NO TO PATENTING OF LIFE!

INDIGENOUS PEOPLES’ STATEMENT ON THE TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) OF THE WTO AGREEMENT

WE, INDIGENOUS PEOPLES from around the world, believe that nobody can own what exists in nature except nature herself. A human being cannot own its own mother. Humankind is part of Mother Nature, we have created nothing and so we can in no way claim to be owners of what does not belong to us. But time and again, western legal property regimes have been imposed on us, contradicting our own cosmologies and values.

WE VIEW with regret and anxiety how, Article 27.3bi of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO) Agreements will further denigrate and undermine our rights to our cultural and intellectual heritage, our plant, animal, and even human genetic resources and discriminate against our indigenous ways of thinking and behaving. This Article makes an artificial distinction between plants, animals, and micro-organisms and between "essentially biological" and "microbiological processes" for making plants and animals. As far as we are concerned all these are life forms and life creating processes which are sacred and which should not become the subject of proprietary ownership.

WE KNOW that intellectual property rights as defined in the TRIPS Agreement are monopoly rights given to individual or legal persons (e.g. transnational corporations) who can prove that the inventions or innovations they made are novel, involve an innovative step and are capable of industrial application. The application of this form of property rights over living things as if they are mechanical or industrial inventions is inappropriate. Indigenous knowledge and cultural heritage are collectively and accretionally evolved through generations. Thus, no single person can claim invention or discovery of medicinal plants, seeds or other living things.

The inherent conflict between these two knowledge systems and the manner in which they are protected and used will cause further disintegration of our communal values and practices. It can also lead to infighting between indigenous communities over who has ownership over a particular knowledge or innovation. Furthermore, it goes against the very essence of indigenous spirituality which regards all creation as sacred.

WE ARE AWARE of the various implications of the TRIPS Agreement on our lives as indigenous peoples. It will lead to the appropriation of our traditional medicinal plants and seeds and our indigenous knowledge on health, agriculture and biodiversity conservation. It will undermine food security, since the diversity and agricultural production on which our communities depend would be eroded and would be controlled by individual, private and foreign interests. In addition, the TRIPS Agreement will substantially weaken our access to and control over genetic and biological resources; plunder our resources and territories; and contribute to the deterioration of our quality of life.
IN THE REVIEW of the Article 27.3 (b) of the TRIPS Agreement, therefore, our proposals are as follows;

This Article should be amended to categorically disallow the patenting of life forms. Thus, the revised Article 27.3b should clearly prohibit the patenting of plants and animals including all their parts, meaning, genes, gene sequences, cells, proteins, seeds, etc. It should also prohibit the patenting of natural processes involving the use of plants, animals and other living organisms and their parts and processes used in producing variations of plants, animals, and micro-organisms.

The provision for the protection of plant varieties by either a patent, a sui generis system, or a combination of both should be amended and elaborated further. It should:

- Disallow the use of patents to protect plant varieties.
- Ensure that the sui generis system which may be created will protect the knowledge and innovations and practices in farming, agriculture, health and medical care, and conservation of biodiversity of indigenous peoples and farmers.
- Build upon the indigenous methods and customary laws protecting knowledge and heritage and biological resources.
- Ensure that the protection offered to the indigenous and traditional innovation, knowledge, and practices are consistent with the Convention of Biological Diversity (i.e. Articles 8j, 10c, 17.2, and 18.4) and the International Undertaking on Plant Genetic Resources.
- Allow for the right of indigenous peoples and farmers to continue their traditional practices of saving, sharing, and exchanging seeds; and harvesting, cultivating, and using medicinal plants;
- Prevent the appropriation, theft, and piracy of indigenous seeds, medicinal plants, and the knowledge around the use of these by researchers, academic institutions, and corporations, etc.
- Integrate the principle and practice of prior informed consent, which means that the consent of indigenous peoples' as communities or as collectivities should be obtained before any research or collection of plants will be undertaken. The right of indigenous peoples to veto any bioprospecting activity should be guaranteed. Mechanisms to enforce prior informed consent should be installed.
- Prevent the destruction and conversion of indigenous peoples' lands which are rich in biodiversity through projects like mines, monocrop commercial plantations, dams, etc.

We urge the WTO Member-States to put the amendment of the TRIPS Agreement as a priority item in agenda of the forthcoming WTO Ministerial Conference in Seattle. The implementation of the TRIPS Agreement in its present form will have devastating social and environmental consequences which will be irreversible. It is imperative, therefore, that this Agreement be amended to prohibit the patenting of lifeforms and the piracy of indigenous peoples knowledge and resources.

We also call on all the WTO Member-States to work for the extension of the deadline of the implementation of Article 27.3b of TRIPS to the year 2006, five years after the completion of
the review of this has been done.

Finally, we reiterate our commitment to sustain our struggle to have our rights to our intellectual and cultural heritage and our lands and resources promoted and protected. We call on the WTO to become an instrument in promoting our rights instead of enacting and imposing Agreements which are violative or undermining our rights as distinct peoples.


Those who would like to sign on please send an e-mail to tebtebba@skyinet.net or a fax message to TEBTEBBA FOUNDATION at 63-74-4439459. Please write your name, your organization, and your address.

1 Article 27.3.b. of the TRIPS Agreement says:
3. Members may also exclude from patentability... b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and micro-biological processes. However, members shall provide for the protection of plant varieties either by patents or an effective sui generis system or by any combination thereof. The provisions of this paragraph shall be reviewed four years after the date of entry into force of the WTO Agreement.