

WIPO's contribution to the report of the Secretary-General on Oceans and the law of the sea, and the theme "marine ecosystem restoration"

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The Secretariat of the World Intellectual Property Organization takes note of the 2023 Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction ("BBNJ Agreement") that inter alia acknowledges and addresses traditional knowledge, Indigenous Peoples as well as local communities in its provisions.

The WIPO Intergovernmental Committee on Intellectual Property, Genetic Resources and Folklore (the IGC) has been undertaking negotiations on the protection of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs) since 2009. The IGC will continue its work during the 2026/2027 biennium with the objective of finalizing an agreement on an international legal instrument(s), without prejudging the nature of outcome(s), relating to intellectual property, which will ensure the balanced and effective protection of TK and TCEs.

The WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge was adopted on May 24, 2024.

To summarize, the Treaty establishes a mandatory patent disclosure requirement – this requires patent applicants to disclose the country of origin of the genetic resources and/or the Indigenous Peoples or local community providing the associated TK, if the claimed inventions are based on genetic resources and/or associated TK. If such information is unknown, the source of the genetic resources or associated TK should be disclosed. If none of the above information is known, the patent applicant would be required to declare so.

The Treaty will come into force three months after 15 eligible Parties have ratified or acceded to it. To date, there are two accessions: Malawi (5 December 2024) and Uganda (9 July 2025).

While the Treaty does not explicitly refer to oceans or the law of the sea, it may come into play in the future once it has entered into force and should the patent application, genetic resource, or associated traditional knowledge refer to such matters emanating from oceans and marine life.

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