



Statement to the WIPO Diplomatic Conference on a Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge

Geneva, 24 May 2024

Excellencies, Director-General of WIPO, Mr. President,

The South Centre, an intergovernmental organization of 55 developing countries, congratulates all WIPO member States on the successful conclusion of the WIPO Treaty on Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources. The Treaty signals a collective commitment to build greater equity, respect, and trust among users and providers of biodiversity and traditional knowledge.

We are optimistic that the momentum generated by the WIPO Treaty will invigorate governmental efforts, together with indigenous peoples, to develop a comprehensive approach to the regulation of intellectual property that prevents misappropriation of genetic resources and associated traditional knowledge. This approach must be multifaceted, recognizing that becoming a party to the WIPO Treaty and its domestic implementation is merely one piece of the puzzle. Additional measures are essential. These include:

- Devising adequate guidance by the patent offices to instruct patent applicants how to comply with the disclosure obligation;
- Formulating policies and guidelines for the rigorous application of patentability criteria during the examination of patents concerning animals, plants, and their parts and components;
- Advancing national access and benefit-sharing legislation in alignment with the Convention on Biological Diversity (CBD) and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization;
- Advancing the rights of indigenous peoples, as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples and the rights of peasants, while also upholding respect for their customary laws.

The misappropriation of genetic resources and traditional knowledge continues, undermining the sovereign rights of countries over their resources and the rights of indigenous peoples to control the sharing and use of their knowledge. It is imperative to address remaining gaps such as the regulation of Digital Sequence Information (DSI) to prevent further exploitation without benefit sharing.

We hope the Treaty will soon enter into force with many Parties. There will be a need to revisit and revise the WIPO Treaty in the near future so that it remains robust and effective. Article 5 of the Treaty restricts the policy space of contracting Parties to revoke a patent upon wrongful disclosure except in cases of fraudulent intent. Although the Parties shall not place an obligation on patent offices to verify the authenticity of the disclosure, the offices are not prevented from conducting such a verification. In addition, nothing in the Treaty will prevent contracting Parties from establishing regulations to revoke a patent when the right-holder has not complied with the applicable access and benefit sharing obligations, as this remains an aspect not addressed in the Treaty.

WIPO member States must persist in their negotiations to bring effective solutions for the protection of traditional knowledge, a task that is long overdue.

The South Centre has for the past two decades assisted its member States and other developing countries and indigenous communities in this field. We extend our offer to provide technical assistance for the effective national implementation of the WIPO Treaty, the Convention on Biological Diversity and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, and other relevant international instruments, in a mutually supportive manner.