



International Laws and Developments relating to Indigenous Knowledge in Australia

Supplementary Paper 2



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Written by: Maiko Sentina, Elizabeth Mason, Terri Janke and David Wenitong, Terri Janke and Company.

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WARNING

The document contains names of deceased persons of Aboriginal and Torres Strait Islander. It also contains some language that might be considered offensive.

Important legal notice

The laws and policies cited in this book are current as at August 2017. They are generally discussed for the purposes of providing this report. No person should rely on the contents of this report for a specific legal matter but should obtain professional legal advice from a qualified legal practitioner.





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Introduction

It is important to inform Australia's domestic efforts to protect Indigenous Knowledge with an understanding of the developments in international laws.

International treaties have led to changes in Australian domestic, and conventions, declarations and other agreements also provide frameworks and commentary on the issues that Australia can learn from in improving its domestic protections.

This section provides a snapshot of international instruments that Australia is a member to or is involved with across intellectual property, environment, human rights, cultural heritage and trade, shedding light on the discussions around Indigenous Knowledge protection and management.

1. Intellectual Property

Australia is a signatory to many international instruments that relate to intellectual property and Australian laws have given effect to certain provisions in those instruments that have enhanced protection for Indigenous Knowledge.

1.1 Paris Convention for the Protection of Industrial Property (1883)

The Paris Convention specifically applies to the protection of industrial property. Under the convention, 'industrial property', is held to include; patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and covers the repression of unfair competition.¹

Indigenous Knowledge is not specifically addressed, however the Paris Convention defines 'industrial property' quite broadly, not limiting it to industry and commerce, but to include agricultural and extractive industries, and, to all manufactured or natural produce.² The basis of the Convention is to provide uniform protection to contracting states in their dealings with industrial property.

1.2 Berne Convention for the Protection of Literary and Artistic Works (1886)

The Berne Convention requires parties to protect the rights of authors of literary and artistic works.³ Underpinning the Convention is the theme of 'national protection', which guarantees an established standard of rights to authors of literary and artistic works, both inside and outside of their country of origin. The Convention provides the same level of protection between member countries regardless of their own national standards.⁴

Article 15(4) of the Convention also extends to protecting works where the author is unknown. It also states that where it can be presumed that the unknown author is a national of the

¹ *Paris Convention for the Protection of Industrial Property*, opened for signature 20 March 1883, 828 UNTS 305, (entered into force 26 April 1970), Article 1(2).

² *Ibid* Article 1(3).

³ *Berne Convention for the Protection of Literary and Artistic Works*, opened for signature 24 July 1971, 1161 UNTS 30 (entered into force 1 March 1978), Article 2.

⁴ *Ibid* Article 5.



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member country, local laws may be enacted to designate a competent authority to represent those unknown authors and enforce their rights under the Convention. This provision was an attempt to protect 'folklore' or community-based knowledge by using existing frameworks that deal with individual authorship.⁵ It is, however, left to countries and their laws to determine whether a national competent authority will own the works or operate as a collecting society.⁶

1.3 Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961)

The object of the Rome Convention is to provide international standards for the protection of performers, producers of phonograms and broadcasting organisations. The convention covers:

- *Performers*- actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, or otherwise perform literary or artistic works;⁷
- *Producers of Phonograms*- person who, or legal entity which first fixes (records) sounds of a performance or other sound;⁸ and
- Provides rights to *Broadcasting Organisations* to authorise or prohibit the rebroadcasting, recording and reproduction of their communications.⁹

The Rome Convention provides these entities with right to determine and control how their works are distributed and protection over their works. The convention provides protection for a minimum of 20 years which is calculated from the end of the year that the recording, performance or broadcast took place.¹⁰

The Rome Convention allows for contracting states to provide exceptions to this protection in their domestic laws to provide for private use, the use of short excerpts in the connection with the reporting of current events, brief recording by broadcasting organisations from its own facilities for its own broadcasts, and for the sole purpose of teaching or scientific research.¹¹

1.4 WIPO IGC

The World Intellectual Property Organisation (WIPO) is the international agency that administers the intellectual property conventions throughout the world. Since 2000, WIPO has convened an Inter-Governmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC).

The IGC's mandate is to reach an international instrument which will 'ensure the balanced and effective protection of genetic resources, traditional knowledge and traditional cultural

⁵ Terri Janke, *Our Culture: Our Future – Report on Australian Indigenous Cultural and Intellectual Property Rights* (Final Report, Australian Institute of Aboriginal and Torres Strait Islander Studies, 1998), 100; Paul Torremans, *Copyright Law: A Handbook of Contemporary Research* (Edward Elgar Publishing, 2009).

⁶ Terri Janke, *Our Culture: Our Future*, Ibid, 100.

⁷ *Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations*, opened for signature 26 October 1961, 496 UNTS 43, (entered into force on 18 May 1964), Article 3(a)

⁸ Ibid Article 3(c).

⁹ Ibid Article 13.

¹⁰ Ibid Article 14.

¹¹ Ibid Article 15.





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expressions' based on an evidence-centred approach through the sharing of national experiences and initiatives.¹² The IGC has drafted articles for the protection of Traditional Knowledge and Traditional Cultural Expression. These were updated at the IGC meeting in June 2017. However, there is still no consensus on whether these drafts will progress to a binding legal instrument. In any case, the IGC determined that there was still more work to be done.

1.4.1 Draft Articles on Traditional Knowledge, Traditional Cultural Expression and Genetic Resources

The IGC's Draft Articles aim to set international standards for protection against misappropriation and misuse of Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources.

Although they have no formal legal status, they are a useful guide for Australian law and policy makers when considering approaches to protection of Indigenous Knowledge. The Draft Articles address important issues in Indigenous Knowledge protection that are also concerns in Indigenous Knowledge protection and management in Australia and the debates in the drafts, where multiple alternative options are provided, reflect the complexity of the issues being addressed.

Professor James Anaya provides an analysis of some of the key terms of the Draft Articles:¹³

- **Defining misappropriation.** The Draft Articles on Traditional Knowledge propose four definitions for misappropriation:
 - Access or use of Traditional Knowledge or Traditional Cultural Expression for any purpose without PIC and if applicable, without MAT;
 - Use of Traditional Knowledge or Traditional Cultural Expression in violation of national laws;
 - Access or use of Traditional Knowledge or Traditional Cultural Expression in violation of customary laws; or
 - Access or use of Traditional Knowledge or Traditional Cultural Expression without FPIC and MAT and in violation of customary law and established practices governing the access or use.

Lack of consent is the key aspect of these definitions. However, the proposed option that sets violation of national law as a benchmark is concerning as it means if national law does not protect Traditional Knowledge, then no misappropriation occurs.¹⁴

¹² Assemblies of Member States of World Intellectual Property Organisation, *Decision: Matters Concerning the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, 55th sess, (5-14 October 2015), 1, [(a)].

¹³ James Anaya, *Technical Review of Key Intellectual Property-Related Issues of the WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions*, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, 34th sess, WIPO/GRTKF/IC/34/INF/8 (2 March 2017).

¹⁴ *Ibid.*



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- **Scope of protection:** the degree of protection that States would be required to implement remains substantially undefined. There appears to be differing levels of protection depending on the Traditional Knowledge or Traditional Cultural Expression, with highest level of protection afforded to sacred and secret Traditional Knowledge and Traditional Cultural Expression, and the lowest form of protection being that of 'respectful use' of Traditional Knowledge and Traditional Cultural Expression that are widely known or no longer intensively used by the Indigenous people concerned. Benefit sharing agreements would be appropriate for Traditional Knowledge and Traditional Cultural Expression at the mid-range of the spectrum.
- **Identifying beneficiaries:** the Draft Articles on Traditional Knowledge and Traditional Cultural Expression identify indigenous people and local communities as beneficiaries. An alternative definition also allows for states to determine other beneficiaries under its own laws. For Traditional Cultural Expressions, the Draft Articles specify that beneficiaries could also be the people and communities who 'hold, express, create, maintain, use and develop protected traditional cultural expressions'.¹⁵ Identifying beneficiaries is often a point of concern, as those wishing to use Indigenous Knowledge, in obtaining FPIC and MAT for using that Indigenous Knowledge are often unsure of who to approach for consultation.
- **Disclosure:** the key mechanism for protection under the Draft Articles on Genetic Resources is the requirement that a patent applicant disclose the country or source of origin of the subject matter.¹⁶

1.4.2 Indigenous representation in WIPO IGC

Indigenous people have consistently challenged WIPO in its inclusion of Indigenous people at the IGC and in decision-making in the issues that will affect their rights. WIPO has in the past been called on by the UN Permanent Forum on Indigenous issues to improve their implementation of Article 18 of the UN Declaration of Indigenous Peoples. Indigenous representatives have expressed concern at the level of consultation when negotiating about Indigenous rights.

The WIPO Voluntary Fund was established to facilitate the participation of indigenous and local communities in the work of the IGC. The Australian Government has recognised the importance of an inclusive process and has made contributions to the Voluntary Fund, including \$50,000 at the 33rd session of the IGC, and previous contributions in excess of \$100,000.

¹⁵ Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, *The Protection of Traditional Cultural Expressions: Draft Articles Facilitators' Rev. 2*, (as at the close of IG 33 on March 3, 2017), Article 4.

¹⁶ James Anaya, *Technical Review of Key Intellectual Property-Related Issues of the WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions*, Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, 34th sess, WIPO/GRTKF/IC/34/INF/8 (2 March 2017).



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2. International environmental laws

2.1 United Nations Convention on Biological Diversity

The Convention on Biological Diversity aims for the conservation of biological diversity, the sustainable use of the components of biological diversity, and, the fair and equitable sharing of benefits arising out of the utilization of genetic resources.¹⁷ The Convention grew out of the global recognition of the value of genetic resources the need for sustainability, and for the fair and equitable sharing of benefits between developed and developing states.

Developed as a supplement to the Convention were:

- The Nagoya Protocol on Access and Benefit Sharing; and
- The Bonn Guidelines to Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization.

2.1.1 Nagoya Protocol

The purpose of the Nagoya Protocol is to implement one of the three main objectives of the Convention on Biological Diversity, which is to focus on the fair and equitable sharing of benefits arising from the utilization of genetic resources. The Protocol contains further guidelines for the access to genetic resources, compliance with prior informed consent, and mutually agreed terms. It requires each country to have:

- A national focal point.¹⁸ They function as liaisons that provide information on Australia's ABS requirements to those who wish to access genetic resources and associated traditional knowledge.
- A competent national authority.¹⁹ They are responsible for administering access and ABS agreements (e.g. obtaining free prior informed consent and negotiating mutually agreed terms);
- National check points.²⁰ They are responsible for collecting or receiving information and evidence on free prior informed consent and mutually agreed terms from access parties and take measures against non-compliance.

The Protocol also sets out clear obligations on the engagement with indigenous peoples and the use of Traditional Knowledge. The key provisions relating to indigenous knowledge are as follows:

- Article 5 provides that the benefits arising from genetic resources need to be shared in a fair and equitable way. Of particular relevance is the obligation to ensure that the benefits arising from the use of Indigenous held resources are shared in a fair, and equitable way, and on mutually agreed terms, with the indigenous communities

¹⁷ *Convention on Biological Diversity*, opened for signature 5 June 1992, 1760 UNTS 79, (entered into force 29 December 1993), Article 1.

¹⁸ *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the 1992 Convention on Biological Diversity*, opened for signature 29 October 2010, (not yet in force), Article 13.

¹⁹ *Ibid.*

²⁰ *Ibid* Article 17.



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involved.²¹

- Article 7 provides an obligation that parties take appropriate steps to gain prior informed consent and for the establishment of mutually agreed terms for the use of Traditional Knowledge associated with the use of genetic resources.²²
- Article 12 provides an obligation for parties when using Traditional Knowledge associated with genetic resources to take into consideration Indigenous customary laws, community protocols and procedures. Other obligations include the support of indigenous communities to develop community protocols, requirements for mutually agreed terms and model contract clauses for the use of Traditional Knowledge.²³

Australia is a signatory to the Nagoya Protocol but has yet to ratify and establish the framework for implementing its obligations under the protocol.

2.1.2 The Bonn Guidelines

The Bonn Guidelines are a set of guidelines and steps created by the Convention on Biological Diversity to assist users, and providers of genetic resources, standards in access and benefit sharing strategies.²⁴ These guidelines place much weight on contracting states, particularly in developing countries to gain access to these resources on mutually agreed terms and gain prior informed consent from the providers. This ensures a high level of responsibility and transparency to parties dealing with providers of these resources. The guidelines do not specifically raise the issues of Indigenous Knowledge protection; however, they do provide standards and processes when dealing with indigenous peoples, resources and traditional knowledge.

3. International Indigenous rights

3.1 UN Declaration on the Rights of Indigenous People

Indigenous people's rights are contained in the *United Nations Declaration on the Rights of Indigenous People* (the **Declaration**). It recognises the 'urgent need to respect and promote the inherent rights of Indigenous peoples'.²⁵

Australia has adopted and endorsed the Declaration as a framework to inform the recognition and protection of the rights of Aboriginal and Torres Strait Islander Australians.

The Declaration is supported by the *Business Reference Guide on the UN Declaration on the Rights of Indigenous Peoples*, a resource created by the UN Global Compact to help businesses with understanding, respecting and supporting the rights of Indigenous people.²⁶

²¹ Ibid Article 5.

²² Ibid Article 7.

²³ Ibid Article 12.

²⁴ Secretariat of the Convention on Biological Diversity, *Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization*, (Secretariat of the Convention on Biological Diversity, 2002), Part IV.

²⁵ *Declaration on the Rights of Indigenous Peoples*, GA Res 61, UN GAOR, 61st sess, 107th plenary meeting, UN Doc A/295 (2 October 2007), Annex.

²⁶ United Nations Global Compact, *A Business Reference Guide: United Nations Declaration of the Rights of Indigenous Peoples* (2013).



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Of particular note in the UNDRIP are Articles 11 and 31 which contain provisions that recognise the importance of Indigenous people's rights over their knowledge. 'Knowledge' is expressed in the text of the UNDRIP in various forms – culture, traditions, heritage, knowledge about genetic resources, traditional knowledge and traditional cultural expressions:

- Article 11 recognises the importance of Indigenous people's right to practice their culture and traditions and to maintain and protect the dignity of their culture in all manifestations of it.²⁷
- Article 31 relates to Indigenous people's right to maintain protect and control their cultural heritage, traditional knowledge and traditional cultural expressions. This includes rights over intellectual property, genetic resources, visual and performing arts.²⁸

This provides a set of standards for governments, and also Indigenous people themselves to ensure the protection of Indigenous Knowledge. Fundamentally, entrenched in the UNDRIP is the key principle of free, prior and informed consent (FPIC). That is, it is in line with the spirit of the UNDRIP that in any decision that concerns Indigenous people – from uses of culture and knowledge to legal reform and policy development – should be made by consulting with and obtaining the consent of Indigenous people.

There is extensive literature interpreting how FPIC should be obtained in accordance with UNDRIP.²⁹ However, there is no clear process for obtaining FPIC or for what constitutes 'consultation' or 'consent'. The UNDRIP Business Reference Guide recognises that 'there is no simple checklist that a business can complete in order to assure that they have satisfied the FPIC requirement'.³⁰ Therefore, a way forward for government, industries and Indigenous people is to establish standards of FPIC for Indigenous Knowledge.

3.2 Permanent Forum on Indigenous Peoples

The UN's Permanent Forum on Indigenous issues was established on 28 July 2000 and set up to deal with indigenous issues related to economic and social development, culture, environment, education, health and human rights.³¹ Its role is to provide expert advice to the Economic and Social Council in the form of commentary, reports and recommendations on the current framework surrounding indigenous peoples which does include issues relating to Indigenous Knowledge.

²⁷ *Declaration on the Rights of Indigenous Peoples*, GA Res 61, UN GAOR, 61st sess, 107th plenary meeting, UN Doc A/295 (2 October 2007), art 11; Reconciliation Australia, *United Nations Declaration on the Rights of Indigenous Peoples*, <<https://www.reconciliation.org.au/wp-content/uploads/2013/12/United-Nations-Declaration-on-the-Rights-of-Indigenous-Peoples.pdf>>.

²⁸ *Ibid* Article 31.

²⁹ Amy Lehr, '*Indigenous Peoples' Rights and the Role of Free, Prior and Informed Consent*' (20 February 2014) United Nations Global Compact <http://solutions-network.org/site-fpic/files/2012/09/FPIC_Indigenous_Peoples_UN-global-compact.pdf>; United Nations Global Compact, *A Business Reference Guide: United Nations Declaration of the Rights of Indigenous Peoples* (2013), p. 25. <https://www.unglobalcompact.org/docs/issues_doc/human_rights/IndigenousPeoples/BusinessGuide.pdf>.

³⁰ United Nations Global Compact, *A Business Reference Guide: United Nations Declaration of the Rights of Indigenous Peoples* (2013), p. 26.

³¹ Division for Social Policy and Development Indigenous Peoples, *Permanent Forum*, <<https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2.html>>.



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3.3 Expert Mechanism on the Rights of Indigenous Peoples

The Expert Mechanism on the rights of Indigenous Peoples Mechanism is made up of five experts of indigenous origin who are mandated to study and research the rights of indigenous peoples as set out in the *United Nations Declaration on the Rights of Indigenous Peoples* and make proposals to the council based on their findings.³²

The experts provide advice on a wide range of indigenous issues, including the advice relating to indigenous Traditional Knowledge and the need for states to gain prior informed consent when interacting with indigenous peoples and communities.³³ One of their advices reads:

States should establish mechanisms, including monitoring, to ensure that indigenous peoples' traditional knowledge is not expropriated without the free, prior and informed consent of indigenous peoples and provision is made for appropriate access and benefit-sharing arrangements.³⁴

3.4 Special Rapporteur on the Rights of Indigenous Peoples

In an endeavour to address the long-standing issues relating to indigenous peoples across the world, in 2001, the Commission on Human Rights appointed a special rapporteur on the rights of Indigenous peoples. The function of this role is to provide reports and recommendations to the commission of the current human rights situations in different parts of the world. The mandate for the current Special Rapporteur, Ms Victoria Tauli Corpuz (Philippines), are the issues surrounding the economic, social, cultural and environmental rights of indigenous peoples.³⁵ In her 2014 report, the Special Rapporteur highlights that she will be focusing on:

Measures to protect and promote indigenous cultural heritage and traditional knowledge, including developments in conventions and standard-setting processes related to the protection of traditional knowledge and respect for the right to culture and the equitable sharing of benefits which accrue from the use of indigenous peoples' knowledge, innovations and practices.³⁶

3.5 International Labour Organisation: the Indigenous and Tribal Peoples Convention 1989 (No.169)

The ILO, Indigenous and Tribal Peoples Convention provides for the recognition and protection of Indigenous peoples social, cultural, religious and spiritual beliefs and covers labour and employment protection to Indigenous peoples.³⁷ The Convention calls on countries to recognise the cultural and economic distinctions of Indigenous groups and their status. Australia has not ratified the Convention.

³² The Office of the United Nations High Commissioner for Human Rights, *Thematic Advice of the Expert Mechanism on the Rights of Indigenous Peoples: A Compilation (2009-2013)*, (The Office of the United Nations High Commissioner for Human Rights, 2013).

³³ Ibid 4.

³⁴ Ibid 24.

³⁵ Victoria Tauli Corpuz, Special Rapporteur, *Report of the Special Rapporteur on the rights of indigenous peoples*, 27th session, UN Doc A/HRC/27/52 (11 August 2014) 15 [52].

³⁶ Ibid 16 [52].

³⁷ *Convention concerning Indigenous and Tribal Peoples in Independent Countries*, signed 27 June 1989, (entered into force 5 September 1991), Part 2,3,4,5.



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4. UNESCO Convention and cultural heritage conventions

4.1 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage

The *UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage* safeguards intangible cultural heritage, ensure the protection of and raise awareness, on a national and international level the importance of intangible cultural heritage.³⁸ The convention defines Intangible cultural heritage to include, practices, representations, expressions, knowledge and skills.³⁹ The convention provides guidelines for protection at a national and international level and establishes a fund for safeguarding of the intangible cultural heritage.⁴⁰

5. International trade agreements

Trade agreements regulate and promote international trade between countries. These agreements cover the import and export of goods. It is important to understand specifically where Intellectual property sits within the international trade framework and understand international endeavours to provide standards for use. It is quite clear that these agreements are quite broad and encompassing, however it is also clear that they do very little to provide protection to Indigenous Knowledge.

5.1 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)

The TRIPs agreement came into force in 1995 as an International Intellectual Property agreement covering the areas of:

- Copyright and related rights;
- Trademarks;
- Geographical indications;
- Industrial designs
- Patents;
- Integrated circuits;
- Undisclosed information;
- Anti-competitive licences.

The objective of the TRIPS agreement is to ensure the protection of intellectual property rights within the course of international trade, and ensure that these procedures do not become a barrier to legitimate international trade.⁴¹

³⁸ *Convention for the Safeguarding of the Intangible Cultural Heritage*, opened for signature 17 October 2003, 2368 UNTS 1 (entered into force 20 April 2006), Article 1.

³⁹ *Ibid* Article 2.

⁴⁰ *Ibid* Article 25.

⁴¹ *Agreement on Trade-Related Aspects of Intellectual Property Rights* 33 ILM 1197 (1994) Article 7.



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The TRIPS agreement ties in several key conventions as setting the standards for the basic level of protection of intellectual property. The TRIPS agreement recognises the standards for protection already in existence and uses them as the point of departure and compliance with these basic standards.⁴²

On a whole the TRIPS agreement does not add any further protection than the standards already in existence. This raises issues in relation to the protection Indigenous Knowledge in the international market. However, the agreement provides scope, pursuant to article 27.3(b), for the enactment of *sui generis* systems for countries to develop their own legislation in relation to patentable subject matter/plant varieties. Article 27.3(b) states:

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 microbiological processes. However, members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof. The provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement.

John Mugabe notes that this provision creates flexibility for establishing alternative non-conventional intellectual property protection measures like traditional knowledge and traditional cultural expression protections.⁴³

5.2 Free Trade Agreements

Free Trade Agreements have the potential to either:

- (a) Restrict the ability of member countries to protect Indigenous Knowledge:
 - By aligning their intellectual property regimes with those of other participating members;
 - If there are gaps within the framework which do not adequately address or facilitate protection of Indigenous Knowledge.
- (b) Promote or require member countries to protect Indigenous Knowledge:
 - If the member countries share a common interest in protecting traditional knowledge and have similar national laws;
 - By creating options for cross-border solutions where the WIPO IGC is slow or unable to deliver on Indigenous Knowledge protection;
 - By outlining and preserving the policy space in regard to Indigenous Knowledge.

⁴² Ibid Article 2. These agreements are the *Berne Convention for the Protection of Literary and Artistic Works*; *Rome Convention on the Protection of Performers, Producers of Phonograms and Broadcasting Organisations*; *Paris Convention on the Protection of Trademarks*.

⁴³ John Mugabe, *Intellectual Property Protection and Traditional Knowledge: An Exploration in International Policy Discourse* (African Centre for Technology Studies Press, 1999), 17.



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International agreements provide a framework for Australia to inform its domestic protections based upon international developments. International bodies are tasked with raising the importance of the issues surrounding Traditional Knowledge and Traditional Cultural Expression protection, and progressing the debate around what mechanisms should be implemented to address the issues. However, as demonstrated by the IGC Draft Articles, even at an international level there is a complexity to the issues that may not be readily addressed.