

Comments on the overview of the Committee's work on Genetic Resources

Document WIPO/GRTKFL/IC/8/9 describes the past work on IP and genetic resources in WIPO and other relevant international fora with which the Committee has cooperated closely since its inception. Three clusters of substantive questions have been identified in the course of this work, namely technical matters concerning:

- defensive protection of genetic resources;
- disclosure requirements in patent applications for information related to genetic resources used in the claimed invention;
- IP issues in mutually agreed terms for the fair and equitable sharing of benefits arising from the use of genetic resources.

Finally, proposals are put forward to address the substantive issues. Below, please find comments on these proposals and where appropriate further issues to be considered.

Guidance on disclosure requirements

The proposed options should be supported.

These options are however limited to assisting member countries to adopt appropriate legislation to ensure alignment between access and benefit sharing (ABS) measures for genetic resources and patent law. Further analyses are required to elucidate the identified gaps in the conceptual linkages between the various fora dealing with ABS on Genetic Resources and specific IP agreements. This would then inform guidelines and or models as proposed by the Committee. Consideration should also be given to some mechanism to harmonise and align the overlapping issues addressed in the relevant international fora.

IP and Mutually agreed terms for fair and equitable benefit-sharing

The proposed options should be supported.

The activity proposed for the disclosure requirements (e.g. the guidelines on the interaction between patent disclosure and ABS framework) and the terms for fair and equitable benefit sharing should be mutually supportive.

A more recent development is the adoption of the Standard Material Transfer Agreement (SMTA) under the International on Plant Genetic Resources for Food and Agriculture (ITPGRFA). Using the implementation of the ITPGRFA as a model case study (for mutually agreed terms and fair & equitable benefit-sharing) would be particularly useful for developing countries who are also Contracting Parties to the ITPGRFA.