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Wisdom of the Land

Progress of WIPO IGC Negotiation on TK and GR?:

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องค์การทรัพย์สินทางปัญญาแห่งโลก เป็นหนึ่งในองค์การเฉพาะทางของสหประชาชาติ องค์การได้รับการก่อตั้งขึ้นในปี ค.ศ. 1967 "เพื่อส่งเสริมกิจการทางสร้างสรรค์ เพื่อสนับสนุนการพิทักษ์ทรัพย์สินทางปัญญาไปทั่วโลก



WIPO is the global forum for intellectual property services, policy, information and cooperation.



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The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: WIPO IGC on IP, GR, TK and TCE.

GR: Genetic Resources

Mandatory disclosure

TK: Traditional Knowledge

TCE: Traditional Cultural Expression

***Sui Generis*
Protection**



WIPO IGC

- 1. Political game within the BIG groups of delegation**
- 2. Political game with other negotiation: Bargaining power**
- 3. All delegations protect their interests.**



One step forward, one step backward

**Why are GRs and TK important
for Thailand?**

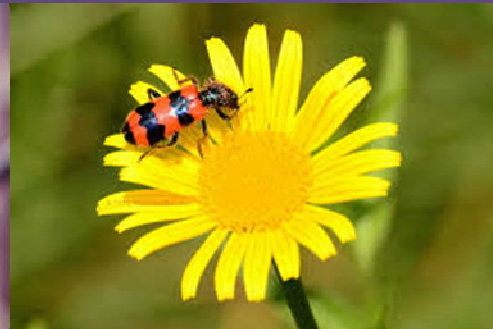
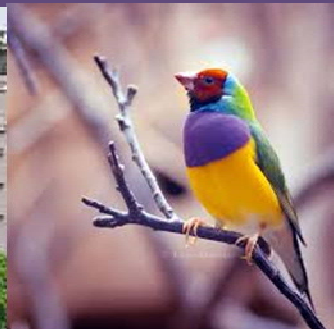




Thailand

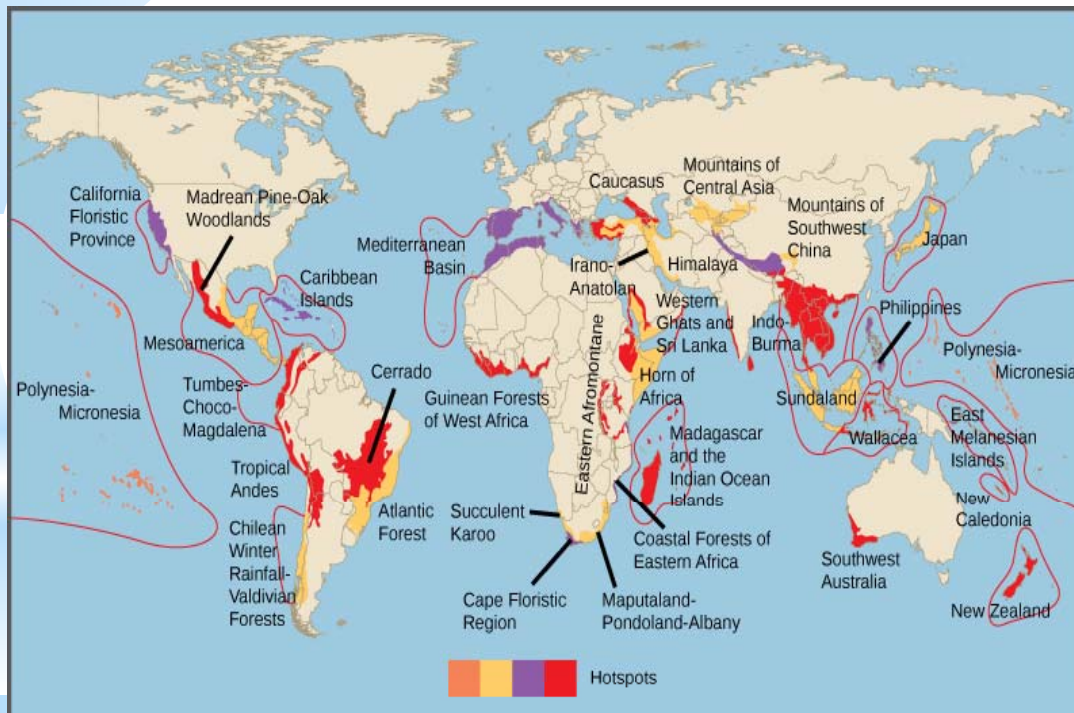
Prof. Keith Harding, UK

“You sit on precious hidden treasure of biodiversity”



* Biological Resources = National Assets

Strength



Thailand is located on one of biodiversity hotspots.

Varieties of Seasonal Fruits and Agricultural Products From Jan to Dec Vary from Region to Region

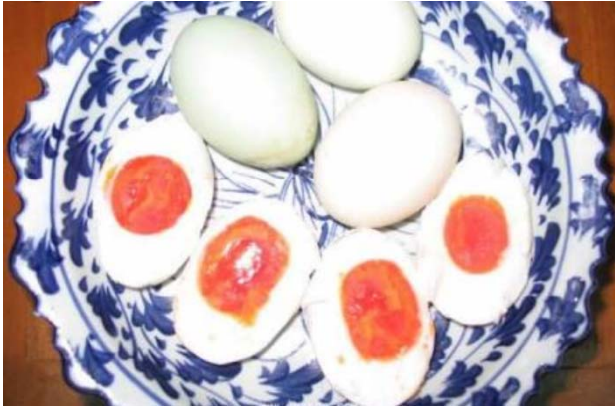


Thai food

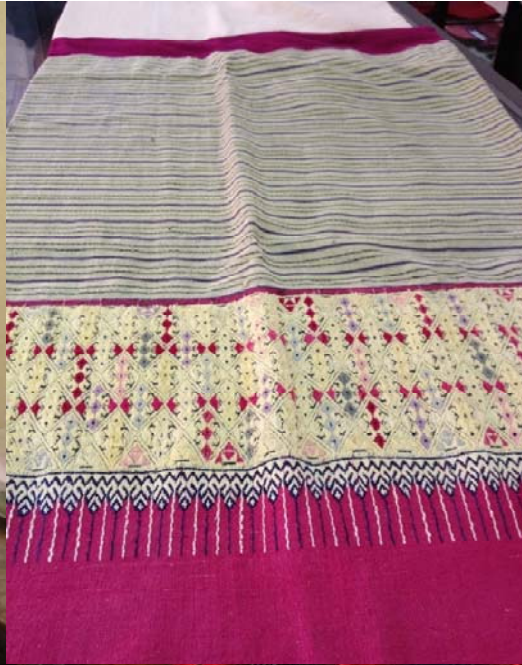
Spicy to Non spicy

North to South

East to West



Handicraft



Diversified culture

Central-North-South-West-East-NorthEast

“Living in Harmony”

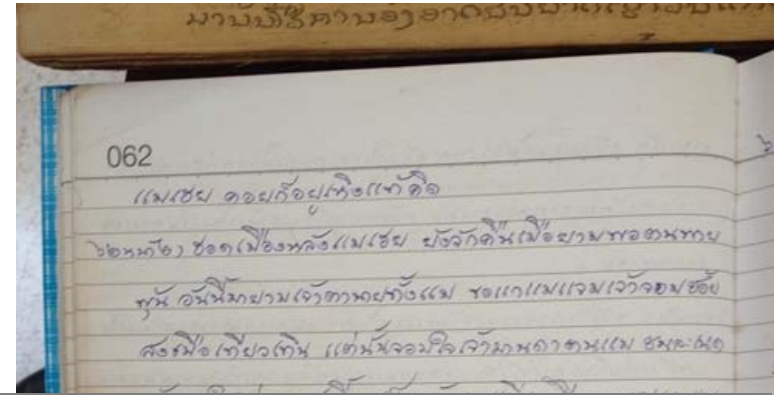


Diversified traditional knowledge Central-North-South-West-East-NorthEast

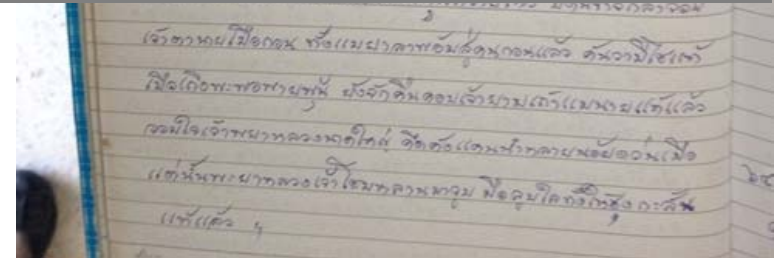




TK holders still practice TK



We have a long history of traditional knowledge, recorded TK and oral TK.



Cannel trip around Mahidol University



→ **Dean of Liberal Art**

→ **Vice President**





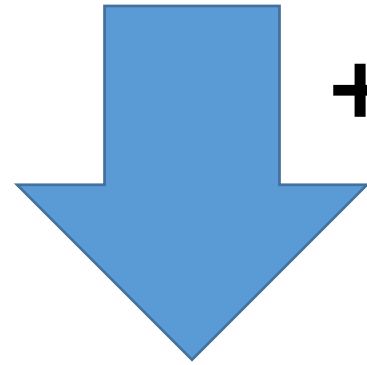


- **Talk with the locals**
- **Listen to them**
- **Learn from them**



- **Juice**
- **Jam**
- **Sauce**

Momordica cochinchinensis (Lour.) Spreng



+ Tourism

**Important Contribution to
Economic Development for
Thailand**

Trend of Economic Developments in Thailand

BioEconomy

Creative Economy

Social Economy

Silver Economy

Digital Economy

GR, TK



New Engines of Growth in Thailand 4.0

ความได้เปรียบเชิง
เปรียบเทียบ

ความได้เปรียบเชิง
แข่งขัน

ความหลากหลาย
เชิงชีวภาพ

•Food, Agriculture & Bio-tech

•Health, Wellness & Bio-Med

•Smart Devices, Robotics &
Mechatronics

•Digital, IoT & Embedded
Technology

•Creative, Culture & High Value
Services

ความหลากหลาย
เชิงวัฒนธรรม



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WIPO IGC on GR



Convention on
Biological Diversity

Nagoya Protocol: Checkpoint



Ex situ v. In situ



WORLD
INTELLECTUAL
PROPERTY
ORGANIZATION

Mandatory disclosure





Genetic Resources

- **Mandatory disclosure for any invention derived from the use of genetic resource when IP is filed.**
-
- **Degree of disclosure, disclosure document**
 - **Consequence of disclosure failure**
-
- **Field of IPs:**
 - **Patent**
 - **Plant Variety Protection**
 - **Geographical Indication**
 - **Pseudo IP**



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Thirtieth Session

Geneva, May 30 to June 3, 2016

[ARTICLE 2]

[DISCLOSURE REQUIREMENT]

2.1 Where the [subject matter] [claimed invention] within a [IP Rights] [patent] application [includes utilization of] [is directly based on] [is consciously derived from the] genetic resources [their derivatives] and/or [associated traditional knowledge] [traditional knowledge associated with genetic resources]



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More discussion when it comes to practice

Disclosure document:

***In situ*: Less problem. Doc issued by component authorities**

***Ex situ*: Document issued e.g., Material Transfer Agreement (MAT) by Bioresource Center**



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Complete GR Database is crucial



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WIPO IGC on TK

Sui Generis protection

Misappropriation

Misuse

**Subject matter
TK in public domain**

Beneficiary



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Traditional Knowledge

Traditional knowledge (TK) is knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity.



Definition of TK

ARTICLE 1

SUBJECT MATTER OF [PROTECTION]/[INSTRUMENT]

The subject matter of [protection]/[this instrument] is traditional knowledge:

- (a) that is created, and [maintained] in a collective context, by indigenous [peoples] and local communities [or nations] [,whether it is widely spread or not];**
- (b) that is [directly] [linked]/[distinctively associated] with the cultural [and]/[or] social identity and cultural heritage of indigenous [peoples] and local communities [or nations];**
- (c) that is transmitted from generation to generation, whether consecutively or not;**
- (d) which may subsist in codified, oral or other forms; and [or]**
- (e) which may be dynamic and evolving.**



[Criteria for Eligibility

Protected traditional knowledge is traditional knowledge that is [distinctively] associated with the cultural heritage of beneficiaries as defined in Article 2, that is generated, [maintained], shared and transmitted in a collective context, is intergenerational and has been used for a term as has been determined by each [Member State]/[Contracting Party] [but not less than 50 years].]



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**Busy global negotiation and no sign of conclusion.
Many countries have prepare themselves, e.g. database, law**



GR Database in Thailand



กรมพัฒนาการแพทย์แผนไทยฯ

BEDO

โครงการแผนแม่บทฯ โดย BEDO
ที่เชื่อมโยง ผ่านการตรวจสอบ
มี 3 โดเมน – วิทยาศาสตร์
เศรษฐกิจ กฎหมาย

กรมป่าไม้

กรมส่งเสริมการเกษตร

หน่วยงานในกระทรวงวิทยาศาสตร์

สถาบันการศึกษา

อื่นๆ อีกมากมาย

ซ้ำซ้อน

ไม่สมบูรณ์

บริหารจัดการ

ไม่มีการใช้ประโยชน์

มีความเป็นเจ้าของ

อพสธ.

คุ้มครอง



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TPP

Protection of GR and TK is regarded as non trade issue.

Patent on Pharmaceutical Products

Thank you

