

South Africa Statement WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore Fiftieth session.

03 March 2025

Thank you, Madam Chair, for giving us the floor. South Africa aligns itself with the statement delivered by Namibia on behalf of the African Group. Our principal interest entails balancing a complex set of apprehensions, such as protecting biodiversity; responding to concerns by indigenous communities, exploitation and misappropriation; and ensuring that the benefits derived from such resources are shared more equitably

It is with great concern and disenchantment that after almost two decades of deliberations in the IGC, there is still no agreement in sight for the TK and TCE's and this reflects poorly WIPO's normative initiatives and the Member States' commitment to a fair and equitable global IP system. Our continent is still in the process of continuous development and South Africa's prospects for improved competitiveness and economic growth hinges, to a great degree, on science, innovation, technology and traditional knowledge, where creativity and innovation is properly rewarded, and the fruits thereof fairly shared by all the peoples of the world. South Africa can no longer have the luxury of other decades of negotiation.

The South African position is underpinned by the need to introduce a mandatory disclosure of origin obligation is equally justified by the previous submissions made by both South Africa, the African Group and the LMC. We are pleased to note a positive trend whereby member states previously opposed our position are cautiously gravitating to a disclosure need. The importance of a mandatory disclosure requirement cannot be overemphasised as this, if effected, will allow for the country of origin (within the CBD context) of the genetic resources used in intellectual property rights application to have fair and equitable sharing of benefits arising from their utilisation and a prior informed consent procedure to be in place. Our position is informed by our legislative mandate, namely:

- The South African Patents Act as amended in 2005 includes a disclosure provision for indigenous biological resources/ genetic resources, and traditional knowledge. However, this amendment does not include traditional culture expressions. These (TCEs) are protected under the IK Act (see(d) below).
- Intellectual Property Laws Amendment Act 28 of 2013 which provides for the recognition of traditional works in trademarks, copyright and designs (not yet in force as awaiting regulations).
- The Protection, Promotion, Development and Management of Traditional Knowledge Act No 6 of 2019 (IK Act), which was signed by the President into law in 2019. The key and fundamental aim of the Act is to ensure fair and equitable sharing of benefits with the holders of TK and GRs associated with TK as well as TCEs. Mandatory Disclosure is the key element in the Act.

Our position is that the recently adopted IPGR&ATK is a true demonstration that even the two remaining texts can lead us to another adoption of a progressive Treaty,

Hence, we iterate that a legally binding instrument will constitute the sole alternative for an effective and comprehensive solution to the misappropriation of traditional knowledge within the intellectual property context. To this purpose we reiterate our support for other regional position that reflects that the first objective of protection should be to prevent the misappropriation of Traditional Knowledge and traditional cultural expressions.

South Africa has been persistently enthusiastic about achieving the mandates of the IGC, similarly, as we were when the IGC was born in 2001. It is within this context we need to make sure that our methodology is, transparent, progressive and represent the needs of the member states but most importantly delivers the desired outcomes and preserves the integrity of the work achieved over many years.

Finally, South Africa reiterates that a legally binding instrument/s constitute the sole alternative for an effective and comprehensive solution to the rampant misappropriation of indigenous knowledge and traditional cultural expressions within the intellectually property rights context.

The South African delegation commits itself to engaging in fruitful, vigorous, reflective, constructive and conclusive negotiations. Consistent with the Development Agenda of WIPO and the UN's Sustainable Development goals we reiterate the call for balance and equitable Global IP system that accommodates all legitimate interests of the WIPO member states. Progress on finalising the legal instruments will strengthen the member states' faith and trust in WIPO as a truly transparent and equitable forum for the attainment of all legitimate aspirations of both the developed and the developing countries for a better world.

In sum, South Africa has participated meaningfully in the IGC negotiations and have contributed to the leadership shown by the Africa Group. We remain optimistic of achieving an international text as we were when the IGC was conceived in 2000.

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