

100519pc trade

# Intellectual Property Laws Amendment Bill on Indigenous Knowledge

**Presentation by Department of Trade and  
Industry to:**

**Portfolio Committee on Trade and Industry**

**Date: 19 May 2010**

[PART I]



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REPUBLIC OF SOUTH AFRICA



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# DELEGATION

- Ms Zodwa Ntuli: Deputy Director-General: Consumer and Corporate Regulation Division (CCRD), **the dti**
- Ms Nomfundo Maseti: Chief Director: Policy and Legislation, CCRD, **the dti**
- Adv Mandla Mnyatheli: Chief Director: Office of Companies and IP Enforcement *(apologies)*
- Mr MacDonald Netshitenzhe: Director: Commercial Law and Policy, CCRD, **the dti**
- Mr Simphiwe Ncwana: Dep Director: **the dti**



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- Importance of IK
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- The purpose and the provisions of the Bill
- Outline of Process Followed
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# PURPOSE

- **To brief the Portfolio Committee on Trade and Industry on the purpose and the provisions of the Intellectual Property Laws Amendment Bill on Indigenous Knowledge (the Bill)**



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## Meaning of Indigenous Knowledge

- Non single or an all-encompassing definition attached. This may include but not limited to culture, health, agriculture and religion.
- Commonly refers to knowledge and skills that people in a given community or society developed overtime and continue to develop and practice
- Is embedded in culture and is unique to a given location or society i.e. locally bound and indigenous to a specific local
- Serves as basis for decision-making of communities in food security, human and animal health, education and natural resource management. E.g. herbal medicine



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# Importance of Indigenous Knowledge

- IK recognised as an important aspect of the development process of local communities and the poor.
- Knowledge not capital is key to sustainable development of communities
- Key element of the “social capital” of the poor; their main asset to invest in the struggle for survival, to produce food, to provide for shelter or to achieve control of their own lives.
- Transfer of local knowledge across communities and cultures, and from traditional healers to industrial economies without proper recognition and compensation of the IK holders
- IK has importance in conferring socio economic benefits to IK holders
- IK can be a catalyst to for empowerment and for economic development of the rural populace in the agricultural environment
- Can progressively be improved and can be passed from one generation to the other.



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# Importance of IK

- Sectors or areas of importance for the poor:
  - Agriculture
  - Animal husbandry and ethnic veterinary medicine
  - Use and management of natural resources
  - Primary health care, preventive medicine and psycho-social care
  - Savings and lending e.g. stokvels and burial society
  - Community development
  - Poverty alleviation e.g. by exchanging IK and integrating it into the development process programs
  - Craft and tourism



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# South African Legal Context

- The landscape on legislation impacting on protection of IK in South Africa as follows:
  - Health Traditional Practitioners Act - administered by the Department of Health
  - National Heritage Resources Act – administered by the Department of Arts and Culture. The primary purpose is to ensure preservation of physical and heritage sites;
  - Heraldry Act – by the Dept of Arts and Culture. Main focus is the protection of state emblems from the heraldic point of view;
  - The Department of Cooperative Governance and Traditional Affairs
  - Nat Environment Biodiversity Act of 2004 – administered by the Department of Environmental Affairs. Mainly focuses on protecting biological and genetic resources aspects of IK;
  - Plant Varieties Act – by the Dept of Agriculture and Rural Development. Mainly focuses on control and protection of plant mix and provides mechanism for registration of mixed plant through CIPRO;



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