

Note Number: BIMSTEC/BCPTKGR/17/04/2018/01

Distribution: Restricted

Date: 21-22 May 2018



**SECRETARIAT
BAY OF BENGAL INITIATIVE FOR MULTI-SECTORAL
TECHNICAL AND ECONOMIC COOPERATION
DHAKA**

**BIMSTEC Conference on Protection of Traditional Knowledge and Genetic Resources
21-22 May 2018
Bangkok, Thailand**

The Report of the BIMSTEC Conference on Protection of Traditional Knowledge and Genetic Resources

Agenda Item 01: Inaugural Session

01. BIMSTEC Conference on Protection of Traditional Knowledge and Genetic Resources was held on 21-22 May 2018 in Bangkok, Thailand at the invitation of the Government of Thailand.

02. Delegations from the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, the Republic of the Union of Myanmar, the Democratic Socialist Republic of Sri Lanka and the Kingdom of Thailand participated in the Conference, except Nepal. The list of the participants is at **Annex-I**.

03. In the Opening Remarks Dr. Kiattibhoom Vongrachit, Director General, Department of Thai Traditional and Alternative Medicine (DTAM) welcomed the distinguished Delegates, Speakers, Representatives from BIMSTEC Secretariat and all the Local Participants.

The Director General stated the conference that Genetic Resources (GR) and associated Traditional Knowledge (TK), capable of creating value-added products that help generate income for the country's economy, are recognized as valuable asset of each nation. The issues on the access and benefits sharing (ABS) and the protection of TK and GR have therefore been discussed and debated for years in various regional and international forums on intellectual property, trade agreement, and the protection of biodiversity and TK.

He also mentioned that the BIMSTEC Member States possess vast number of medicinal plants, genetic resources, and associated traditional medicine knowledge. However, misappropriate use of TK and GR without prior approval for access or benefit sharing have still been found in our region due to the lack of proper and effective protection system in most countries. Hence, appropriate measures must be developed to counteract or

prevent such misconduct through formulation of a regional strategy and action plan of collaborative activities for the protection of TK and GR for BIMSTEC.

The Director General informed that this Conference is organized to bring together representatives from the BIMSTEC Member States and International Agencies to share their works and experiences and update on the measures each nation carries out on the access and benefit sharing (ABS) of GR and TK, for example by developing databases. The full text of the address is at **Annex II**

04. In his Remarks, Mr. Kunzang N. Tshering, Director, BIMSTEC Secretariat stated that as agreed during the 1st BIMSTEC Summit held in Bangkok on 31st July 2004 to coordinate effort to address transnational issues that threaten the economic and social progress of the BIMSTEC Region, Public Health was added as a priority sector of BIMSTEC cooperation with Thailand as the Lead Country.

The Director, while thanking Thailand for hosting the BIMSTEC Conference on Protection of Traditional Knowledge and Genetic Resources, he hoped that the conference will come up with a pragmatic outcome on the Protection of TK & GR in line with current national and International situations and challenging issues on the protection of GR and associated TK, as well as the respective country's experience on the development and utilization of TK & GR to deepen the cooperation among BIMSTEC Member States in the field of public health.

The full text is at **Annex III**.

Agenda Item 02: Election of the Chairperson

05. According to the existing practice, Dr. Anchalee Chuthaputti, Head of Delegation of Thailand was elected as the Chairperson and D. Anand Kumar Chaudhary, Head of Delegation of India as the Co-Chair of the Conference.

Agenda Item 03: Adoption of the Agenda

06. The Conference considered and adopted the Provisional Agenda as contained in the Secretariat's Document Number BIMSTEC/BCPTKGR/17/04/2018/01 which is at **Annex IV**.

Agenda Item 04: Background, rationale, objectives and expected outputs of the Conference.

07. The Delegation of Thailand appraised that while the BIMSTEC Countries are rich in BIODIVERSITY, Medicinal plant, Genetic resources, Traditional and Indigenous medicine knowledge, they are also faced with threats of misappropriation of biological resources and associated traditional knowledge, commercialization without consent of the owner or holder of the GR & TK or a mechanism for sharing the benefits (ABS).

08. Therefore, Thailand organized the conference with the objective to exchange knowledge and experiences and to update the current situation on the protection of GR &

associated TK, as well as to discuss the development of biodiversity and TK databases in the region, besides exploring the possibility of collaboration on GR & TK with the relevant regional and international agencies such as WIPO and WHO.

09. The Delegation of Thailand said that the Conference is expected to formulate a regional strategy and an action plan to collaborate activities among BIMSTEC Member States and other stakeholders on the protection of GR & associated TK based on the current national, regional and international situations and challenges. The full text is at **Annex-V**.

Agenda Item 05: Session 1: Presentation on the Current Negotiation Situation and Challenging Issues of Intergovernmental Committee on Traditional Knowledge and Genetic Resources-based, Innovation, Intellectual Property and Trade– Access & Benefits Sharing-ABS.

09. Dr. Edward KWAKWA, Senior Director, Department for Traditional Knowledge and Global Challenges, World Intellectual Property Organization (WIPO), Geneva made a Presentation on “*Current Negotiation Situation and Challenging Issues of VIP Intergovernmental Committee on Genetic Resources and Traditional Knowledge and Way Forward*”.

Dr. Edward said that the principle issues we are faced with today is striving to see how best we can protect GR & associated TK. He said that some of the outstanding issues that need to be agreed upon are on the scope of protection of the specific to traditional medicine knowledge (TMK), Patent system, Databases and application of Intellectual Property (IP) Law to formulate a regional strategy and action plan to enhance the cooperation among the BIMSTEC Member States.

As a way forward, he stated that the BIMSTEC and region could take advantage of the *WIPO’s On-line Distance Learning Courses on the IP Rights*, as one of the common issues always relates to the capacity development of the stakeholders to tackle the IP related matters. The full text is at **Annex VI**.

10. Dr. Manisha SHRIDHAR, Regional Advisor for Intellectual Property, Trade and Public Health of the World Health Organization Regional Office for South-East Asia (WHO/SEARO), based in New Delhi, India spoke on the “*WHO Perspective and Role in Traditional Knowledge and Genetic Resources, Innovation, Intellectual Property and Trade*”.

Dr. Manisha, in her presentation stressed the need to create an appropriate regulatory network in the region and underscored the importance of having a mechanism in place to share information on TMK and GR works among BIMTEC Member States. She informed the forum that at present there are a number of aspects in the legal framework for Traditional Medicine Knowledge that are interrelated, e.g. Patent Laws, Biodiversity laws, Plant Variety

Protection Laws and therefore, there is an urgent need to have a unified and harmonized approach for the development of traditional medicine objectives. She suggested that the BIMSTEC could form a specific group to work on these and related issues to come up with a common strategy to not only protect the TK & GR works but also to appropriately promote IP and GR trade in access and benefit sharing. The full text is at **Annex VII**.

Agenda Item 06: Session 2: Protection of Traditional Medicine Knowledge (TMK) and Biodiversity – Thailand’s Initiatives.

15. Prof. Dr. Chayan Picheansoonthon, Fellow of the Royal Society of Thailand and Professor, College of Alternative Medicine, Rajabhat Chandrakasem University made a Presentation on “Protection of Thai Traditional Medical Knowledge and Biodiversity in Thailand”.

16. The Prof. spoke at length on the global collaborative network of individuals and organizations working to preserve vital links between human societies and the natural world. He said that for the Ethnobiologists the indigenous peoples, traditional societies, and local communities are critical to the conservation of biological, cultural and linguistic diversity. The Prof. up-dated the Conference that as of date, there are 17 Ministerial Declarations for protection of 294 textbooks on the understanding of Thai traditional medical knowledge (TMK) diversity and for proper utilization and management of databases of Thai Traditional Medicine and related information. Prof. Chayan appraised the Conference that one of the ongoing TMK research activities in Thailand is to transform “tacit knowledge” into “explicit knowledge” which is challenging in nature. The full text is at **Annex VIII**.

Agenda Item 07: Session 3: Country Presentation on the Current Country Situation and Measures to Protect Genetic Resources (GR) and Associated Traditional Knowledge (TK)

17. The Delegations from each Member States updated the Conference on the Status of the current situation and measures being taken to Protect Genetic Resources (GR) and Associated Traditional Medicine Knowledge (TMK) of their respective countries. The full texts of the Country Presentations are attached as Annexures in the following alphabetical order as indicated below:

Bangladesh	-Annex IX
Bhutan	- Annex X
India	- Annex XI
Myanmar	- Annex XII
Sri Lanka	- Annex XIII
Thailand	- Annex XIV

Agenda Item 08: Session 4: Brainstorming Session – Formulation of Regional Strategy, Action Plan of Collaborative Activities on the Protection of GR and Associated TK.

18. The Conference reviewed the Base Paper on Protection of Genetic Resources (GR) Associated with Traditional Medicine Knowledge (TMK) and Intellectual Property Rights (IPR) for BIMSTEC submitted by India. After a lengthy brainstorming session, the Delegations agreed upon the following course of actions on protection of Genetic Resources (GR) & conservation of the Traditional Medicine Knowledge (TMK) to be taken up by the Member States as an immediate way forward:

- i. For clarity, the Conference from now onwards agreed to use the term *Traditional Medicine Knowledge (TMK)* in place of Traditional Knowledge (TK).
- i. The Conference agreed to identify a Nodal Agency for TMK & GR among the Member States to act as the Apex Body for TMK & GR in the BIMSTEC region. The identified of the Nodal Agencies along with their details will be submitted to the Secretariat within 90 days or by the end of August 2018, the latest.
- ii. The Conference also recommended that the Chairmanship of the BIMSTEC Apex Body, once it is commissioned be rotated among the Member States on alphabetical order for a term of two-years.
- iii. The Conference further agreed to form a Country Specific Nodal Group for TMK & GR with members from the relevant agencies and submit their details to the Secretariat within September-November 2018 for circulation.
- vi. Thailand will prepare the *Final Concept Paper on the Protection of Genetic resources (GR) Associated with Traditional Medicine Knowledge (TMK) and Intellectual Property Rights (IPR) for the BIMSTEC* and submit the same to the Secretariat for circulation among the Member States for approval and implementation. If any Member States wishes to comment further on the Concept Paper, may do so within 30 days of its circulation by the Secretariat, after which it will be taken as approved.
- vii. India will develop a training protocol, based on the Traditional Knowledge Digital Library (TKDL) India Model to sensitize and support other Member States to prepare their own Traditional Medicine Knowledge Digital Library (TMKDL) BIMSTEC Model within a year to enable them to conduct in-country trainings and build the capacity of the stakeholders. Based on the need, the Ministry of AYUSH, Government of India may be requested for resource person(s) for development of the TMKDL Model and conduct the initial training of trainers.

19. The Conference underscored that the Traditional Medicine Knowledge (TMK) contributes significantly to the health and economic status of many communities in the developing nations and also finding greater recognition in developed world today. Therefore, an appropriate recognition of traditional medicine is an important element of national healthcare policies and noted that the TMK has greater inputs for biomedical studies, research and product developments for the countries in the BIMSTEC region.

20. The conference also noted that the growth in the trade of health products based on TMK, coupled with growth in the use of TMK as a lead for biomedical research and product development, has resulted in a policy debate about the misappropriation of TMK and the development of, and compliance with, appropriate protocols for access to, and use of TMK. The related issues of prior informed consent (PIC) and equitable benefit-sharing (EBS), while ensuring continued R&D, have also formed part of this debate. As such, the conference reaffirms the economic value and the social and cultural significance of TMK for the countries in the region and agreed to respect, protect, preserve and widely communicate TMK to the relevant authorities, while formulating national health policies and regulations.

21. Therefore, the Conference agreed upon the following recommendations for future collaborations among BIMSTEC Member States, as well as between BIMSTEC and other relevant Regional and International Organizations:

- Development of policy document on TMK to integrate with the respective Member States' long-term National Healthcare System.
- Documentation of TMK, such as its databases and national inventories, that can be used as evidence of prior art in patent procedures.
- Initiate an appropriate regulation for quality, safety and efficacy of TMK and preparation of the essential list.
- Conduct inter-Ministerial Workshops for Improvement and Simplification of Legislative Frameworks and Administrative Decisions for easy access to Bio-resources and TMK.
- Develop Biodiversity Action Plans in line with long term TM goals and ABS on Mutually Agreed Terms (MAT), and build network for regular communication among relevant agencies through appropriate mechanisms.
- Develop harmonized frameworks to address complexities that arise out of Multiple Legislative Frameworks and Administrative Decisions (Rules, Regulations and Guidelines) – Trade Related Intellectual Property Rights provisions, Biodiversity Act and Plant Variety Protection Acts, including commercialization aspects which are governed by various laws, including the Income Tax laws.
- Promote capacity building programs for contractual agreements; the disclosure of information in the patent application of the geographical source of genetic resources from which the invention is derived and other means.
- Promote South-South Cooperation in R&D, sharing of information and intellectual property management.
- Engage to develop common regulatory frameworks for research and evaluation of traditional medicine, good manufacturing practices (GMPs) for herbal medicines as well as conservation and sustainable use of medicinal plants, such as good agricultural and collection practices (GACP) of the medicinal plants.

- Put efforts to scientifically and clinically validate traditional medicines and integrate them into countries' healthcare systems.

Agenda Item 09: Any Other Matter

23. The Conference noted that Sri Lanka prepared and submitted the Concept Paper on the Priority Areas of Technical and Research Collaboration among the BIMSTEC Member States as per the decision taken during the BTFTM at New Delhi on 24-25 October 2017. The Concept Paper was circulated to the Member States on December 24, 2017 by BIMSTEC Secretariat for their views and comments.

24. The Secretariat was requested to remind the Member States to expedite submission of their views and comments on the above Draft Concept Paper, which may be taken up as an agenda in the next BTFTM scheduled to be held in Myanmar in 2018. The Delegates also agreed to take follow up actions on the matter.

Agenda Item 10: Date and Venue of the Second BIMSTEC Conference on Protection of Traditional Knowledge and Genetic Resources

25. The Conference recommended that the Second BTFTM which is scheduled to be held in Myanmar in 2018 to decide upon the next activity related to Protection of Traditional Medicine Knowledge (TMK) and Genetic Resources (GR) or any other related issues in continuation to the First BTFTM held on 24-25 October 2017 in India.

The Time Frame for the Second BTFTM will be communicated to the BIMSTEC Secretariat by Myanmar in due course of time for further circulation to the Member States.

Agenda Item 11: Consideration and adoption of the Draft Report of the First BIMSTEC Conference on Protection of Traditional Knowledge and Genetic Resources.

26. The Conference considered and adopted the Report of the BIMSTEC Conference on Protection of Traditional Knowledge and Genetic Resources.

Agenda Item 12: Closing of the Meeting

27. The Conference conveyed its deep appreciation to the Government of Thailand for hosting the Conference as well as for the warm hospitality extended to all delegates. Dr. Anchalee, the Chair of the Meeting thanked the resource persons and delegations for their valuable contributions and active participation in the Conference.

28. The Conference also expressed its sincere appreciations to the BIMSTEC Secretariat for the support provided to the host country and facilitating the Meeting to a successful conclusion.