

**Seminar On Intellectual Property And
Genetic Resources, Traditional Knowledge
And Traditional Cultural Expressions:
Regional, National And Local Experiences**

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Roundtable 4: National Experiences with Disclosure Requirements related to Genetic Resources and Associated Traditional Knowledge

GENETIC RESOURCES

are not creations of the human mind and thus cannot be directly protected as IP.

However, inventions based on or developed using GRs (associated with TK or not) may be patentable or protected by plant breeders' rights.



OBJECTIVES AND PRINCIPLES

In protecting genetic resources and traditional knowledge associated with genetic resources, Member States should aim to:

- (a) Prevent patents from being granted erroneously for inventions that are not novel or inventive with regard to genetic resources and traditional knowledge associated with genetic resources.



OBJECTIVES AND PRINCIPLES

- **(b) Protect indigenous peoples and local communities from the limitations of the traditional use of genetic resources and their traditional knowledge associated with genetic resources that might result from the erroneous patenting thereof.**
- **(c) Ensure that patent offices have the appropriate available information on genetic resources and traditional knowledge associated with genetic resources needed to make informed decisions in granting patents.**
- **(d) Maintain the incentives for innovation provided by the patent system.**



Options

- Options on defensive protection of genetic resources
- Inventory of databases and information resources on GR
- Information systems on GR for defensive protection
- *An Online Portal of Registries and Databases could be extended to include existing databases and information systems for access to information on disclosed genetic resources*
- Guidelines and recommendations on defensive protection
- Recommendations or guidelines for search and examination procedures for patent applications to ensure that they better take into account disclosed genetic resources



Options

- Options on disclosure requirements

Further examination of issues relating to disclosure requirements

- Options on IP issues in mutually agreed terms for fair and equitable benefit-sharing

Online database of IP clauses in mutually agreed terms on ABS

Draft Guidelines for contractual practices



Issues relating to disclosure requirements:

- **What documents are required to be presented to the patent office when filing an application for an invention?**
- **How does the patent office verify this information (if it does)?**
- **If the application cites several types of GRs – are documents required in respect of each type?**
- **Is the copy of the contract of transfer of GR required or is it any other document? The point is that, firstly, the contract itself may be of considerable size, and secondly, the contract sometimes contains commercial information, which is confidential.**



Issues relating to disclosure requirements:

- If a GR is obtained from a botanic garden i.e. a GR of the so called ex situ origin, a country of origin of which is known, but the qualities of the GR (the plant) have possibly already changed due to its cultivation in other environment – is mentioning of a botanic garden enough or a contract with it has to be presented?
- At which stage of application consideration the decision on the appropriateness of disclosure of origin of GR is taken – at the stage of formal examination or the substantive examiners are also involved in this process?
- Was there a need to develop special instructions for examiners and guidelines for applicants? Can we see them?



Issues relating to disclosure requirements:

- **What information on the origin of a GR presented by the applicant is published during the publication of a patent?**
- **How will the information on the origin of a GR be used in the future?**
- **Is a creation of some database supposed, if, of course, the information received from the applicant is verified?**

A list of questions may be added



Thank you!!

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