

Resolution



Question Q166

Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore

AIPPI

Observing the struggle of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore to come to final conclusions on the topics;

Noting that

- the Convention on Biological Diversity accepts the sovereignty of states over their genetic resources and traditional knowledge connected with it, and puts forward the concept of prior informed consent and access and benefit sharing when utilising such resources;
- many member countries of the Convention on Biological Diversity have not yet set up mechanisms how to access genetic resources under their control and how to get prior informed consent;

Mindful that

- the patent system is intended to encourage inventors to disclose their inventions to the public in return for a monopoly period in which patent owners may prevent others from practising the invention, and that an invention is a solution to a technical problem;
- patents should only be granted for inventions which are new, not obvious and capable of industrial application, and should contain disclosure of the invention sufficient to enable the skilled person in the art to work the invention;
- the patent system cannot prevent unlawful use of genetic material or traditional knowledge in research, development, marketing of products, or trade;

Supporting that users of genetic material and traditional knowledge connected with it comply with the requirements of the Convention on Biological Diversity and national laws in this respect.

Resolves:

- 1) Traditional knowledge in the public domain should be treated as other information in the public domain for the assessment of patentability of inventions.
- 2) The patent system is not suitable to control whether the requirements of the Convention on Biological Diversity are met, in particular since research results and products in commerce and trade need not be covered by patents.
- 3) If national laws require a declaration of the source of genetic material and traditional knowledge in patent applications, such laws should:
 - only require that the patent applicant to the best of his knowledge identifies the source from which the inventor obtained the genetic material or the information based on traditional knowledge;

- entitle the applicant to rectify any failure to indicate the source or add any later information obtained on the origin of the genetic material.
- 4) Ways and means other than patent applications should be developed to deal with prior informed consent and access and benefit sharing concerning genetic resources and traditional knowledge connected with it.