



IGC 35: WIPO Resources on Intellectual Property and Genetic Resources

Presentation by the Secretariat

March 19, 2018

Geneva

Traditional Knowledge

Traditional knowledge (TK) is a living body of knowledge passed on from generation to generation within a community. It often forms part of a people's cultural and spiritual identity. WIPO's program on TK also addresses genetic resources (GRs) and traditional cultural expressions (TCEs).

WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) is negotiating international legal instrument(s) on intellectual property (IP) and GRs, TK and TCEs.

- [Indigenous Portal](#)
- [Frequently asked questions](#) | [Glossary of key terms](#)

[Looking for information on the IGC?](#) [IGC website](#) | [IGC: What is happening now](#)



Delegates attending the Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Photo: WIPO).

News

All news

WIPO Indigenous Scholarship for Summer School 2018

February 5, 2018

35th session of the IGC – March 19 to 23, 2018

January 10, 2018

Documenting Traditional Knowledge – A Toolkit

December 14, 2017

Email updates

Traditional Knowledge Updates – Regular news and resources about intellectual property & traditional knowledge, and IGC updates.

Sign up

| All WIPO newsletters



Traditional knowledge

A living body of knowledge that is developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity.



Traditional cultural expressions

Forms in which traditional culture is expressed; passed down from generation to generation, they form part of the identity and heritage of a traditional or indigenous community.



Genetic resources

Genetic material, which are any material of plant, animal, microbial or other origin containing functional units of heredity, of actual or potential value.

Genetic Resources

Genetic resources (GRs) refer to genetic material of actual or potential value. Genetic material is any material of plant, animal, microbial or other origin containing functional units of heredity. Examples include material of plant, animal, or microbial origin, such as medicinal plants, agricultural crops and animal breeds.

Genetic resources and intellectual property

GRs as encountered in nature are not creations of the human mind and thus they cannot be directly protected as intellectual property (IP). However, there are IP issues associated with GRs.

Inventions or [plant varieties](#) based on or developed using GRs (associated with [traditional knowledge](#) or not) may be patentable or protected by plant breeders' rights.

In considering IP issues associated with GRs, WIPO's work complements the frameworks for access and benefit-sharing provided by the [Convention on Biological Diversity \(CBD\)](#) and its [Nagoya Protocol](#), and the [International Treaty on Plant Genetic Resources for Food and Agriculture](#) of the United Nations Food and Agriculture Organization (FAO).

Issues under discussion at WIPO

Negotiations on an international legal instrument on IP issues related to GRs are taking place in the [WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore](#). Issues under discussion include:

- **Prevention of erroneously granted patents:** It is generally considered that the granting of [patents](#) over inventions based on or developed using GRs (and associated traditional knowledge) which do not fulfill the existing requirements of novelty and inventiveness should be prevented. To help patent examiners find relevant "prior art" and avoid the granting of erroneous patents, WIPO has improved its own [search tools](#) and [patent classification systems](#), and it is proposed by some that databases and information systems related to GRs be created to address this issue. A disclosure requirement may also address this issue (see [disclosure requirements table](#) [PDF](#)).
- **Ensuring and tracking compliance with access and benefit-sharing frameworks:** **Disclosure requirements** are one of the proposals to address this issue. Disclosure requirements mean patent (and perhaps also other forms of IP) applicants should disclose several categories of information concerning GRs, such as the source or origin of GRs and evidence of prior informed consent and benefit-sharing, when these GRs are used in developing the innovation claimed in a patent application.

The relationship between IP and GRs could be addressed by contract: see the online database of [relevant contractual practices](#) and draft guidelines on intellectual property clauses (English [PDF](#) | Arabic [PDF](#) | Chinese [PDF](#) | Russian [PDF](#)) in access and benefit-sharing agreements, which provide guidance on the **IP aspects of mutually agreed terms** for fair and equitable sharing of benefits from the utilization of genetic resources.



Rice field in Madagascar (Photo: UN Photo/Lucien Rajaonina).

GR resources

[Laws and legislative measures](#)

[Disclosure requirements table](#) [PDF](#)

[Publications and studies](#)

[FAQs](#)

[Glossary](#)

[Key questions on patent disclosure requirements](#)



Resources on:

- Disclosure requirements
- Databases
- Contracts - Mutually Agreed Terms for Fair and Equitable Benefit-Sharing
- General/Cross-cutting materials



Disclosure requirements

Key Questions on Patent Disclosure Requirements for Genetic Resources and Traditional Knowledge



Traditional Knowledge, Traditional Cultural Expressions & Genetic Resources Laws

Find laws, treaties and regulations on the protection of traditional knowledge (TK), traditional cultural expressions (TCEs) and genetic resources (GRs).

Related links

- [Treaties on TK, TCEs and GRs](#)
- [IP laws & treaties \(WIPO Lex\)](#)

Subject Matter

**** Any ****

- Traditional Knowledge
- Traditional Cultural Expressions
- Genetic Resources

Issue(s)

**** Any ****

- Subject Matter of Protection
- Beneficiaries or Rightholders
- Scope of Protection
- Exceptions and Limitations
- Types of Disclosure

Country / Organization *

**** Any ****

- Afghanistan
- Albania
- Algeria
- Andean Community
- Angola
- Antigua and Barbuda
- ARIPO
- Armenia
- Azerbaijan
- Bahrain

* List includes only countries/organizations for which records are available.

Traditional Knowledge, Traditional Cultural Expressions & Genetic Resources Laws

Search Results

Subject matter: Genetic Resources

Country/Organization: Andean Community

2 record(s) found.

Subject matter	Country/Organization	Title
Genetic Resources Traditional Knowledge	Andean Community	Decision No. 391 Establishing the Common Regime on Access to Genetic Resources
Traditional Knowledge Genetic Resources	Andean Community	Decision No. 486 Establishing the Common Industrial Property Regime (2000)

Disclosure Requirements Table

October 2017

Explanatory Note and Disclaimer: The following table comprises a non-exhaustive selection of extracts from existing national and legislative texts which, in one way or another, provide for a specific disclosure requirement related to genetic resources and/or traditional knowledge. The extracts are taken directly from the legislative texts as contained in WIPO Lex (WIPO's collection of laws). The table contains no interpretation or commentary, and the extracts appear in the languages in which the laws appear in WIPO Lex. In order to facilitate the reading and comprehension of the table, some relevant parts of the extracts may appear in bold, but this highlighting does not appear in the original legislative texts. All information provided is for information purposes only, and is not a substitute for legal advice. The WIPO Secretariat makes every effort to ensure, but cannot guarantee, the accuracy of the data contained in this selection. In particular, WIPO assumes no responsibility for any discrepancy that may occur in the electronic manipulation of the said data. The WIPO Secretariat will continue to add to and update the table over time. Additional contributions to the table, and any corrections and comments, would be appreciated and may be sent to grtkf@wipo.int.

The current version of the Disclosure Requirements Table was updated as at October 2017. The following new entries have been added: Burundi, Djibouti, France, Indonesia, Namibia, Panama, Spain and Uganda. Additional or amended information has also been added regarding the following entries: Andean Community, Denmark, Germany, Italy, Norway and Philippines.

Country/Region	Title	Subject Matter	Trigger of Disclosure	Content of Disclosure	Consequences of non-compliance
Andean Community	Decision No. 486 Establishing the Common Industrial Property Regime (2000) (http://www.wipo.int/wipolex/en/details.jsp?id=9451)	Article 26 1. genetic resources or products derived therefrom 2. traditional knowledge of the indigenous Afro-American or local communities of member countries	Article 26. The application for a patent shall be filed with the competent national office and shall contain the following: [...] (h) where applicable, a copy of the access contract where the products or processes for which a patent is sought have been obtained or developed from genetic resources or products derived therefrom of which any of the member countries is the country of origin; (i) where applicable, a copy of the document accrediting the licensing or the authorization of the use of the traditional knowledge of the indigenous Afro-American or local communities of member countries where the products or processes for which protection is sought have been obtained or developed from such knowledge of which any of the member countries is the country of origin, in accordance with the provisions of Decision 391 and such of its amendments and implementing regulations as are in force.	Article 26. The application for a patent shall be filed with the competent national office and shall contain the following: [...] (h) where applicable, a copy of the access contract where the products or processes for which a patent is sought have been obtained or developed from genetic resources or products derived therefrom of which any of the member countries is the country of origin; (i) where applicable, a copy of the document accrediting the licensing or the authorization of the use of the traditional knowledge of the indigenous Afro-American or local communities of member countries where the products or processes for which protection is sought have been obtained or developed from such knowledge of which any of the member countries is the country of origin, in accordance with the provisions of Decision 391 and such of its amendments and implementing regulations as are in force.	Article 42. Within a period of 60 days following the publication date, any person having a legitimate interest may file one reasoned opposition contesting the patentability of the invention. Article 39. If it emerges from the examination as to form that the application does not meet the conditions specified in Articles 26 and 27, the competent national office shall inform the applicant accordingly, so that he may meet those conditions within a period of two months following the date of notification. That period may be extended once by an equal amount at a request of a party without any loss of priority. If, on the expiry of the period specified, the applicant has not met the conditions mentioned, the application shall be considered abandoned and its priority shall be lost. The competent national office shall nevertheless respect the confidentiality of the application. Article 75. The competent national authority shall decree the absolute invalidity of a patent at any time, either <i>ex officio</i> or at the request of any person, where: ... (g) where applicable, a copy of the access contract has not been filed where the products or processes to which the patent application relates have been produced or developed with genetic resources or derived products of which any of the member countries is the country of origin; (h) where applicable, a copy of the document evidencing the licensing or authorization of the use of traditional knowledge of the indigenous Afro-American or local communities of the member countries has not been filed where the products or



IGC's Mandate

The Secretariat is requested to produce a report(s) compiling and updating studies, proposals and other materials relating to tools and activities on databases and on existing disclosure regimes relating to GR and associated TK, with a view to identify any gaps.

IGC 35 document

WIPO/GRTKF/IC/35/6
(Report on the
Compilation of
Materials on
Disclosure Regimes
Relating to GRs and
Associated TK)

Content

WIPO Studies and Guide

Database on Laws and Regulations

Proposals from Member States

Regional and National Experiences

Historical development of the GRs
Text



Databases



■ Online Databases and Registries of Traditional Knowledge and Genetic Resources

- a non-exhaustive list of online databases and registries of TK and GRs that are maintained and managed by WIPO member states and other organizations
- http://www.wipo.int/tk/en/resources/db_registry.html



IGC's Mandate

The Secretariat is requested to produce a report(s) compiling and updating studies, proposals and other materials relating to tools and activities on databases and on existing disclosure regimes relating to GR and associated TK, with a view to identify any gaps.

IGC 35 documents

WIPO/GRTKF/IC/35/5
(Report on the
Compilation of
Materials on
Databases Relating to
GRs and Associated
TK)

Content

WIPO Publications and Activities

Proposals from Member States

Regional and National Experiences

Historical Development of the
TK Text

Historical Development of the
GRs Text



Contracts - Mutually Agreed Terms for Fair and Equitable Benefit-Sharing

Biodiversity-related Access and Benefit-sharing Agreements

Database of actual and model biodiversity-related access and benefit-sharing agreements and related information, with particular emphasis on the intellectual property aspects of such agreements.

Related links

- [Genetic resources](#)
- [Consultations on genetic resources](#)

The database is a work in progress. Interested parties are invited to contribute by completing our questionnaire [PDF](#) [DOC](#) and/or by [contacting us](#).

Contractual clauses search

[List of all contracts](#)

OR (at least one of the specified words) ▼

Search

Reset

Intellectual Property Related Clauses

- Intellectual Property (general)
- Patents
- Distinctive Signs
- Plant Breeders' Rights
- Trade Secrets
- Copyright and Related Rights
- Ongoing Traditional and Customary Use
- Sui generis Protection of Traditional Knowledge
- Licensing

Other Clauses

- Dispute Resolution
- Definitions
- Ownership
- Confidentiality
- Transfer to Third Parties
- Monetary Benefit-Sharing
- Non-monetary Benefit-Sharing
- Dispute Resolution
- Governing Law of the Contract

Model agreements

- Agreement drafted by the International Centre of Insect Physiology and Ecology (ICIPE) for the transfer of Biological Material and/or Related Information, 2000
- Exclusive License Agreement (sample) - Harvard College, United States of America
- Exclusive Variety License Agreement between her Majesty the Queen in Right of Canada, as represented by the Ministry of Agriculture and Agri-Food (AAFC), and the Company
- Licensing Agreement (sample) submitted by Michael A. Gollin, VENABLE Attorneys at Law, 1201 New York Avenue, N.W., Suite 1000, Washington, DC 20005-3917, United States of America
- Material Transfer Agreement on Plant Genetic Resources for Food and Agriculture "National Programme on Plant Genetic Resources and Agro-biodiversity Conservation and Utilization" of the Czech Republic, Czech Gene Bank, CRI
- Model Transfer Agreement: Terms and Conditions of limited non-exclusive license model agreement to use genetic material of the Culture Collection of Dairy Microorganisms (CCDM) of the Czech Republic
- Model Access and Benefit Sharing Agreement between Access Provider and Access Party, proposed by the Australian Government
- Model Access and Benefit Sharing Agreement between Australian Government and Access Party
- Model Agreement between the National Institute for Pharmaceutical Research and Development, Nigeria and a Consultant Herbalist, 1997
- Model Biodiscovery Benefit-Sharing Agreement prepared by the State of Queensland, Australia to facilitate the development of the Queensland Biodiscovery Industry
- Model Letter of Collaboration between the Developmental Therapeutics Program Division of Cancer Treatment/Diagnosis National Cancer Institute, United States of America (DTP/NCI) and a Source Country Government (SCG)/Source Country Organization(s) (SCO)
- Model Material Transfer Agreement between the American National Cancer Institute (NCI) and Applicant Investigators
- Material Transfer Agreement for Plant Genetic Resources held in trust by the Center
- Model Material Transfer Agreement of the Korean Research Institute of Bioscience and Biotechnology
- Model Material Transfer Agreement suggested by the Biotechnology Industry Organization (BIO)
- Model Material Transfer Agreement: Consultative Group on International Agricultural Research (CGIAR)
- Model Memorandum of Understanding between the Developmental Therapeutics Program Division of Cancer Treatment and Diagnosis National Cancer Institute, United States of America (DTP/NCI), a Source Country and a Source Country Organization (SCO)
- MOSAICC Micro-Organisms Sustainable use and Access Regulation International Code of Conduct, Updated September 2009
- Non-exclusive License Agreement (sample) - Harvard College, United States of America
- ProCorn Inbred Release and Licensing Agreement between Agriculture and Agri-Foods, Canada (AAFC) and commercial corn companies
- Restricted License for non-profit purposes of the National Agricultural Research Institute (INIA) Uruguay
- San Diego State University (SDSU), Graduate and Research Affairs, Proprietary Material Transfer Agreement
- San Diego State University (SDSU), Graduate and Research Affairs, Simple Agreement for Transfer of Non-Proprietary Biological Materials
- Standard Conditions for Project Agreements between the Australian Center for International Agricultural Research (ACIAR) and Commissioned Organization(s)
- Standard Material Transfer Agreement: International Treaty for Plant Genetic Resources for Food and Agriculture (ITPGRFA)
- Uniform Biological Material Transfer Agreement, dated March 8, 1995 for the Transfer of Materials between Non-Profit Institutions and an Implementing Letter for the Transfer of Biological Material

Actual agreement

- Access and Benefit-Sharing Agreement between the Lebanese Agricultural Research Institute, Tal Amara, Rayak, Lebanon and The Board of Trustees of the Royal Botanic Gardens, Kew, Richmond, Surrey, TW9 3AE United Kingdom
- Access Regulation to Plant Genetic Resources of the Pathumthani Rice Research Centre of Thailand
- Agreement between Montreal Botanical Garden and Private Companies
- Agreement for the Testing of Plant Extracts between the Company and the University (Sri Lanka), dated January 1st, 2000
- Contract for the Production of Hybrid Sorghum Seeds between INSORMIL, WINROCK and INRAN, represented by the Ministry of Rural Development, National Institute of Agronomic Research, Niger and Mr Abdou Garba, Producer, 2000
- Experimental Licensing Contract between the All-Russian Scientific Research Institute for Selections of Fruit Cultures (Licensor) and the Foreign Fruit Selection Organization, France (Licensee)
- Germplasm License Agreement for "Line Ten" between Her Majesty the Queen in Right of Canada (Licensor) and Company Canada Inc. (Licensee)
- International Rice Genome Sequencing Project. Member Institution Registration Agreement between Genoscope ("Principal Investigator") and Pharmacia Corporation (Extract of contract provided)



Revised version

A Guide to Intellectual Property Issues in Access and Benefit- Sharing Agreements

(coming soon)



Other General/Cross-cutting Resources



No. 10

Intellectual Property and Genetic Resources

Introduction

Genetic resources (GRs) are defined in the Convention on Biological Diversity, 1992 (CBD) as genetic material of plant, animal, microbial or other origin containing functional units of heredity that has actual or potential value. Examples include medicinal plants, agricultural crops and animal breeds. Some GRs are linked to traditional knowledge (TK) and traditional practices through their use and conservation by indigenous peoples and local communities, often over generations, and through their widespread use in modern scientific research. For example, TK can provide researchers with leads to isolate valuable active compounds for medicines and other products, which can be conducive to eventual patentable inventions.

GRs themselves, as encountered in nature, are not intellectual property (IP). They are not creations of the human mind and thus cannot be directly protected as IP. However, inventions based on or developed using GRs (and associated TK) are eligible for protection through the IP system, either through a patent or, in the case of research and breeding activities that can lead to the creation of new plant varieties, by a *sui generis* system that regulates plant breeders' rights.

GRs are subject to access and benefit-sharing (ABS) regulations, in particular within the international legal and policy framework defined by the CBD and its Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (the Nagoya Protocol), as well as by the International

The **CBD** is the first international agreement that addresses ABS in its objectives and provisions. It recognizes the sovereign rights of States over their natural resources and affirms the authority governments have, subject to their national legislation, to determine access to GRs.

The **Nagoya Protocol** is a supplementary agreement to the CBD. It sets out the rules and mechanisms for ABS and provides a legal framework for the effective implementation of the fair and equitable sharing of benefits arising out of the utilization of GRs.

The **International Treaty**, which is limited to plant GRs for food and agriculture, regulates the exchange of a number of important food crops, and facilitates access to crop varieties and their components for agricultural research and breeding of new varieties.

Regional, National, Local and Community Experiences

This page includes resources available on WIPO's website on regional, national, local and community experiences regarding intellectual property and genetic resources, traditional knowledge and traditional cultural expressions.

[Laws, legislative measures and protocols](#)


[Fact-finding missions, surveys, submissions by member states and observers](#)

[Case studies](#)

[Lectures and presentations](#)

[Other resources](#)

Laws, legislative measures and protocols

- [Laws, treaties and regulations](#) relevant to traditional knowledge, traditional cultural expressions and genetic resources
- [Disclosure requirements table](#) 
- [Codes, guidelines and practices relating to the recording, digitization and dissemination of TCEs](#)

Fact-finding missions, surveys, submissions by member states and observers

Views from Speakers at Seminar on IP and Genetic Resources (May 26 and 27, 2016)

June 6, 2016

The [WIPO Seminar](#) on Intellectual Property and Genetic Resources took place at WIPO Headquarters on May 26 and 27, 2016.

The seminar saw discussion of one of the most challenging topics in the intellectual property field: the relationship between intellectual property and genetic resources.

Interviews with selected speakers



▶ 0:00



ADVANCED INTERNATIONAL TRAINING PROGRAMME



ITP: 313d

Intellectual Property and Genetic Resources – in Support of Innovation

1–23 May, 2018

Regional follow-up, 25–30 November, 2018

Closing date
for applications:
› **February 23,
2018**



Distance Learning Course (DL203E)

DL203E - DL-203 Intellectual Property, Traditional Knowledge and Traditional Cultural Expressions

This course aims to provide technical information on key concepts and international, regional and national experiences, policy options and legal mechanisms available or under consideration for the intellectual property protection of traditional knowledge and traditional cultural expressions. It is hoped that the course will strengthen capacity and stimulate consideration of these issues, share experiences and advance understanding of the range of issues and possible options in this area, in which legal and policy developments are still evolving at national, regional and international levels.

Curriculum

The course consists of 4 substantive modules and a final exam.

- Module 1: Overview and Key Concepts
- Module 2: Options for the IP Protection of TK and TCEs
- Module 3: Protecting TK and TCEs with Existing and Adapted IP Rights
- Module 4: Protecting TK and TCEs with a Sui Generis System of Protection
- Final Exam

Academic support is provided throughout each module by experienced tutors who are expert practitioners in the field of intellectual property.

Final Exam and Certificate

There is a written final exam at the end of this course for which participants are required to compose written responses to a series of questions within a specified timeframe and submit their responses, via the e-learning platform, to their tutors for marking. Participants are individually contacted regarding modalities for accessing the final exam approximately one week prior to the deadline for completion of the DL-203 course.

Participants who pass the DL-203 final exam are awarded a certificate of completion for the course.

Eligibility

This course is addressed to officials of IP Offices, government officials from other departments, policy makers, diplomats, members of indigenous and local communities, employees of non-governmental organizations and intergovernmental organizations, lawyers, academics, researchers, students and individuals who already possess a working knowledge of the IP system. As the course covers the relationship between IP, TK and traditional cultural expressions, participants who are already familiar with the IP system, may be able to benefit the most from it. For those who are not, it is recommended that they complete the WIPO Academy's "Primer on Intellectual Property" DL-001 or the "General Course on Intellectual Property" DL-101.

Basic Information

- **Venue** : Online
- **Language** : English
- **Duration** : 70 hours
- **Tutored** : Yes
- **Certificate** : Yes
- **Cost** : [Fee list](#)
- **Course administrator** : DL203e.academy@wipo.int

Next session

DL203E18S1

- **Registration** : 15-Jan-2018 - 25-Mar-2018
- **Course** : 10-Apr-2018 - 14-Jul-2018
- **Next Exam** : 06-Jul-2018 - 14-Jul-2018

[Register now](#)

The Adventures of the Yakuanoi

Navigating traditional knowledge and intellectual property





Documenting Traditional Knowledge – A Toolkit



WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION



Protect and Promote Your Culture

A Practical Guide to Intellectual Property for
Indigenous Peoples and Local Communities



WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

Website: <http://www.wipo.int/tk/en/>

WIPO
WORLD INTELLECTUAL PROPERTY ORGANIZATION

Media | Meetings | Contact Us | My Account | English ▾

IP Services | Policy | Cooperation | Knowledge | About IP | Inside WIPO

Search WIPO

Home > Policy > Traditional Knowledge

Traditional Knowledge

Traditional knowledge (TK) is a living body of knowledge passed on from generation to generation within a community. It often forms part of a people's cultural and spiritual identity. WIPO's program on TK also addresses genetic resources (GRs) and traditional cultural expressions (TCEs).

WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) is negotiating international legal instrument(s) on intellectual property (IP) and GRs, TK and TCEs.

- [Indigenous Portal](#)
- [Frequently asked questions](#) | [Glossary of key terms](#)

Looking for information on the IGC? [IGC website](#) | [IGC: What is happening now](#)

News

All news

Celebrating the 10th Anniversary of the UN Declaration on the Rights of Indigenous Peoples
September 13, 2017

Views from Speakers at the Seminar on Intellectual Property and Traditional Knowledge (June 8 and 9, 2017)
September 13, 2017

Email updates

Traditional Knowledge Updates – Regular news and resources about intellectual property & traditional knowledge; and IGC updates.

[Sign up](#) | All WIPO newsletters