

INTERNATIONAL VILM WORKSHOP ON MATTERS RELATED TO TRADITIONAL KNOWLEDGE ASSOCIATED WITH GENETIC RESOURCES AND THE ABS-REGIME



TK and PIC: Ways to incorporate TK in PIC decisions. What are the options to address the balance between domestic flexibility and international standards on access? – Some views and/or potential text options



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WAYS TO INCORPORATE TK IN PIC DECISIONS

□ The international rules (International Regime on ABS)

- Must be minimal and standardized
- Should establish the general/key parameters that allow the fair and equitable sharing of benefits arising from the use of TK associated to GRR and from the access to GRR existing in their territories, recognizing the collective rights of them.
 - Access to GRR existing in indigenous territories, with or without associated TK -issue not discussed- Also ABS parameters must be establish in this case
 - In Bolivia: The Political Constitution of the State establishes that benefits must be provided by the use of natural resources existing in indigenous peoples territories, taking into account their internal rules.

WAYS TO INCORPORATE TK IN PIC DECISIONS

□ **The general parameters that International Regime on ABS could be include are:**

- Recognition of the collective rights of indigenous peoples over their TK and the NNRR existing in their territories.
- Mechanisms and tools to give PIC by the origin Parties countries of GGRR (providers) – Divulgation of the origin country
- Mechanisms and tools to give the PIC by the indigenous peoples holders of TK associated to the GGRR, through their authorities:
 - Participatory decision-making processes
 - PIC provided in written documents (agreements, minutes, certificated, etc.) – Divulgation of the TK source

WAYS TO INCORPORATE TK IN PIC DECISIONS

- ❑ **The general parameters that the International Regime on ABS could include are: (Cont.)**
 - Mutually agreed terms between the country of origin of the GRR, the holders of associated TK and the users.
 - Mechanisms for sharing monetary benefits among stakeholders within the country, including the indigenous peoples involved (50% in Bolivia).
 - Inclusion of aspects to monitor the compliance



WAYS TO INCORPORATE TK IN PIC DECISIONS

- **The role of the competent authorities of indigenous peoples in the ABS processes are important.** The national and regional authorities of indigenous peoples (in case of Bolivia for e.g.) have the role of:
 - Give the PIC with prior approval of the indigenous peoples that they represent, according to the regions and the agreed procedures,
 - Negotiate the "mutually agreed terms" on behalf of indigenous peoples
 - Request and submit to the NCA on ABS, the demands of communities.
 - Coordinate with the NCA on ABS, to agree the mechanisms for benefit sharing within the communities, for monitoring and supervision, .

WAYS TO INCORPORATE TK IN PIC DECISIONS

- ❑ Indigenous people make decisions about the use of their natural resources of their territories and associated TK, according to their internal protocols, procedures and rules according to customary law.
- ❑ The ABS International Regime should not establish rules on Intellectual Property Rights of indigenous peoples, these issues are being discussed by the WIPO Intergovernmental Committee.
- ❑ What happened if WIPO don't have results?



WHAT ARE THE OPTIONS TO ADDRESS THE BALANCE BETWEEN DOMESTIC FLEXIBILITY AND INTERNATIONAL STANDARDS ON ACCES?

- **A balanced option could be ensured if the ABS Regime:**
 - Recognizes the collective rights of indigenous peoples on their traditional knowledge including at least:
 - The rights on the natural resources existing in the indigenous peoples territories/lands - need more discussion-
 - Establishes the obligation to demonstrate the country of origin of the GGRR and the source of the traditional knowledge (write PIC)



WHAT ARE THE OPTIONS TO ADDRESS THE BALANCE BETWEEN DOMESTIC FLEXIBILITY AND INTERNATIONAL STANDARDS ON ACCES?

- ❑ **A balanced option could be ensured if the ABS Regime:**
 - Establishes the system for benefit sharing (multilateral or bilateral)
 - Determines percentages for monetary benefit sharing arising from the use of GRR and TK
 - Establishes the instrument through which the countries of origin will authorize the ABS, including associated TK (Access contract, Material Transfer Agreement)

POTENTIAL TEXT OPTIONS

- ❑ Countries Parties to the CBD recognize the collective rights of indigenous peoples on their TK associated to the genetic resources
- ❑ Countries Parties to the CBD must ensure the obligation to demonstrate the origin country of the GGRR and the source of the traditional knowledge by the GGRR and TK users.



POTENTIAL TEXT OPTIONS

- ❑ Countries Parties to the CBD should establish national legislation to include measures to ensure that the use of the TK associated to genetic resources should be in accordance with the internal rules and procedures of indigenous peoples and respecting their collective rights and organizations structures.
- ❑ The PIC for the use of TK should be given by national and regional authorities of indigenous peoples with the approval of them (may be one or more communities) and endorsement by the national competent authority on ABS.

THANK YOU VERY MUCH

