



Traditional Knowledge and EPAs

Issues to consider

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What is traditional knowledge (TK)?

- Knowledge that is not ‘modern’
- Knowledge held either individually or collectively
- Knowledge that cannot easily be protected under existing IPR laws and treaties
- Knowledge that is in the ‘public domain’ and/or considered ‘prior art’

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What protection for TK?

1. Defensive protection
2. Protection through existing IPR frameworks
3. *Sui generis* protection



Defensive protection

- Registration of TK in written form to confirm public domain status of knowledge
- Disclosure requirement ensuring acknowledgment of use of TK and triggering benefit sharing



Protection through existing IPR frameworks

- Use of patent system to foster TK protection through, for instance:
 - Concept of joint inventorship
 - Redefinition of notion of inventiveness
- Geographical indications
 - Best suited form of existing IPRs for TK protection



Sui generis protection

- Aims of a *sui generis* system:
 - Ensuring conservation and protection
 - Ensuring protection of TK is linked to protection of underlying biodiversity (Article 8(j) CBD)
 - Ensuring protection of TK undertaken to protect commercial and non-commercial uses of TK



TK, ACP countries and EPAs

- Premise: TK is neither ‘old’ nor ‘valueless’
- Need to ensure:
 - Effective control over plant genetic resources for TK holders in domestic law (property rights) and for countries of origin at international level (sovereign rights)
 - Mechanisms to ensure no unjust appropriation of TK domestically or internationally

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TK and ACP countries (ctd)

- Need to ensure (ctd)
 - Procedural guarantees such as prior informed consent, access and benefit sharing regimes, disclosure requirements
- Establishment of *sui generis* law recognising multiplicity of uses and functions of TK and taking into account all international commitments