

WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge

Mr. Alejandro Roca Campana

Senior Director, Intellectual Property for Innovators Department

Reflections on the Recently adopted International Treaty on Intellectual Property, Genetic Resources Traditional Knowledge

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Diplomatic Conference to Conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources

- From May 13 to 24, 2024
- WIPO's Geneva Headquarters in Switzerland
- 176 WIPO Member States, EU, 14 IGOs and 71 NGOs
- President: H.E. Guilherme de Aguiar Patriota, Ambassador and Permanent Representative of Brazil to the World Trade Organization and other Economic Organizations in Geneva
- Treaty adopted by consensus at 2:34am on May 24



WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge



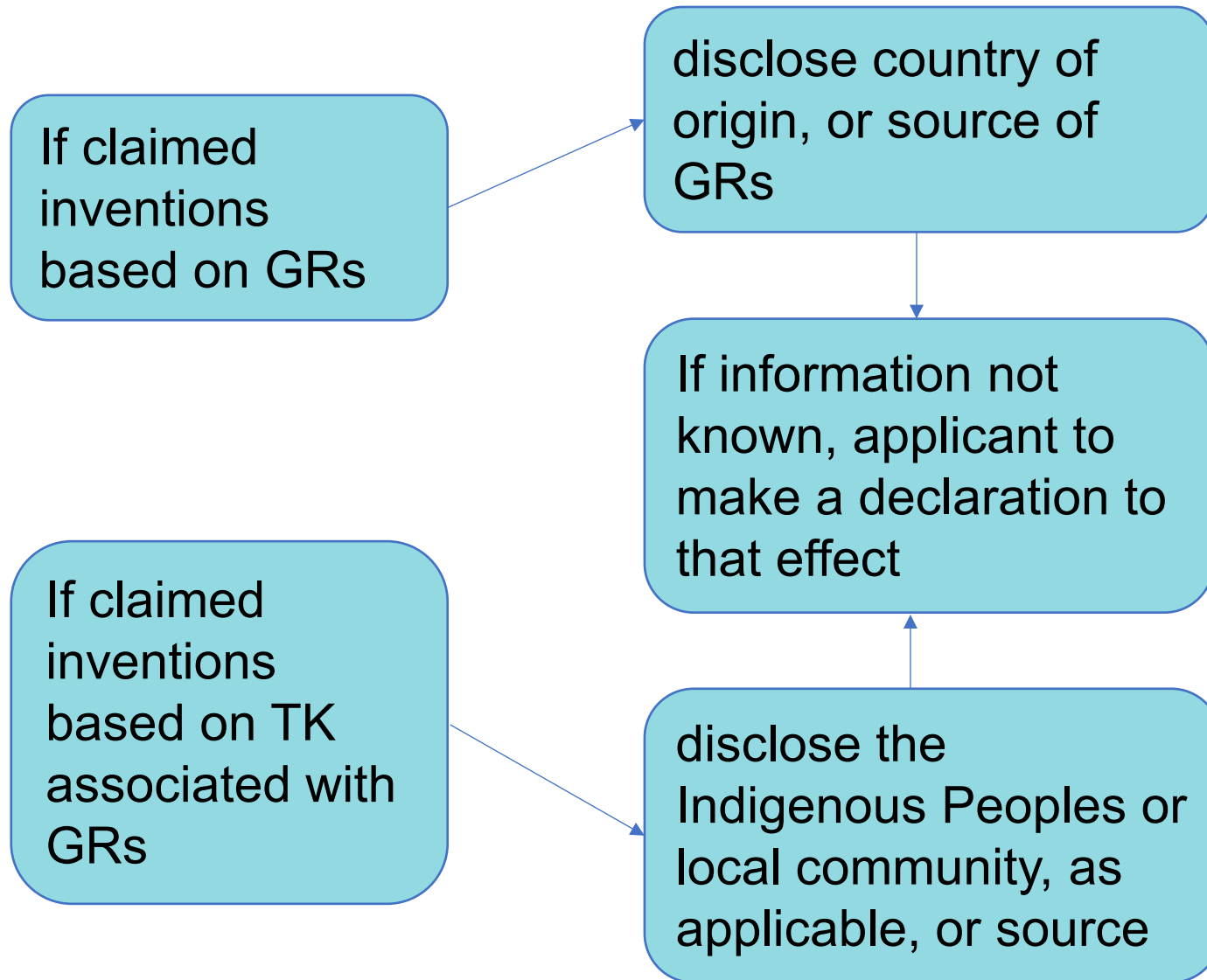
Objectives

- Enhance the efficacy, transparency and quality of the **patent** system with regard to **genetic resources and traditional knowledge associated with genetic resources**
- Prevent **patents** from being granted erroneously

Mechanisms

- Disclosure requirement
- Information systems

Disclosure Requirement (Article 3)



Contracting Parties shall provide:

- guidance to patent applicants on how to meet the disclosure requirement
- an opportunity for patent applicants to rectify a failure to include the minimum information

No obligation on patent offices to verify the authenticity of the disclosure

Sanctions and Remedies (Article 5)



- opportunity to rectify a failure to include the information required in Article 3
- may deny the opportunity to rectify in cases of fraudulent intent
- post grant sanctions or remedies, no revocation or invalidation possible except where there has been fraudulent intent

Information systems

- **May** establish information systems
- In consultation, where applicable, with Indigenous Peoples and local communities, and other stakeholders
- Assembly may establish one or more technical working groups to address any related matters, such as accessibility to Offices with appropriate safeguards

" make such information systems accessible to Offices for the purposes of search and examination of patent applications "

- **Entry into Force**

- Three months after 15 eligible parties' ratification or accession

- **Review**

- Review the scope and contents four years after the entry into force of the Treaty

- **Non-Retroactivity**

- No obligations in relation to patent applications filed prior to the entry into force of the Treaty



Next steps for the IGC



- The 2023 General Assembly decided to renew the IGC's mandate for the 2024/2025 biennium:
 - continue its work on the protection of GRs, TK and TCEs, with the objective of finalizing an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property, which will ensure the balanced and effective protection of TK and TCEs
 - continue to discuss intellectual property issues concerning GRs

Extract from the new mandate

WIPO Intellectual Property Policy Template for Academic and Research Institutions

ARTICLE 1 - PREFACE

ARTICLE 2 – DEFINITIONS

ARTICLE 3 - SCOPE OF THE POLICY

ARTICLE 4 - GOVERNANCE AND OPERATION

ARTICLE 5 - OWNERSHIP OF IP AND RIGHTS OF USE

ARTICLE 6 - PUBLICATION, NON-DISCLOSURE AND TRADE SECRETS

ARTICLE 7 - RESEARCH CONTRACTS

ARTICLE 8 - DETERMINATIONS BY THE IPMO

ARTICLE 9 - COMMERCIALIZATION OF IP

ARTICLE 10 - INCENTIVES AND DISTRIBUTION OF REVENUES

ARTICLE 11 - IP PORTFOLIO MAINTENANCE

ARTICLE 12 - TRADITIONAL KNOWLEDGE AND GENETIC RESOURCES

ARTICLE 13 - CONFLICTS OF INTEREST AND CONFLICTS OF COMMITMENT

ARTICLE 14 – DISPUTE

ARTICLE 15 - AMENDMENT

Article 12-Traditional Knowledge and Genetic Resources

- 12.1. When Research is conducted at the Institution using TK and/or GRs, provisions of national legislation must be observed, which provisions may include prior informed consent, and access and benefit-sharing, and the need to obtain any relevant permits.
 - 12.2 The Institution shall formulate procedures and mechanisms for access to GRs/TK in order to comply with national legislation.
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 - 12.3 When filing a patent application for inventions based on GRs and/or associated TK (aTK), patent disclosure requirements for those GRs and aTK that may apply under national legislation shall be observed.
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 - 12.4 The Institution should implement procedures and systems to track and trace GRs and aTK used in its research to facilitate compliance with any such patent disclosure requirements under national legislation.
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 - 12.5. In accordance with the above, the Institution shall include provisions in all Research Contracts about the protection and exercise of any IP rights which may arise from the use of TK and/or GRs.
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- For instance, when a member of the Institution needs to access and use GRs for the purpose of the research or when it is envisaged to share samples of GRs with partners from other countries, the Institution shall abide by the national laws in place.



Contact us:
grtkf@wipo.int