



FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÖDERATION
VON PATENTANWÄLTEN

Resolution of the Executive Committee, London, United Kingdom 2 to 4 October 2023

“Work of IGC of Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in London, United Kingdom, 2 to 4 October 2023, passed the following resolution:

FICPI has followed the work of the IGC since 2001. In 2004, we passed the attached resolution (EXCO/IT04/RES/001) reflecting our views on the proposals at the time.

Following the intensive discussions at the Special Session of the IGC 4 to 8 September 2023 at which we were represented, and ahead of the Diplomatic Conference we reiterate our support for the proposed treaty.

In particular, we wish to emphasize the following key requests from our previous resolution, that the provisions relating to genetic resources should:

- 1| Clearly and precisely define the requirements for a declaration in a patent application of the source of any genetic material on which the invention is based;
- 2| Require the applicant to identify in such a declaration only the source from which the genetic material was actually obtained by the inventor;
- 5| Entitle the applicant to an opportunity to rectify any failure to comply properly with the declaration requirements, and regulate that the consequence of any ultimate failure to meet such requirements shall not, in the absence of fraudulent intent, be invalidation or unenforceability of the patent.

As a refinement to our previous position regarding the retroactivity of any provisions, we agree with the proposed provision of Article 5 that contracting parties “shall not impose the obligations of this instrument in relation to patent applications which have been filed prior to that Contracting Party’s ratification of or accession to this instrument, subject to national laws that existed prior to such ratification or accession.”



FÉDÉRATION INTERNATIONALE DES CONSEILS
EN PROPRIÉTÉ INTELLECTUELLE

INTERNATIONAL FEDERATION OF
INTELLECTUAL PROPERTY ATTORNEYS

INTERNATIONALE FÖDERATION
VON PATENTANWÄLTEN

Resolution of the Executive Committee, Venice, Italy, 4-6 October 2004

Proposal on Disclosure Requirements Relating to Genetic Material Resources

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Venice, Italy, 4-6 October 2004, passed the following Resolution:

Whereas FICPI has previously indicated that it supports a reduced number of issues to be included in the SPLT to enable the SPLT to progress;

Noting that some member states of WIPO have proposed provisions requiring a declaration in a patent application of the source of any genetic material on which the invention is based; and

Also noting the desire of some member states to have the source of any traditional knowledge on which a patent is based acknowledged, **but observing** that traditional knowledge, as prior art, is completely different from genetic resources and should be dealt with separately;

Urges that if any such provisions relating to genetic resources should be adopted then the following should apply:

1. The declaration requirements must be clearly and precisely defined;
2. The applicant should be required to identify only the source from which the genetic material was actually obtained by the inventor;
3. If there is a requirement to share any benefit accruing from the invention then there must be an appropriate authority in the country from which the genetic material was obtained and which the applicant for the patent can contact in order to enter into negotiations;
4. Any such requirement should apply only to genetic material obtained after such provisions have come into force; and
5. The applicant should be entitled to an opportunity to rectify any failure to comply properly with the declaration requirements, and the consequence of any ultimate failure to meet such requirements shall not, in the absence of fraudulent intent, be invalidation or unenforceability of the patent.