

# **TRADITIONAL KNOWLEDGE GUIDELINES PREPARED BY CAS-IP**

Presented to the Genetic Resources Policy Committee  
meeting held March 2008 (GRPC 23)

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## Update<sup>1</sup> on Guidelines for Traditional Knowledge practices in the CGIAR Centres

Staff of the CGIAR Centers are committed to following ethical practices in the way they carry out their research<sup>2</sup>. This responsibility extends to awareness and respect of the rights associated with traditional knowledge (TK) acquired from indigenous peoples and other partners for use by CGIAR researchers. Many international treaties address the protection of indigenous peoples as regards their TK, and the ongoing initiatives of WIPO and World Bank are devoted to raising awareness of the importance of, and problems with, rights in TK. However, -the potential for loss and misappropriation of TK is still seen to remain problematic. On the one side there is the lack of enforcement of international and national commitments, while on the other side, case studies have shown that there is a lack of recognition of indigenous people's rights by both recipients and givers of such knowledge.

Many CGIAR scientists are directly involved in work with indigenous peoples and the TK associated with agriculture as developed by these groups. Thus CGIAR scientists represent a point of intersection between the industrialized world and indigenous people. Therefore, these scientists bear a serious responsibility with regard to the way in which TK is acquired and used during their research. As stated in the United Nations Declaration on the Rights of Indigenous Peoples, "Indigenous peoples have the right to maintain, control, protect, and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of the sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge and traditional cultural expressions."<sup>3</sup>

Several Centers expressed the need for a set of guidelines, to ensure that the practices used by CGIAR scientists would be consistent, fair and ethical. A set of guidelines has been produced, that are based on interviews of CGIAR scientists and experiences of research and policy groups in other organizations. These guidelines are put forward by the Genetic Resource Policy Committee (GRPC) to provide a useful framework to the CGIAR community.

One over-arching concern for both those that supply TK and those that receive it, --is the need for prior informed consent (PIC). The Guidelines make this clear. It is necessary to document the PIC that has been established before the beginning of any new study, based on the understanding that has been reached between the provider and the intended recipient. This PIC can take the form of an agreement, minutes of conversations, or other documents exchanged between both sides. Indeed, discussion between both sides will likely improve the research methodology by asking for input from both the providers and the recipients<sup>4</sup>. The PIC documentation should reflect conversations that indicate both sides understand what TK is going to be imparted, how the TK is going to be used, how and when the results of the research will be reported back to the providers, what the risks or opportunities regarding IPRs might be, as well as other points that have been discussed in order to bring about a full understanding of the research project and the implications for both sides regarding the use of the TK in the project.

When an existing project changes, the PIC documentation should be revised, as necessary, to reflect such changes to such a project. It would be appropriate for Centers to keep track of the financial cost of executing each PIC so that budgetary implications can be determined and included in the financial planning for future projects involving TK.

An aspect of the acquisition and use of TK that may be desirable to both the researcher and the provider is to document the TK. Documentation could, for example, take the form of the creation of a database that contains fields that describe the TK, dates when the knowledge was provided, and other

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<sup>1</sup> Text taken from minutes of the GRPC23, held March 2008

<sup>2</sup> CGIAR Statement of Ethical Principles, 1999.

<sup>3</sup> Article 31.1 of the United Nations Declaration on the Rights of Indigenous Peoples, adopted by General Assembly Resolution 61/295 on 13 September 2007. <http://www.un.org/esa/socdev/unpfii/en/drip.html>

<sup>4</sup> Various methodologies that are designed to ensure the opportunity for all parties engaged in a research project have been described. Examples of these methods include: Participatory Action Research (PAR), Adaptive Collaborative Management (ACM), and in general, Integrated Natural Resource Management (INRM).

characteristics such as whether the TK should be kept as confidential information, etc. The possibility of documenting TK received should be spelled out in the instrument that memorializes the PIC.

CGIAR researchers that were interviewed emphasized the need and responsibility of the scientists to bring their results back to the indigenous peoples that provided the TK in each project. Results need to be shared with indigenous peoples in a way that contributes to the indigenous peoples' understanding of what the results are and how these results may be useful to them in future use of their own TK. *Many Centers work with indigenous peoples using a participatory action research (PAR) approach. By using the PAR approach, these Centers feel that indigenous peoples derive maximum benefit from interacting with the researchers and are better able to utilize research results.*

The following guidelines are based of the experience of CGIAR scientists regarding the use and acquisition of TK and of research and policy groups in other organizations. These guidelines attempt to provide practical recommendations to the CGIAR community incorporating best practices to ensure that research involving the acquisition and use of TK will be carried out in an appropriate, ethical and consistent manner throughout the CGIAR System. These guidelines will be reviewed by the Genetic Resources Policy Committee (GRPC) and revised when necessary. We look forward to receiving feedback that will assist us with these revisions.

## **Draft Guidelines for the Acquisition and Use of TK by CGIAR Scientists**<sup>5</sup>

### **1. Prior Informed Consent (PIC)**

*- Before every research activity that involves local communities or indigenous people and exchange of traditional knowledge (TK)<sup>6</sup>, the relevant stakeholders and representatives will be identified and informed of the research plan of proposed activities and research products to be disseminated. Whenever possible, scientists should work in cooperation with local and national authorities, such as the Ministry of Culture/Cultural Affairs<sup>7</sup>.*

*- Prior informed consent (PIC) must be reduced to writing including details about the research activity, the time/planning schedule, the expected results and foreseeable benefits and potential harms and risks. The PIC will comply with applicable law.*

*- Adequate time, resources, and expertise shall be allocated for documentation and for PIC discussions, which shall always be carried out in an atmosphere of mutual respect.*

*- Information about potential further use and the implications of such use shall be provided to the local communities or indigenous people involved in the research activity.*

*- When in situ PGRFA material is collected, researchers should seek to obtain it under the SMTA in accordance with national law.*

*- The research will be carried out in compliance with the PIC. For any activity that differs from the terms agreed, a new PIC understanding will be sought*

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<sup>5</sup> From, [Appendix 5: Minutes of the GRPC Meeting held March 2008; GRPC 23]

<sup>6</sup> "Traditional knowledge" means the context or substance of knowledge resulting from intellectual activity in a traditional context, and includes the know-how, skills, innovations, practices and learning that form part of traditional knowledge systems, and knowledge embodying traditional lifestyles of indigenous and local communities, or contained in codified knowledge systems passed between generations. It is not or contained in codified knowledge systems passed between generations. It is not limited to any specific technical field, and may include agricultural, environmental and medicinal knowledge, and knowledge associated with genetic resources.

<sup>7</sup> Examples of such ministries are: the Department of Culture, Indian Ministry of Tourism and Culture, New Zealand Ministry of Foreign Affairs and Trade, the Nigerian Federal Ministry of Culture and Tourism

*- Means for dealing with problems that might arise such as a difference in opinions, withdrawal of a party from the cooperation, or other unforeseen circumstances that change the relationship of the parties, shall be agreed upon.*

## **2. Publishing TK**

*- For the public disclosure of TK in scientific articles, databases, books, presentations, etc, the consent of all relevant parties shall be sought and an understanding regarding authorship and attribution shall be reached.*

*- The contribution of the TK holders shall be acknowledged and respected in all publications and presentations.*

*- TK holders must be informed about reasonably foreseeable consequences of the public disclosure of their knowledge before publication.*

## **3. Giving back research results**

*- Passing back research results shall be recognized to be an integral part of the research. As such, all project plans will have a component for ensuring that results reach the local communities in an accessible and useful manner (for example, in local languages).*

*- Methodologies used to process TK during the research will be explained to the local communities or indigenous people.*

## **4. Access and Benefit Sharing**

*- Steps should be taken to ensure, to the greatest extent possible, that providers of TK as well as, counterpart institutions will get an equitable share of the benefits arising from the collaboration. This requirement is within the responsibility of the parties and the Centres that carry out research in cooperation with local communities indigenous people, and, as such, Centres shall take steps that protect the misuse and misappropriation of TK.*

*- This principle also applies to non-monetary benefits created by research activities such as capacity building, technology transfer, the establishment of networks and other cooperative mechanisms.*

## **5. Active TK protection efforts**

*- During the research every effort will be undertaken by the Centres/researchers, to protect TK from misappropriation by following procedures that are consistent with the wishes of the TK providers and consistent with national and regional laws.*

*- Centres shall ensure that scientists will take into account the legal frameworks and other mechanisms concerning the protection of TK; wherever possible Centres shall facilitate to the extent possible help to communities that wish to actively seek measures of protecting TK and to ensure its maintenance within the local context*