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

Dr. Martin Girsberger
Swiss Federal Institute of Intellectual Property
Efforts by Switzerland

• International level: proposal to amend PCT re. disclosure requirement

• National level: disclosure requirement in patent law
Objective and Main Features

- **Objective:** Increase transparency in access and benefit-sharing

- **3 main features:**
  1. scope
  2. trigger
  3. sanction
Feature 1: Scope

- Patent applicant to
  - disclose „source“
  - of genetic resources and traditional knowledge

- Ensure consistency with international instruments on access and benefit-sharing

- Exception: declare in writing if source unknown
Feature 2: Trigger

Disclosure necessary if

• inventor has had access to, and
• invention is directly based on,
the genetic resource or the traditional knowledge
Feature 3: Sanctions

- Pre-grant: processing of patent application interrupted until lacking declaration is made
- Post-grant:
  - criminal sanction for intentional wrongful declaration
  - Note: no revocation of patent
Practical Experiences

• 11 disclosures
• 2 objections, which were corrected
• No criminal sanctions (fine)
Further Information

• Summary of Swiss proposals for amendment of PCT: WIPO/GRTKF/IC/16/INF/14
• Summary of Swiss legislation: WIPO/GRTKF/IC/11/10