLEDGE

E-DISCUSSION PAPER

Asia-Pacific Trade and Investment Initiative
UNDP Regional Centre in Colombo
April 2007

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Published by UNDP Asia-Pacific Trade and Investment Initiative¹

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Layout and Design by Bryn Gay and Gayan Peiris

Cover Photos by Bryn Gay; Babasteve; Romana Chapman; Tango 48; and Toufeeque

First Edition

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ACKNOWLEDGEMENTS

This E-Discussion Paper is written by Heather Gibb at The North-South Institute, as a background study for the Gender and Trade Policy Paper. The paper had its origins in a bus conversation in Dhaka with a woman whose organization was working with rural women on a pilot project to cultivate an indigenous medicinal plant for local and, potentially, regional markets. She was unfamiliar with intellectual property rights issues and concerned that her association, which had a mandate to advise the government on trade policy, was also unfamiliar with trade regimes. It was not apparent that the funder was aware of national, regional or international IP regimes which might have a bearing on the long-term viability of their project.

No one seemed to be connecting the dots between a pilot project targeting women micro-entrepreneurs, Traditional Knowledge and intellectual property regimes on the one hand, and trade-related capacity building initiatives available for government officials and larger producers on the other. I am very grateful for the support, encouragement and patience of Yumiko Yamamoto and Bryn Gay at the UNDP Asia-Pacific Regional Centre in Colombo, and for helpful conversations with Russell Barsh, Philip Bird, Chantal Blouin, Tasmin Rajotte, and Ann Weston. All errors and omissions are entirely the responsibility of the author. Several Creative Commons-licensed photographs were taken from Flickr.com®; photographers are gratefully acknowledged.

This E-Discussion Paper is prepared as part of the work programme of the UNDP Asia-Pacific Trade and Investment Initiative (APTII)

ABBREVIATIONS AND ACRONYMS

AIDS	Acquired ImmunoDeficiency Syndrome
ASEAN	Association of Southeast Asian Nations
BIMSTEC	Bay of Bengal Initiative for MultiSectoral Technical and Economic Cooperation (Bangladesh, India, Myanmar, Sri Lanka, Thailand, Bhutan and Nepal)
CBD	Convention on Biological Diversity
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CENTAD	Centre for Trade and Development
CIPR	Commission on Intellectual Property Rights
COMTRADE	UN Commodity Trade Statistics Database (of United Nations)
COP	Conference of the Parties (the governing body of the CBD)
DEBTEC	Biotechnology and Environmental Conservation Centre, Bangladesh
FAO	Food and Agriculture Organization of the United Nations
FTA	Free Trade Agreement
HIV	Human Immunodeficiency Virus
ICG	Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (of WIPO)
ICIMOD	International Centre for Integrated Mountain Development
IFC - SEDF	International Finance Corporation - The South Asia Enterprise Development Facility
IK	Indigenous Knowledge
ILO	International Labour Organization
IP	Intellectual Property
IPRs	Intellectual Property Rights
IUFRO	International Union of Forest Research Organizations
MAPs	Medicinal and Aromatic Plants
MAPPA	Medicinal and Aromatic Plants Program in Asia (International Centre for Integrated Mountain Development, Nepal)
NGOs	Non-Governmental Organizations
NTFP	Non-Timber Forest Product
PDCA	Provisional Committee for Proposals Related to a Development Agenda (WIPO)
PIC	Prior, Informed Consent
QUUNO	Quaker United Nations Office
SAARC	South Asian Association for Regional Cooperation (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka)
SDT	Special and Differential Treatment
SEDF	South Asia Enterprise Development Facility
SME	Small and Medium Enterprise

TK	Traditional Knowledge
TM	Traditional Medicine
TMK	Traditional Medicinal Knowledge
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNIFEM	United Nations Development Fund for Women
UNU-IAS	United Nations University Institute of Advanced Studies
UPOV	International Union for the Protection of New Varieties of Plants
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WIPO-IGC	World Intellectual Property Organization Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
WTO	World Trade Organization

INTRODUCTION

World Trade Organization (WTO) trade ministers reached a breakthrough agreement in Doha, Qatar in 2001 that interprets and implements the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) “in a manner supportive of WTO members’ right to promote public health and...promote access to medicines for all.”¹ This agreement recognized the right of countries to make use of TRIPS flexibilities that would let public authorities issue compulsory licences to a third-party to produce or import a pharmaceutical drug that is still under patent. By 2003 WTO members had reached an agreement to allow countries that produce generic drugs to export them to poor countries that have no capacity to manufacture generics. The move responded to evidence (and strong civil society campaigning) that patent protection under TRIPS for essential pharmaceutical drugs was having the effect of increasing prices and reducing access to essential medicines, in particular, to drugs that treat Human Immunodeficiency Virus (HIV) and Acquired ImmunoDeficiency Syndrome (AIDS).

healthcare system in poor countries, particularly in rural areas, where access to Western biomedicine⁴ is limited or prohibitively expensive. Medicinal and aromatic plants (MAPs) are an essential part of traditional healthcare systems, constituting an accessible, affordable and culturally appropriate source of primary healthcare for more than 80 percent of Asia’s population (WHO 2003). In China, traditional herbal preparations account for 30-50 percent of the total medicinal consumption (*ibid.*). Traditional medicine is widely used in India, particularly in rural areas; Ayurveda, Unani, Siddha, naturopathy, homeopathy and yoga are recognized by the Government of India under the Central Council of Indian Medicine Act (1970) (WHO 2001, p. 132). Seventy percent of Indonesia’s rural population relies on traditional medicine; more births are attended by traditional birth attendants than by allopathic practitioners. Indonesia also has an important traditional medicine industry: At the end of 1999, there were 723 manufacturers of traditional medicine, 92 of which were large-scale industries (*ibid.*, 132).

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