

**ASEAN WORKSHOP ON THE TRIPS AGREEMENT
AND TRADITIONAL MEDICINE
= Jakarta, 15 February 2001 =
RECOMMENDATIONS
regarding
INTELLECTUAL PROPERTY RIGHTS
IN RELATION TO TRADITIONAL MEDICINE
Jakarta, 15 February 2001**

In order to achieve the principal objective of safeguarding people's access to traditional medicines to cover their health needs, as well as the additional objectives of:

- » Ensuring equitable benefit sharing in case of commercial use of Traditional Medicinal Knowledge (TMK) and Traditional Medicine (TM) without authorization from the holders of such TMK/TM,
- » Creating incentives for continued development of Traditional Medicinal Knowledge and Traditional Medicine,
- » Supporting the development of the (traditional medicine) industry,
- » Supporting measures to protect the environment and avoid over-exploitation,

ASEAN Member Countries reiterate the recommendations from the ASEAN Workshop on the TRIPS Agreement and its Impact on Pharmaceuticals (Jakarta, 2-4 May 2000), and acknowledge the importance of implementing the following basic strategies:

- 1. To develop a National Traditional Medicine Policy, in order to, among others:**
 - » Address the formal recognition of Traditional Medicine,
 - » Strengthen the organization and infrastructure of Traditional Medicine (including quality and safety aspects),
 - » Explore the integration of Traditional Medicine in the National Health Care System (e.g. inclusion in curriculum),
 - » Increase funds for R&D on Traditional Medicines.

- 2. To develop national legislation in order to implement TRIPS and CBD, and notably to:**
 - » Develop, in their national legislation, creative approaches, including sui generis systems and the IPR regulations or the appropriate use of the existing IPR mechanism,
 - » Explore the possibility of requiring submission of: (i) a certificate of origin and (ii) a certified statement that any knowledge and/or materials have been obtained with the

prior informed consent of their holders, for any application of a patent based on or making use of TMK, TM, biological material and/or genetic resources,

- » Accelerate the implementation of the Convention on Biological Diversity (CBD) and/or its guiding principles, notably those relating to: (I) sovereignty over genetic resources and (ii) the protection of the knowledge, innovation, practice and customs of local and indigenous communities in the area of traditional medicine,
- » Develop national and regional mechanisms for the prevention of biopiracy.

3. To take a position and play an active role during the review of the TRIPs Agreement in the WTO TRIPs Council, noting that:

- » Any revision of TRIPs article 27.3.b should exclude the patentability of plants and animals,
- » Specific, concrete steps should be taken, in order to develop a detailed ASEAN position on TRIPs, for example by conducting preparatory meetings prior to the actual WTO TRIPs review (involving technical experts on health, traditional medicine and IPR),

Moreover, the workshop identified the need to:

- » Conduct of a comprehensive study on the real and potential impact of the TRIPs Agreement on the use and protection of TMK/TM, taking into account studies that have already been conducted,
- » Conduct a study of all TRIPs provisions (including those pertaining to geographical indications, trademarks, etc) and their potential application in the area of TKM/TM,

4. Establishing an information network

- » by appointing a national coordinator for the exchange of information on Traditional Medicines among ASEAN countries,
- » by creating a national and regional networks for information exchange,
- » in order to, among others, document knowledge of traditional medicine which is already in the public domain, in various written forms, and distribute it widely to interested stakeholders, including healers and IPR offices. Modern technology could be used, for example by developing a Traditional Knowledge Digital Library.

5. Reinforcing technical cooperation among member countries, among others by:

- » Strengthening the existing activities on herbal medicines within the ASEAN TCDC in Pharmaceuticals,
- » Enlarging the scope of ASEAN TCDC, in order to include the priorities identified in this Workshop with regard to the protection of Traditional Medicine, such as the implementation of systems for the protection of TMK/TM and the development of Traditional Medicine data bases*),
- » Exploring the possibility for harmonization of minimum regulatory standards and requirements for traditional medicines on the aspects of acceptable quality, safety and efficacy.

*) If these database are public, they should only contain knowledge which is already in the public domain

6. **Trying, at the international level, to spearhead efforts for promotion and protection of traditional medicines and traditional medicinal knowledge**, and notably to:
- » Develop and introduce a Resolution to this end in the World Health Assembly, which should address IPR issue as well as quality, efficacy and proper use of traditional medicines; the part of the Resolution addressing the protection of TMK/TM should be developed in collaboration with WIPO and representatives from relevant CBD Working Groups,
 - » Adopt protocol/amendment to the Convention on Biological Diversity, devising specific solutions for legal protection for TMK/TM and the participation of the communities concerned in making decisions regarding the development and use of their resources and knowledge,
 - » Introduce international, legally binding instruments, which will protect TKM/TM,
 - » Identify, at international, ASEAN as well as national level, criteria for the protection of TMK/TM.

Jakarta, 28 June 2001

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Dra. Mawarwati Djamaludin

Permanent Secretary