

CONFERENCE OF THE FONDATION D'ENTREPRISE HERMÈS
AND THE INSTITUTE FOR SUSTAINABLE DEVELOPMENT AND INTERNATIONAL RELATIONS
IN COLLABORATION WITH THE NATIONAL LIBRARY OF FRANCE

CONFERENCE

Biodiversity and Traditional Knowledge: How can they be protected?



7 June 2013, Paris (France)
National Library of France

Bibliothèque nationale
de France

Conference Room | **Quai François-Mauriac**
Grand auditorium | **75013 Paris**

Context and theme of the conference

Different perceptions of the relationship between biodiversity and traditional knowledge, as well as of the fairness and need for their protection and exploitation, have engendered one of the most contentious global debates of the 21st century between developed and developing countries. This debate revolves around fundamental questions about achieving economic development without sacrificing environmental and social concerns.

Indeed, the natural resource-based extractive model has dominated so far for promoting economic growth. And North-South relationships have been shaped by a long history of social and economic injustice (Laird, 2002); so have the relationships between stakeholders empowered to take decisions on the management and exploitation of natural resources and those who are often affected by such decisions, including in particular indigenous peoples and local communities. However, this development model does contribute to the depletion of biodiversity.

The appropriate understanding and recognition of the rights of indigenous peoples and local communities to their biocultural heritage¹ is increasingly seen as a fundamental step to foster stewardship for biodiversity conservation; it could also encourage greater inclusiveness, which is important to build trust, support and ownership of conservation measures and effective monitoring and implementation.

While the protection of biocultural heritage and traditional knowledge (TK) is discussed in several different fora, this conference will focus primarily on the UN Convention on Biological Diversity (CBD) and its Nagoya Protocol, the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO). As a matter of fact, it is at the interface between biodiversity conservation, trade and intellectual property regulation that the potential for conflicts and the need for enhancing mutual supportiveness between traditional and modern knowledge systems are higher.

With the adoption of the CBD Nagoya Protocol on Access to Genetic Resource and Benefit Sharing (ABS) in October 2010 and its forthcoming entry into force, efforts to provide protection to traditional knowledge and to the rights of indigenous and local communities to their biocultural heritage have received a fresh impetus both at the domestic and international levels. The Nagoya Protocol is the first international legally-binding treaty that explicitly requires that the benefits arising from the utilization of TK associated with genetic resources

1. The concept of biocultural heritage is understood as "the knowledge, innovations, and practices of indigenous and local communities which are often collectively held and inextricably linked to traditional resources and lands and waters traditionally occupied and used by indigenous and local communities; including the diversity of genes, varieties, species and ecosystems; cultural and spiritual values; and customary laws shaped within the socio-ecological context of communities" (CBD Secretariat, 2009).

be equitably shared with indigenous and local communities (ILCs) holding such knowledge; access to the latter shall also be subject to the prior informed consent of the former. Therefore, as countries prepare for ratification, governments both in developed and developing countries have started considering how to translate these new international obligations into practical mechanisms and tools that can help indigenous and local communities (within their jurisdiction) to better capture the value of their TK and of products based on their biocultural heritage.

At the same time, after many years of set-back, negotiations at the WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) have also shown progress on a set of draft articles on traditional knowledge, which may eventually become a new WIPO treaty.² However, notwithstanding such moderate progress, the remaining political deadlocks (which concern: the role of customary law; compliance; disclosure in patent applications; the scope of economic rights and their beneficiaries; limitations and exceptions, etc.) are not likely to be solved with the adoption of a new legally-binding instrument on the protection of TK.

Under the Doha mandate, the World Trade Organization debates the issue of extending the higher level of protection given to wines and spirits to geographical indications which identify other products (e.g. agricultural products). Geographical indications are

place names (or words associated with a place) used to identify the origin and quality, reputation or other characteristics of products (for example, "Champagne", "Tequila" or "Roquefort"). When they are carefully designed and used, geographical indications, as well as collective trademarks and protection from unfair competition, can promote biocultural-based products and economically benefit indigenous and local communities (G. Dutfield, 2011).

Objectives

This conference is devoted to reviewing and assessing ongoing efforts aiming at protecting biocultural heritage and traditional knowledge that relates to biodiversity. Its main objectives are to: help clarifying the important role that biocultural diversity and TK play in biodiversity conserving production systems; provide a critical assessment of the tools that can be used to enhance their potential contribution to the livelihood of indigenous and local communities and to conserving biodiversity.

² The draft articles provide that the protection of TK should aim to, inter alia: recognize value; promote respect; meet the rights and needs of TK holders; promote preservation of TK; prevent misappropriation and misuse; support TK systems; ensure prior informed consent and exchanges based on mutually agreed terms; promote equitable benefit sharing; promote community development and legitimate trading activities; promote disclosure requirements and preclude the grant of IP rights to unauthorized parties.
<http://www.ip-watch.org/2011/02/25/after-folklore-traditional-knowledge-makes-steps-toward-wipo-treaty-text/>



In particular, the conference will consider the following questions:

- › To what extent can the protection of traditional knowledge and the promotion of biocultural products foster biodiversity conservation?
- › Which practical tools, including market-based instruments, can be used for the above purposes?
- › Under which conditions such tools can help meeting income generation as well as biodiversity conservation objectives, particularly at the local and community levels in developing countries?
- › What are the major regulatory gaps that need to be filled at the international, regional, national, and/or community levels?
- › What are the major capacity constraints that need to be overcome for relevant stakeholders to take full advantage of available tools? And how can or should stakeholders be supported to overcome such constraints?
- › What is the status of international discussions on the protection of the biocultural heritage of indigenous and local communities and their traditional Knowledge? What is the contribution that international law may provide for enhancing such protection (e.g. harmonization, minimum globally accepted standards, mutual recognition, patent disclosure)?

09.00 – 09.30

Coffee and welcome

09.30 – 10.15

Opening session

Welcome speech

by **Bruno Racine**, President of the National Library of France (Bibliothèque nationale de France)

Welcome speech

by **Catherine Tsekenis**, Director, Fondation d'entreprise Hermès

Introduction

by **Claudio Chiarolla**, Research Fellow, International Governance of Biodiversity, Institute for Sustainable Development and International Relations (IDDRl)

Keynote speech: Why is it important to protect traditional knowledge to conserve biodiversity?

Pierre du Plessis, Centre for Research Information Action in Africa - Southern African Development and Consulting (CRIA SA-DC), former Negotiator of the African Group at the Nagoya Protocol

10.20 – 12.00

First Session:

The protection of biocultural-based products and traditional knowledge: potential synergies and conflicts

Session chaired by **Sébastien Treyer**, Director of Programmes, Institute for Sustainable Development and International Relations (IDDRl)

This session will present available tools and experiences concerning the protection of biocultural-based products and traditional knowledge. The focus will be twofold: it will first consider the available intellectual property tools for the protection of TK and the promotion of products based on biocultural heritage; and it will highlight key

lessons learned from practical experiences that aim at fostering innovation at the interface between producers and consumers for preserving biodiversity. This session will conclude by considering potential synergies and conflicts between the above tools and their limitations, particularly vis-à-vis biodiversity conservation goals.

With:

Graham Dutfield, Professor of International Governance, University of Leeds

Hélène Ilbert, Researcher, Centre international des hautes études agronomiques méditerranéennes – Institut agronomique méditerranéen de Montpellier (CIHEAM-IAMM)

Brendan Tobin, Research Fellow, Griffith Law School of Brisbane

DEBATE WITH THE AUDIENCE

12.00 – 14.00

Organic lunch

14.00 – 15.30

Second session

Traditional knowledge and biodiversity: the role of value chains

Session chaired by **Renaud Lapeyre**, Research Fellow, Biodiversity and Environmental services, Institute for Sustainable Development and International Relations (IDDRI)

This session will present case studies and discuss practical examples of production systems which make use of traditional knowledge, while enhancing the value chain for local producers and helping conserving biodiversity.

From Biocultural Community Protocols to the “Arc of Livestock Biodiversity”

Ilse Köhler-Rollefson, Technical Staff and Board Member, League for Pastoral Peoples and Endogenous Livestock Development

The contribution of TK to biodiversity-based drug development in African countries

Paolo Meoni, Founder and Manager, Atunis Development Services, Tunis

Discussant:

Krystyna Swiderska, Senior Researcher Agriculture and Biodiversity, International Institute for Environment and Development (IIED)

DEBATE WITH THE AUDIENCE

15.30 – 16.00

Coffee Break

16.00 – 17.30

Final Roundtable

Which governance can promote endangered biocultural heritage?

Session chaired by **Laurence Tubiana**, Director, Institute for Sustainable Development and International Relations (IDDRI)

The roundtable will draw key lessons learned from the previous sessions and will further consider the following questions:

- › Which practical tools, institutions and innovations are more likely to promote endangered biocultural heritage, while also fostering biodiversity conservation?
- › Under which conditions can such tools and institutions help meeting income generation as well as biodiversity conservation objectives, particularly at the local and community levels in developing countries?

- › What are the major capacity constraints that need to be overcome for relevant stakeholders to take full advantage of these tools? And how can or should stakeholders be supported to overcome such constraints?
- › What is the contribution that international law may provide for enhancing biocultural heritage conservation?

Johnson Cerda, Indigenous Advisor for Indigenous and Traditional Peoples Program, Conservation International

Serge Letchimy, French Member of Parliament

Flavia Noejovich, Independent Consultant on Environmental Law and Policy, and Indigenous Peoples' Rights

Barbara Pick, PhD candidate, Department of Law, London School of Economics (LSE)



Videos and proceedings of past sessions are available on IDDRI website: www.iddri.org

- › February 16, 2010: "Biodiversity and beyond?"
- › June 17, 2010: "Biodiversity and intellectual property law"
- › June 8, 2011: "Market-based instruments for biodiversity: Nature at any cost?"
- › June 1, 2012: "Policies against nature? Towards a reform of subsidies harmful to biodiversity"

Contacts

- › **For IDDRI (Institute for Sustainable Development and International Relations)**

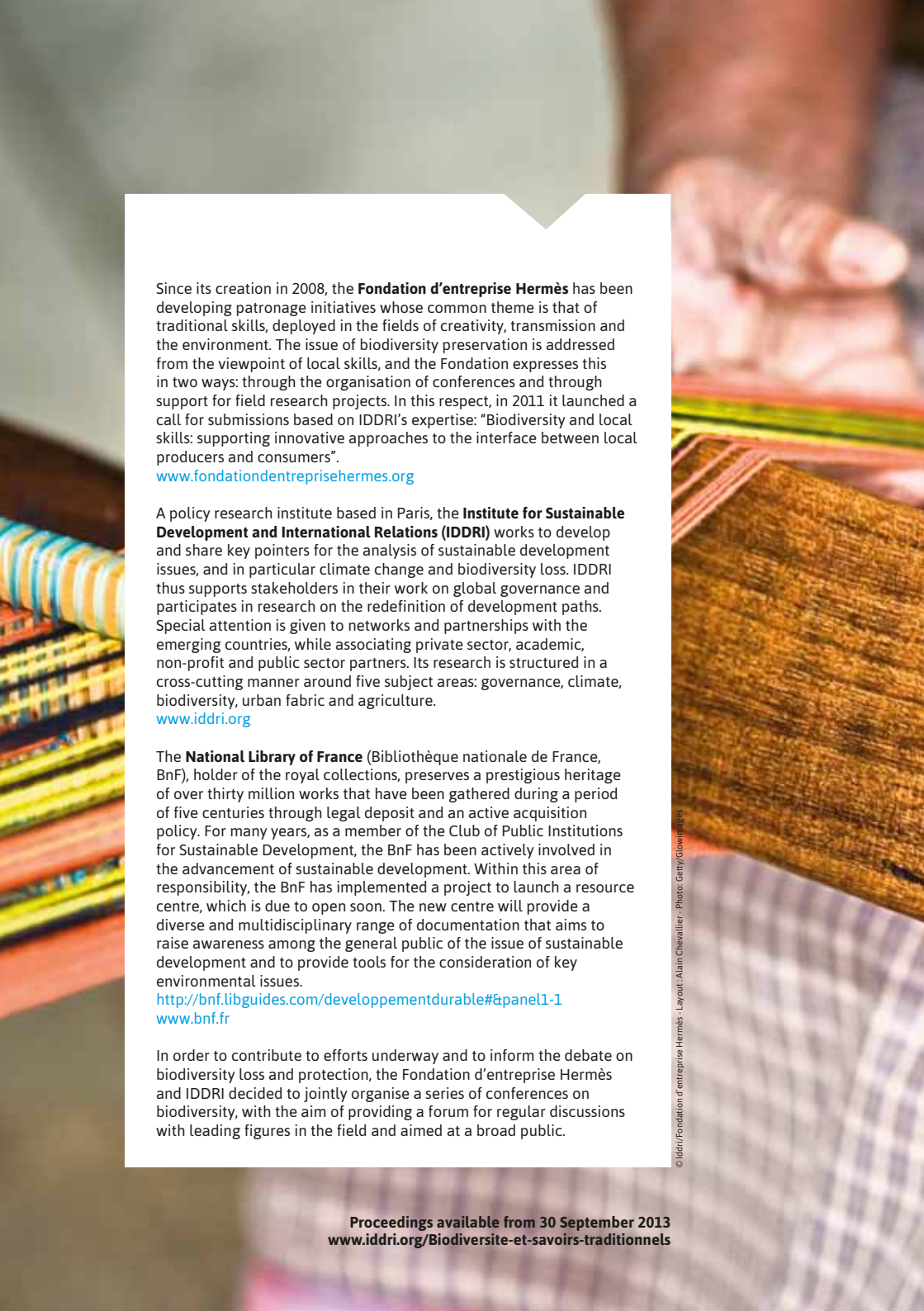
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- › **For the Fondation d'entreprise Hermès**

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Since its creation in 2008, the **Fondation d'entreprise Hermès** has been developing patronage initiatives whose common theme is that of traditional skills, deployed in the fields of creativity, transmission and the environment. The issue of biodiversity preservation is addressed from the viewpoint of local skills, and the Fondation expresses this in two ways: through the organisation of conferences and through support for field research projects. In this respect, in 2011 it launched a call for submissions based on IDDRI's expertise: "Biodiversity and local skills: supporting innovative approaches to the interface between local producers and consumers".

www.fondationdentreprisehermes.org

A policy research institute based in Paris, the **Institute for Sustainable Development and International Relations (IDDRI)** works to develop and share key pointers for the analysis of sustainable development issues, and in particular climate change and biodiversity loss. IDDRI thus supports stakeholders in their work on global governance and participates in research on the redefinition of development paths. Special attention is given to networks and partnerships with the emerging countries, while associating private sector, academic, non-profit and public sector partners. Its research is structured in a cross-cutting manner around five subject areas: governance, climate, biodiversity, urban fabric and agriculture.

www.iddri.org

The **National Library of France** (Bibliothèque nationale de France, BnF), holder of the royal collections, preserves a prestigious heritage of over thirty million works that have been gathered during a period of five centuries through legal deposit and an active acquisition policy. For many years, as a member of the Club of Public Institutions for Sustainable Development, the BnF has been actively involved in the advancement of sustainable development. Within this area of responsibility, the BnF has implemented a project to launch a resource centre, which is due to open soon. The new centre will provide a diverse and multidisciplinary range of documentation that aims to raise awareness among the general public of the issue of sustainable development and to provide tools for the consideration of key environmental issues.

<http://bnf.libguides.com/developpementdurable#&panel1-1>
www.bnf.fr

In order to contribute to efforts underway and to inform the debate on biodiversity loss and protection, the Fondation d'entreprise Hermès and IDDRI decided to jointly organise a series of conferences on biodiversity, with the aim of providing a forum for regular discussions with leading figures in the field and aimed at a broad public.