



WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, 2024

Informal Summary

The WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge (the Treaty) was adopted by the Member States of WIPO on May 24, 2024, and it will come into force three months after there have been 15 ratifications and accessions.

Key terms used in the Treaty are defined in Article 2. The Treaty contains a Preamble and several Agreed Statements and footnotes which are not summarized here.

For complete and formal information, please consult the Treaty itself.

OBJECTIVES

The Treaty aims to enhance the efficacy, transparency and quality of the patent system with regard to genetic resources and traditional knowledge associated with genetic resources (referred to from now on in this summary as “associated TK”), and prevent patents from being granted erroneously for inventions that are not novel or inventive with regard to genetic resources and associated TK.

MANDATORY PATENT DISCLOSURE REQUIREMENT

The Treaty establishes a mandatory patent disclosure requirement – this requires patent applicants to disclose the country of origin of the genetic resources and/or the Indigenous Peoples or local community providing the associated TK, if the claimed inventions are ‘based on’ genetic resources and/or associated TK. If such information is unknown, the source of the genetic resources or associated TK should be disclosed. If none of the above information is known, the patent applicant would be required to declare so. Patent offices should provide certain guidance, though they would have no obligation to verify the authenticity of the disclosure.

SANCTIONS AND REMEDIES

A failure to disclose the required information would be subject to appropriate, effective, and proportionate measures. Patent applicants would have the opportunity to rectify a failure to disclose the required information unless there has been fraudulent conduct or intent. Where there has been fraudulent intent in regard to the disclosure requirement, post grant sanctions or remedies may be provided for. Fraud aside, no Party to the Treaty should revoke, invalidate, or render unenforceable a patent solely on the basis of an applicant’s failure to disclose the required information.

NON-RETROACTIVITY

Subject to existing national laws on disclosure, the Treaty includes a non-retroactivity clause, i.e. no obligations of the Treaty should be imposed in relation to patent applications filed prior to the entry into force of this Treaty.



INFORMATION SYSTEMS

The Treaty suggests the establishment of information systems (such as databases) of genetic resources and associated TK, in consultation, where applicable, with Indigenous Peoples and local communities, and other stakeholders, taking into account their national circumstances. The information systems should be accessible to patent offices for the search and examination of patent applications. One or more technical working groups may be established to address any relevant matters, such as accessibility to patent offices.

REVIEW MECHANISM

The Treaty provides an in-built review of the Treaty to allow certain issues to be reviewed four years after it enters into force. These issues include the possible extension of the disclosure requirement to other areas of intellectual property and to derivatives, and other issues arising from new and emerging technologies that would be relevant to the application of the Treaty.

RELATIONSHIP WITH OTHER INTERNATIONAL AGREEMENTS

This Treaty should be implemented in a mutually supportive manner with other relevant international agreements.

IMPLEMENTATION PRINCIPLES

Parties must adopt the measures needed to ensure the application of this Treaty. That said, Parties are free to determine the appropriate method of implementing this Treaty within their national legal systems and practices.

SIGNATURE AND ENTRY INTO FORCE

This Treaty is open for signature by any eligible Party for one year after its adoption, i.e. up to May 23, 2025.

Any Member State of WIPO may become a Party to this Treaty. The European Union may also sign, ratify, or accede to this Treaty. The European Union aside, any intergovernmental organization may become a Party upon the decision of the Assembly.

The Treaty will enter into force three months after 15 eligible Parties have deposited their instruments of ratification or accession.

ASSEMBLY

The Parties to the Treaty, once it comes into force, will constitute its Assembly. The Assembly will establish its own rules of procedure, meet regularly and perform its functions as set out in the Treaty.

AMENDMENT AND REVISION

The Treaty may be amended and revised. A Diplomatic Conference convened by the Assembly may revise this Treaty, in accordance with the Vienna Convention on the Law of Treaties.

RESERVATIONS

No reservations to this Treaty are permitted.

For further information, please contact WIPO's Traditional Knowledge Division at grtkf@wipo.int