



Indigenous Peoples, Local Communities and the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge

Informal Summary of the Key Elements of the Treaty for Indigenous Peoples as well as Local Communities

The adoption on May 24, 2024 of the *WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge* by the Diplomatic Conference that took place in Geneva from May 13 to 24, 2024 was the culmination of a 25-year long process.

Measures were taken to ensure the effective participation in the Diplomatic Conference of Indigenous Peoples as well as local communities throughout its proceedings.

The Treaty set a historical milestone as the first WIPO Treaty that refers to Indigenous Peoples as well as local communities.

The features of the Treaty that are of direct relevance for Indigenous Peoples as well as local communities are as follows.

1. In the preamble of the Treaty, the Parties acknowledge the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) “and commitment to achieving the ends set forth therein” and affirm “that best efforts should be made to include Indigenous Peoples and local communities, as applicable, in implementing th[e] Treaty.”
2. Article 3 of the Treaty provides for a disclosure requirement for patent applications where the claimed invention is based on genetic resources and/or traditional knowledge associated with genetic resources:

“3.1 Where the claimed invention in a patent application is based on genetic resources, each Contracting Party shall require applicants to disclose:

- (a) the country of origin of the genetic resources, or,
- (b) in cases where the information in Article 3.1(a) is not known to the applicant, or where Article 3.1(a) does not apply, the source of the genetic resources.”

“3.2 Where the claimed invention in a patent application is based on traditional knowledge associated with genetic resources, each Contracting Party shall require applicants to disclose:

- (a) the Indigenous Peoples or local community, as applicable, who provided the traditional knowledge associated with genetic resources, or,



(b) in cases where the information in Article 3.2(a) is not known to the applicant, or where Article 3.2(a) does not apply, the source of the traditional knowledge associated with genetic resources.”

3. For the purpose of the Treaty, Article 2 of the Treaty defines certain terms, including:
 - “*based on*” means that the genetic resources and/or traditional knowledge associated with genetic resources must have been necessary for the claimed invention, and that the claimed invention must depend on the specific properties of the genetic resources and/or on the traditional knowledge associated with genetic resources;
 - “*source of genetic resources*”, which “refers to any source from which the applicant has obtained the genetic resources, such as [...] Indigenous Peoples and local communities [...]”
 - “*source of traditional knowledge associated with genetic resources*” which “means any source from which the applicant has obtained the traditional knowledge associated with the genetic resources, such as scientific literature, publicly accessible databases, patent applications and patent publications.”

4. In its Article 6, the Treaty foresees:

“6.1 Contracting Parties may establish information systems (such as databases) of genetic resources and traditional knowledge associated with genetic resources, in consultation, where applicable, with Indigenous Peoples and local communities, and other stakeholders, taking into account their national circumstances.

6.2 Contracting Parties should, with appropriate safeguards developed in consultation, where applicable, with Indigenous Peoples and local communities, and other stakeholders, make such information systems accessible to Offices for the purposes of search and examination of patent applications. [...]”.

5. Article 10.1 provides that the Contracting Parties shall have an Assembly which “shall encourage the effective participation of representatives from Indigenous Peoples and local communities as accredited observers. The Assembly will invite Contracting Parties to consider financial arrangements for participation of Indigenous Peoples and local communities.”

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