WORKSHOP OUTCOME DOCUMENT

RAISING AWARENESS AND ADVANCING IMPLEMENTATION:

The WIPO Treaty on Intellectual Property, Genetic Resources & Associated Traditional Knowledge (GRATK)

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THE IMPLEMENTATION PROJECT

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INDIGINATIONAL STRATEGIES

Acknowledgments

On February 27, 2026, the American Indian Law Program at the University of Colorado Law School hosted an event entitled, "Raising Awareness and Advancing Implementation: A Workshop on the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge" (hereinafter "GRATK Treaty Workshop" or the "Workshop"). The Implementation Project (TIP), the Native American Rights Fund (NARF), and the National Congress of American Indians (NCAI) were co-sponsors.

Participants at the GRATK Treaty Workshop included Indigenous leaders, community members, traditional practitioners, lawyers, and scholars, together with United Nations experts and others: Hannah Ahders, Margo Bagley, Linda Benally, Alejandro Bermudez del Villar, Judge Greg Bigler, Kristen Carpenter, Tati Cosper, Andy Cowell, Jennifer Tauli Corpuz, President Leo Dayish, Laura Dolbow, John Echohawk, Leonard Fineday, Lorie Graham, David Gover, Preston Hardison, Cody Jeff, Aaron Jones, Sheryl Lightfoot, June Lorenzo, President Mark Macarro, Keone Nakoa, Lea Nicholas-MacKenzie, Sue Noe, Joan Policasti, Danielle Pourier, Vanessa Racehorse, Trevor Reed, Angela Riley, Geoffrey Roth, Emiliano Salazar, Jason Searle, Heidi Todacheene, Rebecca Tsosie, Jennifer Weddle, Wend Wendland, Heather Whiteman Runs Him, and Larry Wright, Jr. This "GRATK Outcome Document" reflects discussions held at the event, and we thank Hannah Ahders and Heidi Todacheene, Founder and Principal of IndigiNational Strategies, for their work as lead authors of this publication, which aims to further the Workshop's outreach and impact.

We also thank colleagues at the World Intellectual Property Organization (WIPO) and acknowledge the Indigenous Caucus at WIPO, including the many Indigenous Peoples and organizations who have participated over the decades.

Finally, at the University of Colorado, we offer appreciation to Law School Dean Lolita Buckner Inniss for her support of international engagement, especially concerning Indigenous Peoples, and the Office of Public and Community Engaged Scholarship for supporting this work as part of a grant on Indigenous Peoples at the United Nations: Diplomacy in Practice.

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Introduction

The World Intellectual Property Organization ("WIPO") is a specialized agency of the United Nations. It exists to promote "a balanced and effective global intellectual property ecosystem" toward the goals of "innovation and creativity for a better and more sustainable future."[1] In 2000, WIPO formed the Inter-governmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) to address the protection of intangible resources often neglected in intellectual property law systems. These include the traditional knowledge and expressions of Indigenous Peoples, which are deeply important to their cultures, religions, economies, health, and wellbeing. Indigenous Peoples, including Tribal leaders from the United States, have been deeply involved in negotiations at the IGC for over twenty-five years.

The WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge (2024) (GRATK Treaty) is the first treaty emerging from the IGC process (see Appendix for the full text of the treaty).[2] It addresses appropriation of Indigenous Peoples' traditional knowledge about "genetic material of actual or potential value found in plants, animals or micro-organisms" by researchers, industries, governments, and others.[3] According to Wend Wendland, former Director of WIPO's Traditional Knowledge Division, the GRATK Treaty is groundbreaking in that it shows promoting innovation, respecting Indigenous Peoples' rights, and conserving biodiversity are not mutually exclusive.[4] It is also a creature of multilateralism, representing dialogue, compromise, and good will. To those ends, the WIPO GRATK Treaty can be seen as prescribing relatively modest measures to promote transparency in the patent application process, as part of a larger global effort to protect Indigenous Peoples' rights and traditional knowledge, amidst a very well-entrenched set of market forces and legal entitlements.[5]

Importantly, the GRATK Treaty reflects several negotiating objectives of Indigenous Peoples including a preambular reference to the United Nations Declaration on the Rights of Indigenous Peoples; as well as operative provisions requiring that applicants of patents based on traditional

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[1] WIPO- A Brief History, www.wipo.int/en/web/about-wipo/history.
[2] WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, *adopted* May 24, 2024, U.N. Doc. TRT /GRATK/001 [hereinafter WIPO GRATK Treaty].
[3] *See* Sue Noe, WIPO, *The Indigenous World 2024: World Intellectual Property Organization* (2024), https://iwgia.org/en/world-intellectual-property-organization-wipo/5417-iw-2024-wipo.html.
[4] *See* WEND WENDLAND, THE JOURNEY TO THE WIPO TREATY ON GENETIC RESOURCES AND ASSOCIATED TRADITIONAL KNOWLEDGE POLICY, PROCESS AND PEOPLE (2025); *See also WIPO Member States Adopt Historic New Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge* (May 24, 2024), https://www.wipo.int/pressroom/en/articles/2024/article_0007.html.
[5] *See* Ruth L. Okediji, Ian Goss, Henry E. Smith, Carol M. Rose, Margo A. Bagley and Justin Hughes, Graham Dutfield, Wendy J. Gordon, Faith O. Majekolagbe, William Fischer, WIPO Special Edition, 66 HARV. INT. L. J. 1 (2025); Mason Marks and I. Glenn Cohen, *Patents on Psychedelics: The Next Legal Battlefront of Drug Development*, 135 HARV. L. REV. F. 212 (2022); Katy Rotzin, *Today's Pirates: Biopiracy, Biotech, and the International Frameworks that are not up to the Challenge*, 15 UC LAW SF SCI. & TECH. L.J. (2024); Peter K. Yu, *WIPO Negotiations on Intellectual Property, Genetic Resources and Associated Traditional Knowledge*, 57 AKRON L. REV. 277 (2024).

knowledge associated with genetic resources "disclose" the Indigenous Peoples or local community, as applicable, who provided the traditional knowledge associated with genetic resources (Art. 3.2); that States may develop "databases" cataloguing genetic resources and associated traditional knowledge "in consultation with Indigenous Peoples" (Art. 6); and that States shall encourage the effective participation of Indigenous Peoples in the treaty assembly as accredited observers, with States considering providing financial support for such participation (Art 10.1).[6]

Several dozen countries have already signed the GRATK Treaty, which will come into force three months after fifteen eligible parties have deposited their instruments of ratification or accession with the World Intellectual Property Organization.[7] As of July 14, 2026, Albania, Malawi, Peru, and Uganda have ratified or acceded to the Treaty while Australia, as one example, has started the formal process of deciding whether to join.[8] We understand Switzerland and others may be pursuing similar assessments.

The primary objective of this document is to relate a number of points from the GRATK Treaty Workshop held in 2026 at the University of Colorado Law School,[9] with an eye to sharing information and supporting next steps in the United States and beyond. These steps are crucial to ensuring that Indigenous leaders, traditional cultural practitioners, and others have the opportunity to share their perspectives and advance self-determination in the protection of their plants and other resources. The document draws from the comments of Workshop participants and cites related sources. It also notes international and comparative observations arising from engagements with national representatives and scholars from Brazil and across the African continent at meetings taking place in Geneva and Oxford, toward fostering international cooperation and solidarity among Indigenous Peoples as rights holders, together with States and others interested in these topics.

Part I focuses on Indigenous Peoples' perspectives on plants and animals as they inform discussions about genetic resources and associated traditional knowledge. Part II reviews the processes of treaty signature, ratification, and implementation in the United States. Part III discusses the terms of the GRATK Treaty of particular relevance for Tribes in the U.S. It looks extensively at Article 3's disclosure requirement and issues with respect to implementation in international, federal, and Tribal law. Part IV concludes with next steps for implementation in the United States, including suggestions for formal legal measures and the development of industry standards and private arrangements. Part V reflects on international and comparative considerations.

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[6] *See generally* Chidi Oguamanam, *The WIPO Treaty on Genetic Resources and Associated Traditional Knowledge: A Negotiating, Contextual and Conceptual Appraisal*, 43 B.U. INT'L L.J. 321 (2025).

[7] *See* WIPO, *Actions in Respect of Treaties Administered by WIPO or Amendments thereto, Not Yet In Force, WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge* (Geneva 2024) Status on March 13, 2026, https://www.wipo.int/documents/d/treaties/docs-en-gratk.pdf

[8] Austl. Gov't Dep't of Foreign Affs. & Trade, *National Interest Analysis* (2026) *ATNIA 4: WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge* (2026), https://www.aph.gov.au/-/media/02_Parliamentary_Business/24_Committees/244_Joint_Committees/JSCT/2026/WIPO_Treaty_on_IP/NIA.pdf; Parliament of Austl., Joint Standing Comm. on Treaties, WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/WIPOTreatyonIP.

[9] "Raising Awareness and Advancing Implementation: A Workshop on the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge" [hereinafter "GRATK Treaty Workshop" or the "Workshop"].

I. Indigenous Peoples' Perspectives & Contributions

Indigenous Peoples' knowledge, while often devalued in mainstream legal and scientific systems, is a powerful tool in promoting peacebuilding and planetary health, according to one seasoned diplomat.[10] Such knowledge is critical to "humanity's collective security and prosperity."[11] In the GRATK context, Indigenous Peoples have cultivated relationships with – and knowledge about -- medicinal plants, seeds, and other genetic resources, which are important for many reasons ranging from religion and nutrition to culture and economics.[12] The Indigenous food sovereignty movement, as well as interests in the health benefits of plant medicine are casting light on these knowledge systems and practices.[13]

Traditional knowledge systems are original drivers of innovation in medicine, agriculture, and conservation.[14] A recent article from the Medical University of South Carolina, College of Pharmacy, acknowledges: "The first Americans were also the first American pharmacists. Long before Europeans conceived of ideas like aspirin or hypodermic needles, Native Americans were already using therapies and devices for the same purposes."[15] Indeed, "more than 120 drugs prescribed by physicians today were first made from plant extracts, and 75 percent of these were derived from examining plants used in traditional [I]ndigenous medicine."[16] One historical study of pharmacology identified American Indian drugs, listed on The Pharmacopoeia of the U.S. of America in the nineteenth century, as including: "anesthetics, narcotics, and stimulant drugs; astringents; cathartics; childbirth medicines; febrifuges; vermifuges; emetics; poisons; antibiotics; diabetes remedy; and contraceptives."[17]

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[10] Michael A. Orona, *Reviving the Sacred: How Indigenous Knowledge Systems Serve as a Path for Global Security, Peace and Prosperity*, Challenges 2026, 17(3), 26, https://doi.org/10.3390/challe17030026.

[11] *Id.*

[12] For examples, *see* YUROK TRIBE CONST. pmbl.; NAVAJO NATION CODE ANN. tit. 1, §§ 201–206 (describing roles of plants and animals in Indigenous ways of life); James Mooney, *The Origins of Disease and Medicine, in* THE SACRED FORMULAS OF THE CHEROKEES (1891) (recounting Cherokee story in which plants came to cure human diseases); Cherokee Nation, Natural Resources Department, https://naturalresources.cherokee.org/ethnobiology/; SeedBank Garden and Plant Site, **ᎩᎳᎩ ᎠᏰᎵ ᎤᏚᎳ ᎤᏂᏯᏆᏂᎪᎮᏍ ᎠᏫᏒᏉ ᎠᏕ ᎡᏍᏫᏉ ᏉᏚᎪᏉ ᎤᏙᏢᎡ** (2022); Onondaga Nation, *Thousands of Historical Seeds Preserved by the Onondaga Nation Farm*, (Dec. 2, 2019), https://www.onondaganation.org/news/2019/thousands-of-historical-seeds-preserved-by-the-onondaga-nation-farm/. (examples of Indigenous Peoples' investments in the preservation and use of traditional seeds).

[13] There are many general-audience publications on these topics, including DEVON A. MIHESUAH, ET AL., INDIGENOUS FOOD SOVEREIGNTY IN THE UNITED STATES: RESTORING CULTURAL KNOWLEDGE, PROTECTING ENVIRONMENTS, AND REGAINING HEALTH (2019); ROBIN WALL KIMMERER, BRAIDING SWEETGRASS: INDIGENOUS WISDOM, SCIENTIFIC KNOWLEDGE AND THE TEACHINGS OF PLANTS (2013); ROBIN WALL KIMMERER, ET AL., THE SERVICEBERRY: ABUNDANCE AND RECIPROCITY IN THE NATURAL WORLD (2024).

[14] For a classic account, *see* VIRGIL J. VOGEL, AMERICAN INDIAN MEDICINE (1970) [hereinafter "VOGEL, AMERICAN INDIAN MEDICINE"].

[15] Roby Hill, *Celebrating Native American Contributions to Pharmacy*, MUSC College of Pharmacy (Nov. 1, 2023), https://pharmacy.musc.edu/content-hub/News/2023/11/01/native-american-heritage-month.

[16] *Id.* (citing Emory Keoke and Kay Porterfield 2003). *See also* Josef Brinckmann et al., *Quality Standards for Botanicals — The Legacy of USP's 200 Years of Contributions* (2020) ("As the settlements of European colonists expanded through the 16th to 18th centuries, native American botanical species and their uses in the indigenous systems of medicine were observed, documented, classified in a European context, and initially monographed in pharmacopeias of the colonial powers.").

[17] Virgil J. Vogel, *American Indian Influence on the American Pharmacopeia*, American Association for the Advancement of Science (February 24, 1976) [hereinafter Vogel, *American Pharmacopeia*] ("The first U.S. Pharmacopeia, issued in 1820,

Despite these well-known examples and innovations, Indigenous Peoples' relationships with their traditional knowledge about plants and animals have suffered through various stages of colonization. Factors including land dispossession, environmental degradation, and the production of genetically modified crops present problems of accessibility and care. Additionally, few countries account for Indigenous Peoples' own laws, traditions, and customs in their legal systems. Instead, countries like the U.S. use legal frameworks that primarily recognize forms of scientific innovation yielding market products and corporate profits, rather than the types of individual healing, collective well-being, and accessibility to medicine that are prioritized among Indigenous Peoples.

A former U.S. policy maker recently acknowledged the contributions of Indigenous Peoples to medicines treating heart disease, cancer, and malaria. But at the same time, she opined that these contributions do not merit "disclosure" under the WIPO Treaty, much less protection under patent law.[18] In her view, the patents held by contemporary researchers and companies "protect genuine innovations—such as purification methods, delivery systems, or synthetic analogues—that make a compound safe, effective, and commercially viable."[19] Her comments did not address why Indigenous Peoples' own contributions to pharmacology and therapeutic methods[20]—ranging from discovery of healing qualities to techniques for administration—are not "genuine innovations" but suggested that protecting them through patent law systems would be problematic. Such sentiments may contribute to the types of exclusion and discrimination pervasive in other areas of intellectual property law.[21] The GRATK Treaty Workshop considered several of these dynamics.

Mark Macarro, President of the National Congress of American Indians (NCAI), explained that Tribes' plant knowledge belongs

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listed 296 substances of animal, mineral, or vegetable origin in its primary and secondary lists. Of these 130, nearly all of vegetable origin, represented drugs used by American Indians. … About 220 drugs of Native American use were listed altogether in the O.S. Pharmacopeia or the National Formulary (which began in 1888) up to the present time. Although the number of such listings has declined since the advent of synthetic drugs about 1890, it is significant that 41 new substances of American Indian usage have become official since 1890.").

[18] See Laura Peter, *The WIPO Treaty on Genetic Resources: A Misguided Expansion That Threatens the Patent Bargain*, IPWatchdog.com, Nov. 12, 2025, The WIPO Treaty on Genetic Resources: A Misguided Expansion That Threatens the Patent Bargain, https://ipwatchdog.com/2025/11/12/wipo-treaty-genetic-resources-misguided-expansion-threatens-patent-bargain/. Peter previously served as Deputy Director of the United States Patent and Trademark Office. In 2026, WIPO's Coordination Committee approved Laura Peter's appointment as the Deputy Director General of WIPO's Patents and Technology Sector.

[19] *Id.*

[20] *See* Vogel, *American Pharmacopeia, supra* note 17 (Discussing drugs in the categories of anesthetics, narcotics, and stimulant drugs; astringents; cathartics; childbirth medicines; febrifuges; vermifuges; emetics; poisons; antibiotics; diabetes remedy; and contraceptives that were "borrowed by white medicine from American Indians" and noting "these drugs were not always used in the same form by Indians and whites. In the preparation of drugs, whites have used processes, i.e., distillation, which were not known to the Indians. Moreover, Indian usage of remedies has not always corresponded with white usage."). *See also* VOGEL, AMERICAN INDIAN MEDICINE, *supra* note 14, at 162-261 (therapeutic methods) and 276-414 (contributions to pharmacology).

[21] *See, e.g.,* Sonia K. Katyal, Angela R. Riley, Rachel H. Kim, *From Lands to Brands*, YALE L. J (forthcoming 2026) (empirical study showing that approximately 90% of trademarks invoking names or imagery of Tribes and Tribal governments in the U.S., e.g., brands like "Jeep Cherokee" and "Oneida" dishware, are owned by non-Tribal individuals and entities). *See also* Trevor Reed, *Fair Use as Cultural Appropriation,* 109 CALIF. L. REV. 1373 (2021); Angela R. Riley, *"Straight Stealing": Towards an Indigenous System of Cultural Property Protection*, 80 WASH. L. REV. 69 (2005) (critiquing aspects of copyright law that exclude protections for Indigenous Peoples' expressions).

to them as part of their living cultures and governance systems.[22] Tribal peoples have studied plants for decades, centuries, and even millennia, developing methods of cultivation, gathering, and administering them to treat illness and promote wellness. Unfortunately, Indigenous Peoples' innovations are often unrecognized and appropriated without consent because their traditional knowledge is considered to reside in the "public domain"—a category that describes intellectual property that can be used without permission in legal systems like that of the U.S.[23] Corporations, universities, and others inappropriately benefit from the exploitation of Indigenous Peoples' relationships with plants, animals, and related knowledge systems.

Macarro noted that participation by Indigenous Peoples, including NCAI and Tribal governments, in the decades-long negotiating process was critical to WIPO's adoption of the GRATK Treaty. Their substantive contributions helped to ensure that the instrument would deliver real protections—versus merely symbolic recognition—of Indigenous Peoples' genetic resources and associated traditional knowledge. He urged that, going forward, effective implementation of the Treaty in the U.S. will depend on ongoing meaningful consultation with Tribal Nations and Indigenous Peoples' participation. In particular, government to government consultation between Tribes and federal agencies is required by federal law and necessary to allow Tribes to give their views on Treaty ratification by the U.S. Tribes' contributions will also help define rules around disclosure, access, and protection.

Aaron Jones, Director of the Tulalip Tribes Natural & Cultural Resources Department and Co-chair of NCAI's International Committee, discussed the collective nature of traditional knowledge.[24] He emphasized the ways in which Tribal creation stories set forth the relationship between genetic resources and human beings. This relational history exemplifies that Indigenous Peoples' traditions and cultural ceremonies are also at risk of biopiracy and should therefore be protected against misappropriation and the exploitation of cultural practices.

Jones explained that the Tulalip Tribes have participated in WIPO since 2000, seeking *sui generis* ("of its own kind") regimes reflecting Tribal law and customs.[25] The Tulalip Tribes have emphasized that their treaties with the U.S. also protect their use of plants, animals, and traditional knowledge systems. Going forward, Tribal law and customs can continue to provide a foundation for Indigenous Peoples to meaningfully contribute to implementation of the GRATK Treaty, as well as ongoing negotiations regarding Traditional Cultural Expressions and Traditional Knowledge at WIPO.

Attorney Linda Benally, advisor to the Native American Church – State of New Mexico (NAC-SNM), highlighted that one of NAC-SNM's missions is to protect ceremonial medicinal plants, particularly the sacramental use of Peyote.[26] Indigenous Peoples in the U.S. have long faced difficulties in practicing their religion, with U.S. law having historically criminalized even Tribal members use of

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[22] President Mark Macarro, keynote address, GRATK Treaty Workshop, *supra* note 9.
[23] *Id.* For reading on the public domain, *see* Ruth L. Okediji, *Negotiating the Public Domain in an International Framework for Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions*, *in* PROTECTING TRADITIONAL KNOWLEDGE: THE WIPO INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (Daniel F. Robinson, Ahmed Abdel-Latif & Pedro Roffe eds., 2017).
[24] Aaron Jones, panel remarks, GRATK Treaty Workshop, *supra* note 9. For more information on the international work of the Tulalip Tribes, *see Indigenous Rights,* TULALIP TRIBES (last visited May 28, 2026), https://nr.tulaliptribes.com/Topics/IndigenousRights.
[25] *See* Aaron Jones, panel remarks, GRATK Treaty Workshop, *supra* note 9.
[26] Linda Benally, panel remarks, GRATK Treaty Workshop, *supra* note 9.

their sacrament and the impacts of climate change on the Peyote habitat. Now there is a new threat in the form of researchers and companies seeking to manufacture, patent, and sell synthetic forms of mescaline, which in pharmaceutical terms is the active ingredient in Peyote. The enterprise is difficult to reconcile with Indigenous tradition in which, according to Benally, "the Peyote plant used in American Indian religious ceremonial and traditional practices has been held sacred since time immemorial," rather than as something to be extracted and sold.[27]

Benally detailed an instance where a biotech company that develops psychedelic treatments for addiction recently filed a patent application for lab-made mescaline to treat alcohol abuse disorders. The company posted on its website a "patent non-assertion pledge" claiming to have consulted with unnamed Indigenous Peoples and promising not to sue practitioners using traditional forms of Peyote or mescaline. However, questions surrounding the utility of this pledge persist. In other contexts, companies and industries are developing standards for recognizing Indigenous Peoples' legal rights, including through processes seeking "free, prior, and informed consent," without which projects affecting Indigenous Peoples cannot continue.[28] NAC-SNM has participated in formal consultations, arguing the U.S. should uphold and enforce the inherent rights of the 575 federally recognized Tribes to govern their traditional knowledge, medicinal plants, cultural knowledge, and cultural goods rather than abrogate existing Tribal sovereignty.[29]

In addition to its work in the U.S., NAC-SNM has been an active advocate at the United Nations with two very important contributions.[30] First, NAC-SNM has shared in nuanced terms the effects of appropriations of Indigenous plant knowledge on Indigenous Peoples' religion and health, which is very helpful when skeptical Member States and industry representatives disclaim any harm. Second, NAC-SNM has helped to bridge the proceedings at WIPO with the UN's Indigenous Peoples' mechanisms. These bodies have historically been siloed from one another, without significant cooperation. Together with NCAI and others, NAC-SNM has provided information and examples to the UN Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples, to inform how these mechanisms can mutually advance Indigenous Peoples' rights in the realm of cultural rights. Both the UNPFII and EMRIP have now issued recommendations or studies calling on States to ratify the GRATK Treaty.[31]

Geoffrey Roth, former member of UN Permanent Forum and current Chair of the Indigenous Determinants of Health Alliance, addressed Indigenous health impacts in light of the GRATK Treaty.[32] He began his comments by emphasizing: "Plants are not merely biological material, but living

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[27] *Id.*

[28] For a discussion of pharmaceutical industry interests and legal issues associated with mescaline and other so-called psychedelics, *see, e.g.*, Marks and Cohen, *supra* note 5. Practitioners of the peyote religion do not typically use the terminology of "psychedelics" to refer to the sacrament or its effects.

[29] NAC-SNM has further urged USPTO to draw on existing international instruments regarding traditional knowledge, support the mandatory disclosure requirement for patent applicants, and implement the safeguard of "free, prior, and informed consent" (FPIC). *See, e.g.,* Native American Church – State of New Mexico, Oral Public Comment, USPTO Docket No. PTO-C-2023-0020**;** (January 23, 2024); Native American Church – State of New Mexico**,** Oral Statement, USPTO Tribal consultation on the WIPO GRATK Treaty (March 28, 2025**).**

[30] Benally, panel remarks, GRATK Treaty Workshop, *supra* note 9.

[31] U.N. Permanent Forum on Indigenous Issues, Report of the 25th Session, ¶ 86, U.N. Doc. E/2026/43-E/C.19/2026/6 (May 15, 2026); Human Rights Council, *Right of Indigenous Peoples to Data, Including with Regard to Data Collection and Disaggregation: Study by the Expert Mechanism on the Rights of Indigenous Peoples*, U.N. Doc. A/HRC/60/66 (Aug. 6, 2025).

[32] Geoffrey Roth, panel remarks, GRATK Treaty Workshop, *supra* note 9.

systems–relatives, medicines, and legal orders–passed down through generations and existing beyond modern borders."[33]

Roth further expressed the risks associated with the development of databases for WIPO's patent applications that, contrary to the purpose of the GRATK Treaty, may create sites for traditional knowledge extraction, and put Indigenous Peoples' data at risk of appropriation. Roth emphasized that if the GRATK Treaty is going to meet its intended purpose of preventing misappropriation and biopiracy, it will be because Indigenous Peoples are the co-architects of its instrumentation and oversight.

Additionally, Roth spoke on the U.S.'s recent withdrawal from the World Health Organization (WHO), leaving a gap in its ability to pursue Tribal rights in international forums. New organizations, like the Global Center on Traditional Medicine, are now ostensibly focused on supporting Indigenous goals. However, in reality, the Global Center on Traditional Medicine is mainly focused on shifting traditional medicines into a clinical setting as quickly as possible to provide care for the masses to profit financially. This poses an example of the urgency of the risks, and the fact that WIPO does not (or in practice, should not) operate in isolation. Indigenous Peoples and their advocates must coordinate their efforts at WIPO with work at WHO and other agencies to ensure consistency across protections. Roth closed with a clear warning: "If intellectual property rules advance faster than health and biodiversity safeguards, Indigenous Peoples will bear that burden."[34]

Jennifer Weddle, Shareholder and Co-Chair of the American Indian Law Practice at Greenberg Traurig, spoke about tensions between Indigenous Peoples and industry in this area.[35] She noted that corporate entities seem to perceive intellectual property law's concern for profitable inventions as both incompatible with and superior to Indigenous Peoples' cultural values. However, in her view, the GRATK Treaty presents a unique opportunity for Indigenous Peoples to find a path forward to articulate their own interests as innovators, while also protecting plant knowledge. Weddle said, "The GRATK Treaty is not anti-innovation; it is anti-stealing."[36]

Weddle and other panelists engaged with questions of terminology. They noted that the very title of the GRATK Treaty and use of the term "genetic resource" may imply or invite an attitude of extraction or exploitation for economic need or benefit. Among Indigenous Peoples, genetic resources and associated traditional knowledge are gathered or cultivated and often shared in reciprocal fashion among Indigenous Peoples. Weddle said that the GRATK Treaty opens a door for Indigenous Peoples to take the terms of the instrument and infuse them with Indigenous languages and values in practice.

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[33] *Id.*
[34] *Id.*
[35] Jennifer Weddle, GRATK Treaty Workshop, *supra* note 9.
[36] *Id.*

Judge Greg Bigler, participating online from the Euchee Tribe's language class in Oklahoma, picked up on the language point, noting that the Muscogee (Creek) Tribe has translated key terms such as "traditional knowledge" into the Muscogee language and adopted such protections pursuant to Tribal law.[37]

II. Treaty Signature, Ratification, and Implementation in the United States

Implementation of international law is a multifactored, dynamic process involving legal, as well as sociological change.[38] Moreover, implementation involves the mutual influence of Indigenous, national, and international law. This section of the Workshop Outcome Document focuses on various means of formal, legal implementation, while subsequent sections consider complementary approaches.

With respect to formal legal implementation, the Workshop participants discussed the process for treaty signature, ratification, and implementation in the U.S. Pursuant to the Treaty Clause of the U.S. Constitution, the President has exclusive authority to sign treaties, which must then be ratified through advice and consent of the Senate.[39] While these Constitutional provisions are well known, the actual process is quite a bit more complicated. Treaty signature and ratification by the U.S. involves compliance with a statutory and regulatory process.[40] Treaty review includes evaluation, pursuant to a process set forth in the State Department's Foreign Affairs Manual (known as the "C-175" process) in which the State Department's Legal Adviser considers the legal bases for, and ramifications of, the U.S. joining international agreements.[41]

The U.S. has signed and ratified hundreds of international treaties,[42] while still others remain pending in the Senate.[43] For the discussion about the GRATK Treaty, a relevant example is the U.S.' approach to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), which also concerns cultural property.[44] The U.S. Senate gave unanimous consent to ratification in 1972, and the U.S. Congress took the additional step of passing domestic implementing legislation known as the Convention on Cultural Property

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[37] *See* Gregory H. Bigler, *Traditional Jurisprudence and Protection of Our Society: A Jurisgenerative Tail*, AM. IND. L. REV. 43, 69 (2018) (The text of Article 31 of the UN Declaration on the Rights of Indigenous Peoples has been translated into the Muscogee language as follows: "Hiyomakat pum ayetv pum wihokat vcacvket omet sahkopanetvt okot omes. (Now this is our ways that was given to us and is very sacred and is not to be played with.) By this it is meant that our traditional ways come from a spiritual source. To conduct them, except when and where one is supposed to, is like one is mocking them and playing with them like children might play a game. This should not be done. Certain of these Euchee and Muscogee ways are what are called 'medicine ways' and should not be done except by those who are authorized to do so pursuant to traditional methods of approval.").

[38] *See* The Implementation Project, *The Tribal Implementation Toolkit* (2020) (citing Kristen A. Carpenter and Angela R. Riley, *Indigenous Peoples and the Jurisgenerative Moment in Human Rights*, 102 CAL. L. REV. 173 (2014)).

[39] U.S. Const. art. II, § 2, cl. 2.

[40] *See* Case-Zablocki Act, 1 U.S.C. 112b; 22 CFR Part 181.

[41] *See* U.S. Dep't of State, *Negotiation and Conclusion*, 11 FOREIGN AFFAIRS MANUAL 720, www.fam.gov/Volumes/Details/11FAM.

[42] U.S. Dep't of State, *Treaties in Force: A List of Treaties and Other International Agreements in Force,* (2020), https://www.state.gov/treaties-in-force.

[43] U.S. Dep't of State, *Treaties Pending in the Senate* (2025), https://www.state.gov/treaties-pending-in-the-senate.

[44] Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, Nov. 14, 1970, 823 U.N.T.S. 231.

Implementation Act of 1983 (CPIA).[45] The State Department's Bureau of Educational and Cultural Affairs administers the CPIA and related international matters together with robust inter-agency committee stretching across the U.S. government.[46]

In the case of the GRATK Treaty, all processes for consideration of signature, ratification, and implementation must occur in formal consultation with Indigenous Peoples. Indeed, federal laws and policies in the U.S. requiring consultations between the Executive Branch and federally recognized Tribal governments on all "policies that have Tribal implications."[47] Each Department or agency must have a federal-tribal consultation policy complying with a number of clearly delineated substantive and procedural requirements, both deferring to Tribal self-determination and requiring certain forms of notice, comment, and participation.

As we look ahead to GRATK Treaty implementation, it is important to reflect back on federal-Tribal consultation on matters occurring at WIPO to date. The U.S. Patent and Trademark Office (USPTO) is the administrative agency, authorized by the State Department, to represent the U.S. at WIPO. For years, Tribal governments requested formal consultations on the IGC process,[48] but USPTO did not hold any.[49] After the GRATK Diplomatic Conference was announced, USPTO finally noticed a Tribal consultation in late 2023, and held it in 2024.[50] Tribes participated and also responded substantively with comments. But USPTO produced no consultation report, tribal input synthesis, nor responses to tribal comments. USPTO did not, at least publicly, identify the Indigenous concerns or how they were addressed in its positions at WIPO.[51] In 2025, the USPTO held its second consultation on the WIPO IGC matters, on the issue of whether the U.S. should sign or implement the GRATK Treaty.[52] While this was another step in the right direction, the consultations were poorly noticed and sparsely attended; once again, USPTO has not followed up with a report, synthesis, or response to the Tribal consultations. In view of these points, USPTO has not met prevailing standards for "meaningful" and "accountable" consultation with Tribal governments.[53]

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[45] Convention on Cultural Property Implementation Act, 19 U.S.C. §§ 2601–2613. *See also* Patty Gerstenblith, *Implementation of the 1970 UNESCO Convention by the United States and Other Market Nations* (2017), https://archive.law.upenn.edu/live/files/6423-gerstenblith-patty-2017-implementation-of-the-1970.

[46] *See* Dep't of State, Bureau of Educational and Cultural Affairs, https://www.state.gov/cultural-heritage-center/.

[47] Exec. Order No. 13175, 65 Fed. Reg. 67,249 (Nov. 9, 2000); Tribal Consultation and Coordination Policy for the U.S. Department of Commerce, 78 Fed. Reg. 33,331 (June 4, 2013).

[48] *See, e.g.*, Nat'l Cong. Of Am.IndiansRes.PHX-16-054 (Oct.2016); see also Nat'l Cong. of Am.Indians Res. SAC-22-038 (Nov. 2022).

[49] USPTO held several "listening sessions" with Indigenous Peoples over the years.

[50] United South and Eastern Tribes Sovereignty Protection Fund, *Comments on Genetic Resources, Indigenous Knowledge, and Traditional Cultural Expressions* (Feb. 23, 2024), https://www.usetinc.org/wp-content/uploads/2024/02/USET-SPF-Comments-to-USPTO-on-Genetic-Resources-Indigenous-Knowledge-Traditional-Cultural-Expressions_FINAL_02_23_24.pdf?utm_source=chatgpt.com; Nat'l Native Am. Bar Ass'n, *Comments on Genetic Resources, Indigenous Knowledge, and Traditional Cultural Expressions* (Apr. 22, 2024), https://www.nativeamericanbar.org/wp-content/uploads/2024/04/NNABA-Comments-in-Response-to-USPTO-Tribal-Consultation.pdf.; *See* NCAI, *Joint Statement: United States to Consult with Tribal Nations on Protecting Tribal Intellectual Property* (Oct. 27, 2023), https://www.ncai.org/news/joint-statement-united-states-to-consult-with-tribal-nations-on-protecting-tribal-intellectual-property.

[51] USPTO also held a general public consultation in October 2023, and requested comments on the ongoing WIPO IGC negotiations. Comments were dominated by industry concerns, largely registering against the GRATK Treaty.

[52] U.S. Pat. & Trademark Off., *Tribal Consultation on the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge*, https://www.uspto.gov/ip-policy/tribal-consultation-wipo-treaty-intellectual-property-genetic-resources-and-associated.

[53] U.S. Dep't of the Interior, Bureau of Indian Affs., *Tribal Consultation Resources*, https://www.bia.gov/service/tribal-consultations/resources.

Going forward, such consultations must include strong, coordinated inter-agency engagement not only by the Department of Commerce and USPTO division attorneys for intellectual property expertise, but also the Department of Interior for institutional knowledge, legal, and policy expertise in federal Indian law, and the Department of State for its expertise on international law. Balanced multidisciplinary agency inclusion will ensure the government is not only consistently meeting its trust responsibilities to Tribes, and that the U.S.' centuries-old government-to-government relationship with Tribal Nations is appropriately represented in high-level multilateral diplomatic settings, such as the United Nations.

III. Key Treaty Provisions

The Workshop focused on provisions of the GRATK Treaty text with particular relevance for Indigenous Peoples and provisions promoting transparency and innovation in the patent law system.

Preamble

Panelists first discussed the significance of the Preamble's explicit reference to the United Nations Declaration on the Rights of Indigenous Peoples (2007) (the "Declaration").[54] To the extent that the Declaration articulates global consensus on minimum standards for Indigenous Peoples' rights, the GRATK Treaty's express reference establishes it as an important normative backdrop to guide Treaty ratification, administration, and interpretation going forward.[55] States' agreement to reference the Declaration, and efforts to implement it, in the GRATK Treaty is especially significant for this reason.

In this vein, Professor Kristen Carpenter, former Chairwoman of the UN Expert Mechanism on the Rights of Indigenous Peoples, highlighted efforts taken during WIPO negotiations to bring concepts of human rights into the discourse about intellectual property.[56] She referenced two reports by Professor James Anaya, prepared when he was the UN Special Rapporteur on the Rights of Indigenous Peoples, articulating the relevant framework for assessing Indigenous Peoples' rights with respect to traditional knowledge, genetic resources, and traditional cultural expressions.[57] Consistent with international law's understanding of the significance of preambles, the GRATK Treaty's reference brings Indigenous Peoples' human rights, as articulated in the Declaration, to bear ascertaining the instrument's meaning, purposes, and object. [58]

Thus, preambular paragraph seven can help to promote norm building for Member States, justifying expansive protections reflecting the Declaration. Oftentimes, government and industry representatives profess a lack of clarity about Indigenous Peoples' substantive rights to their traditional

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[54] United Nations Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295 (Sept. 13, 2007) [hereinafter the "Declaration"]. We note that this Outcome Document analyzes the rights of Indigenous Peoples, our area of expertise. As the Special Rapporteur has noted, it is important to acknowledge the distinct jurisprudence regarding Indigenous Peoples and avoid conflation with other groups such as local communities. *Recognition of Indigenous Peoples* - Report of the Special Rapporteur on the rights of Indigenous Peoples, Albert K. Barume, A/HRC/60/29, August 7, 2025.

[55] WIPO GRATK Treaty, *supra* note 2, preamble ¶ 7.

[56] Kristen A. Carpenter, panel remarks, GRATK Treaty Workshop, *supra* note 9. *See also* Kristen A. Carpenter, *Indigenous Peoples in International (Treaty) Diplomacy*, 71 UCLA L. REV. 1622 (2025).

[57] See S. James Anaya, *Technical Review of Key Intellectual Property-Related Issues of The WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions*, U.N. Doc. WIPO/GRTKF/IC/29/INF/10 (Jan. 11, 2016); S. James Anaya, U.N. Special Rapporteur on the Rts. of Indigenous Peoples, *Statement on Indigenous Peoples' Rights to Genetic Resources and Traditional Knowledge*, 23rd Session of WIPO IGC (Feb. 4, 2013).

[58] Vienna Convention on the Law of Treaties, art. 31, May 23, 1969, 1155 U.N.T.S. 331.

knowledge, but under the Declaration, they have at least the rights to "maintain, control, protect and develop" their traditional knowledge pursuant to Article 31 stating:

> 1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
>
> 2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.[59]

With respect to processes relating to the GRATK Treaty, including decisions to ratify and implement, Article 18 of the Declaration recognizes Indigenous Peoples' right "to participate" in decision-making that affects them and Article 19 requires their "free, prior, and informed consent" (FPIC) to any administrative or legislative matter affecting them. These provisions recall NCAI President Macarro's prior statement about the importance of Tribal participation and consultation in any federal agency decisions regarding the Treaty.

In addition to Member State activities, WIPO itself must also seek to fulfill the Declaration's principles. Measures could include formally institutionalizing and improving Indigenous Caucus participation, including through provision of funding for Indigenous participation from WIPO's regular budget.

Heidi Todacheene, Principal at IndigiNational Strategies and former AILP Practitioner in Residence at the University of Colorado Law School, discussed the importance of the Treaty's preambular commitments vis à vis its operative provisions.[60] Referencing the Preamble, WIPO formally incorporated the Declaration's principles under paragraph 7, thereby strengthening the rights of Indigenous Peoples, and further reinforcing the contextual framework treaty interpretation, as established in Article 31 of the Vienna Convention.[61]

However, in practice, a gap remains between the principles articulated in the Preamble and the Treaty's operative provisions. For instance, the Declaration in Article 31 recognizes Indigenous Peoples' rights including control over intellectual property, whereas the GRATK Treaty's operative provisions, including disclosure, do not expressly do so. Todacheene noted that this "GRATK gap" reflects

[59] Declaration, *supra* note 54, at Art. 31.
[60] Heidi Todacheene, panel remarks, GRATK Treaty Workshop, *supra* note 9.
[61] Vienna Convention on the Law of Treaties art. 31, May 23, 1969, 1155 U.N.T.S. 331.

tensions arising during intergovernmental negotiations, and may expose a divergence between normative commitments and enforceable obligations in treatymaking.[62]

In the GRATK Treaty implementation process, States must prioritize good-faith consultative processes and transparent communications with Indigenous Peoples to narrow the gap. Such approach would enhance the credibility and legitimacy of WIPO's engagement with Indigenous Peoples within the UN system, as well as the industry and advocacy groups who appreciate the GRATK Treaty's inclusivity.[63] States' efforts to engage in a consistent and transparent treaty-making process, consistent with Article 37 of the Declaration[64] and longstanding federal tribal consultation policies,[65] are of the utmost importance particularly for countries such as the U.S., where an expanding gap evokes historical trauma associated with unconscionable federal practices in Indian treaty-making.

Examining U.S.' federal Indian law and its unique political relationship with the 575 federally-recognized sovereign Tribal Nations, Todacheene invoked Felix S. Cohen's view that the treatment of Indians served as a "litmus test" of the nation's democratic health prior to the civil rights movement.[66] Seventy years later, Todacheene argued: "At the foremost diplomatic and multilateral forum, the treatment of cultural protections for peoples who've endure(d) genocide is the litmus test of a global commitment to respect human dignity. Member States' individual decision to ratify and implement the Treaty is the measure of that commitment to Indigenous Peoples."[67]

At the domestic level, Todacheene argued that the U.S. should implement the Declaration by formalizing the federal trust responsibility in international diplomacy, where tribal interests are currently represented without consistent Indigenous participation, including the establishment of a U.S. Ambassador for Indigenous Peoples and a Special Envoy for Indigenous Peoples at the Department of State. These positions, she contends, would align U.S. practice with peer States,[68] strengthen engagement with CANZUS[69] States and U.N. Indigenous mechanisms, and formalize Indigenous participation in international policymaking including in UN treaty bodies.[70] These requests

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[62] Heidi Todacheene, panel remarks, GRATK Treaty Workshop, *supra* note 9.
[63] Daniel Mendoza & Gary Pulsinelli, *WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge: Promoting Transparency and Inclusivity in the Patent System*, Intellectual Property Law Section, American Bar Association (2025), https://www.americanbar.org/groups/intellectual_property_law/resources/landslide/2025-summer/wipo-treaty-promoting-transparency-inclusivity-patent-system/.
[64] Declaration, *supra* note 54. Article 37 affirms that Indigenous Peoples have rights to the recognition, observance, and enforcement of treaties, agreements, and other constructive arrangements concluded with states, and that States shall honor and respect such obligations in good faith.
[65] Exec. Order No. 13175, 65 Fed. Reg. 67,249 (Nov. 9, 2000). See also, U.S. Dep't of the Interior, Bureau of Indian Affs., *Tribal Consultation Resources*, https://www.bia.gov/service/tribal-consultations/resources.
[66] Felix S. Cohen, *The Erosion of Indian Rights, 1950–1953: A Case Study in Bureaucracy*, 62 YALE L.J. 348, 390 (1953) ("Like the miner's canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall of our democratic faith.").
[67] Heidi Todacheene, panel remarks, GRATK Treaty Workshop, *supra* note 9.
[68] *See generally Ambassador for First Nations People*, Austl. Dep't of Foreign Affs. & Trade, dfat.gov.au.
[69] CANZUS collectively references Canada, Australia, New Zealand, and United States.
[70] U.N. Permanent Forum on Indigenous Issues; Expert Mechanism on the Rights of Indigenous Peoples; Special Rapporteur on the Rights of Indigenous Peoples; Comm. on the Elimination of Racial Discrimination.

have been formally advanced by federally recognized Tribes and adopted via pan tribal policy resolutions.[71]

Sheryl Lightfoot, Vice Chair of the UN Expert Mechanism on the Rights of Indigenous Peoples, contextualized the discussion about the GRATK Treaty with a discussion about how advocacy in Canada has shifted since the 2021 passage of Canada's United Nations Declaration on the Rights of Indigenous Peoples Act ("DRIPA").[72] DRIPA now operates as binding Canadian law that mandates the federal government to take measures to reform and align federal law with the Declaration. Under recent caselaw, federal decision-makers and regulators are required to meaningfully consider the Declaration when exercising statutory authority in decision-making.[73]

In Lightfoot's view, Canada seems to be taking a "supportive but cautious" approach to the GRATK Treaty, an approach that does not yet include ratification.[74] Moreover, the Patent Act of Canada does not currently have disclosure requirements for genetic resources or associated traditional knowledge.[75] However, Canada is assessing its current patent system with respect to genetic resources and associated traditional knowledge as mandated under UNDRIPA Action Plan Measure 101.[76] This assessment will directly inform how global disclosure mandates for genetic resources and associated traditional knowledge will be legislated into its Patent Act, including integration of FPIC principles.[77] Lightfoot noted, "Eventually, [Canada's] property and intellectual property law will have to align with the Declaration [and DRIPA] or it will arise in litigation."

Not unlike Todacheene's call for a new Special Envoy for Indigenous Issues at the U.S. Department of State, Lightfoot described comparable efforts with Global Affairs Canada. Both North American countries face barriers educating their respective agencies on existing federal obligations to their First Nations. However, Canadian civil service roles rotate every three years on average. This results in additional resources needed to re-educate the Canadian bureaucracy on Indigenous-specific laws and policies every three years. Lightfoot ended by suggesting that an informal international Indigenous working group could be considered to help establish consistency and permanence among countries in finding solutions. Ultimately, the panel agreed that new domestic and international measures would ensure that the GRATK Treaty is fully implemented in a manner consistent with the Declaration.

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[71] NCAI Res. No. SAC-21-023 (2021), https://ncai.assetbank-server.com/assetbank-ncai/action/viewAsset?id=167
[72] Declaration on the Rights of Indigenous Peoples Act, S.C. 2021, c. 14, § 5 (Can.).
[73] Kebaowek First Nation v. Canadian Nuclear Laboratories, 2025 FC 319 (Can.). Reference re An Act respecting First Nations, Inuit and Métis children, youth and families, 2024 SCC 5 (Can.). Federal courts in the United States have begun to cite the Declaration, including in a case leading ultimately to the settlement of one tribe's land use claim. *See, e.g.,* Pueblo of Jemez v. U.S., 350 F.Supp.3d 1052, 1094 n.15 (citing the Declaration and Mabo v. Queensland (No. 2) (1992) 175 Commonwealth L. Rep. 1 (Austl.)) for the proposition that "Both international law and other common-law countries' law recognize aboriginal title."); Settlement Agreement in Pueblo of Jemez v. United States, U.S. Dist. Ct. (D.N.M.), Case No. 1:12-cv-00800, U.S. Court of Appeals for the Tenth Circuit Nos. 13-2181, 20-214 (Oct. 16, 2024), https://www.doi.gov/pressreleases/interior-department-signs-settlement-agreement-recognizing-jemez-pueblos-rights.
[74] Sheryl Lightfoot, panel remarks, GRATK Treaty Workshop, *supra* note 9.
[75] Patent Act, R.S.C. 1985, c. P-4 (Can.).
[76] Dept. of Justice Can., *United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan 101* (2023), https://www.justice.gc.ca/eng/declaration/ap-pa/index.html.
[77] *Innovation, Science and Economic Development Canada, Indigenous Peoples and Intellectual Property, Gov't of Can.,* https://ised-isde.canada.ca/site/intellectual-property-strategy/en/indigenous-peoples-and-intellectual-property (last modified May 28, 2026).

Mandatory Disclosure (Art. 3)

The centerpiece of the GRATK Treaty is its mandatory disclosure provision. Under Article 3, if a claimed invention is based on genetic resources, then contracting parties (meaning signatory States) must require the patent applicant to disclose the origin country or source of genetic resources.[78] If a claimed invention is based on traditional knowledge associated with genetic resources, contracting parties must require the patent applicant to disclose the Indigenous Peoples, local community, or source of the traditional knowledge.

The disclosure language of the Treaty can be seen as a starting point or minimum standard. Indeed, from the perspective of most Indigenous Peoples, the disclosure requirement does not go far enough to protect their GRATK. Yet, representatives of the U.S. Patent and Trademark Office have strenuously objected to these minimal disclosure requirements on grounds that they could hinder scientific innovation or create additional work for patent examiners.[79] Nevertheless, developments in international law require States such as the U.S. to consider measures for reform or alignment. Thus, panelists discussed the GRATK Treaty's disclosure requirements in light of international, federal, and Tribal laws.

International patent law: WIPO Patent Cooperation Treaty

Professor Margo Bagley discussed international law implications of the Treaty, including its ramifications for the Patent Cooperation Treaty ("PCT").[80] The PCT is a multilateral WIPO treaty that facilitates obtaining patents in multiple countries by protecting priority while providing time and information to inform further filing determinations. All patent rights are territorial, meaning there are no universal or international patents and applicants must comply with the processes set forth under each States' laws. The PCT facilitates multi-country patent application filing by providing an extended priority period, additional information to inform later filing decisions, and a centralized process for providing applications to designated offices.

Though the PCT system does not in itself create an international patent, it does provide a mechanism by which applicants can apply for patents in multiple countries at once. The PCT is a widely used system, thus providing a well-suited mechanism to implement the GRATK Treaty's disclosure provisions broadly. Bagley noted that the language of Article 4 of the PCT currently prevents

[78] GRATK Treaty, *supra* note 2.
[79] *See* Theresa Schliep, *USPTO Acting Director Spurns 'Traditional Knowledge' Treaty*, LAW 360 (July 14, 2025), https://www.law360.com/articles/2364461/uspto-acting-director-spurns-traditional-knowledge-treaty; *see also* Laura Peter, *The WIPO Treaty on Genetic Resources: A Misguided Expansion That Threatens the Patent Bargain*, IPWatchdog.com, (Nov 12, 2025), https://ipwatchdog.com/2025/11/12/wipo-treaty-genetic-resources-misguided-expansion-threatens-patent-bargain/. The Coordination Committee of WIPO approved Laura Peter's appointment as the Deputy Director General of WIPO's Patents and Technology Sector in 2026. She was previously Deputy Director of the USPTO.
[80] WIPO Patent Cooperation Treaty, June 19, 1970, 28 U.S.T. 7645, 1160 U.N.T.S. 231 (as amended Oct. 3, 2001).

applicants from disclosing the source of genetic resources.[81] But Article 7, footnote 4 of the GRATK Treaty encourages amendments to PCT Article 4 that would ask applicants to comply with the GRATK Treaty disclosure requirements. Implemented successfully, these amendments would make disclosure requirements universal for any applicant that uses the PCT system to file international applications for patents that use genetic resources and associated traditional knowledge where applicable. This could ideally improve transparency in the use of Indigenous Peoples' genetic resources and associated traditional knowledge. Further, Indigenous Peoples and advocates could access the PCT system's centralized patent database to more easily view where and how their resources are used.

Bagley noted that States have proposed that the GRATK Agreed Statement be added as an agenda item for the annual meeting of the PCT Working Group. But Working Group members have not yet agreed to add the Agreed Statement as an agenda item, so far preventing consideration of an amendment to the PCT on disclosure.

U.S. Federal Patent Law and Regulations

Several panelists addressed the compatibility of the GRATK Treaty's disclosure requirements with existing requirements in the U.S. patent system. The GRATK Treaty disclosure obligations generally arise where the applicant knows or can reasonably ascertain the origin or source of genetic resources, a threshold that shapes recognition of Indigenous contributions and helps mitigate Indigenous Peoples' erasure. These are not incompatible with federal patent law or policy in the U.S., though may require some adjustments in policy and practice.

Existing laws under the U.S. patent framework set forth some disclosure requirements. Section 112 of the U.S. Patent Act requires applicants to disclose information to describe the invention and to enable a person of ordinary skill in the art to make and use the invention.[82] And under 37 C.F.R. Section 1.56, all persons associated with prosecuting a patent application have a duty to disclose information of which they are aware, that is material to the patentability of the claims in the application.[83] But if an applicant knew about material prior art but failed to disclose it with an intent to deceive the office, then the patent is likely to be rendered unenforceable under the doctrine of inequitable conduct. Under the doctrine of inequitable conduct: the applicant must have prior awareness and intentionally not disclose that awareness. This requires specific intent to deceive and but-for materiality (but-for this source of prior art, the patent would have been enforceable).[84]

Bagley offered that 37 C.F.R Section 1.105 already allows patent examiners to ask applicants to provide any additional information of which they are aware that could facilitate examination of the application, including information on disclosure of origin.[85] Bagley also discussed the potential complications arising from multiple inventors having to disclose origins of multiple genetic resources across the world at once.

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[81] Margo A. Bagley, panel remarks, GRATK Treaty Workshop, *supra* note 9.
[82] Patent Act, 35 U.S.C. §112 (2021).
[83] Duty to disclose information material to patentability, 37 C.F.R. § 1.56 (2012).
[84] Precision Instrument Manufacturing Co. v. Automotive Maintenance Machinery Co., 324 U.S. 806, 818-819 (1945) (holding that fraudulent or misleading conduct before the PTO can render patents unenforceable.). Therasense, Inc. v. Becton, Dickinson & Co., 649 F.3d 1276, 1295 (Fed. Cir. 2011) (requiring but-for materiality and specific intent to deceive for inequitable conduct).
[85] Requirements for information, 37 C.F.R § 1.105 (2015).

Of additional relevance is the Plant Patent Act, which applies to the "invention or discovery and asexual reproduction" of a "distinct and new variety" of plant.[86] The Plant Patent Act has prior art and disclosure provisions of particular relevance to the GRATK Treaty.

Professor Laura Dolbow noted the high volume of patent applications and the lack of administrative capacity at USPTO to thoroughly review all applications.[87] This poses particular enforcement challenges when Indigenous Peoples' resources are not searchable online,[88] an issue that could be alleviated by the GRATK Treaty's databases provisions or domestic version of the same. That said, USPTO has the institutional authority to hire additional examiners[89] and provide them with specialized training on GRATKs similarly to other types of training.[90] Any challenges on this issue are institutional, not legal. Although an argument exists regarding the lack of available resources for hiring, USPTO is a rare federal agency in that it is entirely self-funded, thus the issue may be more appropriately viewed as a question of administrative prioritization and resource allocation to resolve the implementation challenges associated with the GRATK Treaty.[91]

U.S. Federal Indian Law and Policy

To the extent that the U.S. considers ratifying and implementing the GRATK Treaty, it is worthwhile to note that its provisions relating to Indigenous Peoples are consistent with federal Indian law doctrines requiring that federal government take measures to protect Tribal resources and empowering Congress to enact legislation accordingly.

More specifically, the U.S. owes a duty of "trust" to Indian nations, a duty that has been affirmed by the Supreme Court as recently as the last few years.[92] The trust responsibility inheres in the federal constitutional structure. Congress has expressed its trust duty through the passage of numerous federal laws—many since the self-determination era began in the late 1960's—to protect the self-determination and cultural resources of Indian Tribes. For example, Congress has passed legislation such as the Native American Graves Protection and Repatriation Act, to ensure the repatriation of ancestors and cultural items from federally funded museums and institutions; the Indian Child Welfare Act, to safeguard against the mass removal of Indian children

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[86] Plant Patent Act of 1930 (enacted on June 17, 1930, as Title III of the Smoot-Hawley Tarriff Act, ch. 497, 46 Stat. 703, codified as 35 U.S.C. Ch. 15).
[87] Laura Dolbow, panel remarks, GRATK Treaty Workshop, *supra note* 9.
[88] Patent law, like Indian law, is generally within the purview of federal legislative powers. Yet it may be worthwhile to study opportunities for states to legislate at the intersection of GRATK and Indian laws, using existing or novel approaches that are not pre-empted by federal law. *See* Laura Dolbow, *Patent Preemption Exceptionalism*, 76 AM. U. L. REV. (forthcoming 2027) (identifying state prerogatives in trade secrets and contracts law as withstanding patent preemption concerns with potential to advance state concerns in the pharmaceutical industry).
[89] Gene Quinn, *USPTO Hiring Freeze Ends, Patent Examiners Wanted*, IPWATCHDOG (June 13, 2025), https://ipwatchdog.com/2025/06/13/uspto-hiring-freeze-ends-patent-examiners-wanted/.
[90] U.S. Patent & Trademark Off., Patent Examiner Technical Training Program, https://www.uspto.gov/patents/initiatives/patent-examiner-technical-training-program.
[91] See U.S. Patent & Trademark Off., Fiscal Year 2027 President's Budget, at 1–3 (2026), https://www.uspto.gov/about-us/performance-and-planning/budget-and-financial-information (projecting over $5 billion in fee collections and a net appropriation of $0).
[92] *See* Haaland v. Brackeen, 599 U.S. 255 (2023).

from Indian homes; and the Indian Arts and Crafts Act to provide protection for Indian artisans in marketing Native goods, as a few examples.[93] Similarly, one federal policy statement recently cited the trust responsibility as a source for protections, including recognition, consultation, and compensation, related to the federal government's use of "Indigenous Knowledge."[94]

Certain Indigenous Peoples may also be able to assert a link between treaty provisions regarding reserved rights to resources and an obligation of the U.S. to protect the traditional knowledge associated with using those resources. The Tulalip Tribes, for example, have claimed a direct connection between their rights to hunt, fish, gather, and engage in other TK-related practices and their treaties with the U.S.[95] With over three hundred treaties between the U.S. and Tribal governments, and their frequent references to hunting and gathering practices, there are likely other treaties that provide support for the protection of Tribes' genetic resources and associated traditional knowledge.

Going forward, Indigenous Peoples may want to go further than what is required in the GRATK Treaty, such as acknowledgment and benefit-sharing agreements. While legislation or other programmatic approaches to these issues would be well-within the federal government's prerogatives under the trust responsibility, those issues are not currently implicated by signature, ratification, or implementation of the GRATK Treaty.

Tribal Law

Limitations in the advancement and implementation of disclosure requirements under international and U.S. federal law highlight the opportunity for Tribal governments to develop their own laws to protect their tangible and non-tangible cultural property.[96] Professor Angela R. Riley presented her comprehensive research tracing the evolution of Tribal laws governing intangible knowledge. Her presentation highlighted how these laws not only protect Indigenous cultural property within Tribal Nations but also serve as influential models for legal systems beyond Indian Country by centering Indigenous lifeways and worldviews. As Riley explained, "Tribes have worked deliberately to define, in their own Tribal laws, exactly what they seek to protect—identifying intangible knowledge and cultural property on their own terms rather than through inherited categories imposed from the outside."[97]

Contrasting Tribal legal frameworks with the U.S. patent system, Riley emphasized several innovations rooted in Tribal law that could strengthen the protection of Indigenous Peoples' genetic resources and associated traditional knowledge. Among them are provisions requiring researchers to undergo

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[93] Native American Graves Protection and Repatriation Act, 25 USC §§ 3001-3013 (1990); Indian Child Welfare Act, 25 USC §§ 1901-1963 (1978); Indian Arts and Crafts Act, 25 USC § 305-305e (1990), 18 USC § 1159 (1990)

[94] Office of Science and Technology Policy's Council on Environmental Quality, *Guidance for Federal Departments and Agencies on Indigenous Knowledge* (November 30, 2022), https://planning.erdc.dren.mil/toolbox/library/MemosandLetters/IKGuidance_30Nov2022.pdf. This memorandum shows considerable federal expertise and capacity to address 'Indigenous Knowledge,' also known in various iterations as 'Traditional Ecological Knowledge, Traditional Knowledge, Indigenous Traditional Knowledge, Native Science, and related formulations, which are preferred by different Tribes and Indigenous Peoples.'

[95] *See* Tulalip Tribes Natural Resources, *Land-Based Treaty Rights,* https://nr.tulaliptribes.com/Topics/LandBasedTreatyRights.

[96] Angela R. Riley, panel remarks, GRATK Treaty Workshop, *supra* note 9; *see also* Angela R. Riley, *The Ascension of Indigenous Cultural Property Law*, 121 MICH. L. REV. 75 (2022).

[97] Riley, panel remarks, GRATK Treaty Workshop, *supra* note 9.

Tribal institutional review board processes before a project's initiation and others that vest ownership of any resulting research in the Tribe. More fundamentally, some Tribes have also embedded in Tribal law enhanced protections for intangible knowledge by requiring, for example, that researchers consent to Tribal court jurisdiction if claims arise. In all of these ways, Tribal laws may address issues core to the GRATK Treaty but that reach even further to contemplate benefit sharing, privacy, and broader principles governing research relationships with Tribal Nations.

Professor Rebecca Tsosie emphasized the need and right of Indigenous Peoples to participate in implementation of the Treaty.[98] According to Tsosie, the current patent system rewards inventors for novel innovation by granting short term economic monopolies. Market stakeholders do not want to let go of the stream of income, so they exploit Indigenous Peoples to keep economic power. including with respect to innovations based on Indigenous data. Indigenous Peoples are advocating for the GRATK Treaty and other instruments because they deserve at least the same protections as States and industry actors. Professor Tsosie further noted that the GRATK Treaty's disclosure requirement would comport with the similar effort that is being made by Indigenous Data Sovereignty proponents with respect to databases that could house Tribal data.

Databases (Art. 6): In Consultation with Indigenous Peoples

Article 6 allows Contracting Parties to create information systems, such as databases, for organizing information on genetic resources and associated traditional knowledge to improve the efficiency and accuracy of patent examinations, and further increase transparency. These are intended to serve as a repository to preserve information and support administrative consistency across national and international systems.

Importantly Article 6 states that the databases are to be created *in consultation* with Indigenous People. This is a critical step to ensure Indigenous People are included in a meaningful capacity where decisions effect their knowledge, resources, and rights. It further serves a protective measure to avoid misrepresentation of associated traditional knowledge, as formally incorporated into the system through compliance with recognized international standards of engagement, and principles consistent with the Declaration.[99] As Geoffrey Roth noted: "If the GRATK Treaty is going to meet its intended purpose of preventing misappropriation and biopiracy, it will be because Indigenous Peoples are the co-architects of its instrumentation and oversight."[100]

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[98] Rebecca Tsosie, panel remarks, GRATK Treaty Workshop, *supra* note 9; *see also* Rebecca Tsosie and Michael Kotutwa Johnson, *"The Seed is the Law": Creating New Governance Frameworks for Indigenous Heirloom Seeds and Traditional Knowledge,* 71 UCLA L. REV. 1770, 1778 (2025).

[99] *See* Declaration, *supra* note 51, (art. 18 (right to participation in decision-making through Indigenous representative institutions), art. 19 (State duty to consult and cooperate in good faith to obtain free, prior, and informed consent before adopting measures affecting Indigenous Peoples), 31 (right to maintain, control, and protect cultural heritage and traditional knowledge), and art. 32(2) (requirement of free, prior, and informed consent prior to approval of projects affecting Indigenous lands, territories, and resources)).

[100] *See* Geoffrey Roth, panel remarks, *supra* note 9.

Consultation requirements under Article 6 serve as a practical approach to develop safeguards around the threat that databases will be used as tools of extraction, and establishes more equitable and culturally appropriate management of genetic resources and associated traditional knowledge. Allowing Indigenous Peoples to help shape the rules, usage conditions, and limitations safeguarding sensitive cultural data that can be recorded in the information systems is a meaningful step towards consistency with the Declaration.

Treaty Assembly (Art. 10): Indigenous Peoples' Participation

Ultimate authority over WIPO treaties typically remains with States, whether all WIPO Member States or only those States joining the treaty (i.e., the "Contracting Parties"), as in the case of the GRATK Treaty. Yet, Indigenous Peoples are recognized as accredited observers and have actively participated in the WIPO IGC as well as the Diplomatic Conference that resulted in the adoption of the GRATK Treaty. Through the Indigenous Caucus, they have contributed in a significant and meaningful way to include their knowledge, shape significant discussions, and influence the texts under negotiation, include the GRATK Treaty**.** However, even these opportunities depend heavily on funding and accessibility.[101]

Article 10 encourages Indigenous Peoples to contribute perspectives on implementation issues by participating in the Treaty Assembly and relevant subsidiary bodies. While Article 10 does not confer voting rights, it institutionalizes Indigenous inclusion, while reserving final decision-making authority to Member States. It envisions that Indigenous Peoples will be in the room, with speaking roles, when decisions regarding administration of the GRATK Treaty are made.

While these provisions are extremely important, Indigenous Peoples are also participating in diplomacy around the GRATK Treaty beyond the walls of WIPO. For example, due to tireless advocacy by Indigenous leaders, the latest draft report from the UN Permanent Forum on the Rights of Indigenous Peoples to ECOSOC includes strong recommendations for UN Member States to ratify the Treaty with a view to its entry into force by 2027.[102]

IV. Next Steps

Indigenous Peoples are highly motivated to protect their natural environment, knowledge systems, and innovations. Since the adoption of the GRATK Treaty, Indigenous leaders, attorneys, scholars, and community organizations have worked to increase understanding of its significance throughout Indian Country.

The National Congress of American Indians and other intertribal bodies have adopted resolutions urging the U.S. to support, sign, and ratify the agreement.[103] There is potential for legislative and

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[101] *See generally* Ian Goss, *25 Years in the Making: The WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge*, 66 HARV. INT'L L.J. 35 (2025).
[102] U.N. Permanent Forum on Indigenous Issues, Report of the 25th Session, ¶ 86, U.N. Doc. E/2026/43-E/C.19/2026/6 (May 15, 2026).
[103] National Congress of American Indians, 'Calling on the United States to Sign and Ratify the World Intellectual Property Organization's Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge' Res No SEA-25-016 (November 2025), https://www.federalregister.gov/documents/2025/01/17/2025-01092/tribal-consultation-on-the-wipo-treaty-on-intellectual-property-genetic-resources-and-associated. *See also* Affiliated Tribes of

administrative measures occurring in federal, state, and Tribal venues. In addition to binding requirements and laws, albeit not as a substitute, additional measures for implementation may occur in the development of industry standards or guidelines, as well as public or private contracts for cooperation and benefit sharing, even beyond what the GRATK Treaty requires.[104] In related fields, industries are beginning to recognize Indigenous Peoples' rights, including the safeguard of "free, prior, and informed consent" as a means of minimizing risk and improving reputation.[105] To be clear, however, binding and enforceable legal rules are critical to implementing the GRATK Treaty, as well as protecting Indigenous Peoples' rights in the intellectual and cultural property spaces more broadly.

Some of these efforts are reflected in the following graphic, which is intended to suggest that progress toward implementation may not occur in linear fashion. For example, raising awareness and education regarding the appropriation of cultural properties is an enduring project for Indigenous Peoples. Application and interpretation of the GRATK Treaty through the lens of Indigenous Peoples' own laws, customs, and traditions must occur in a continual manner.

Northwest Indians, 'Call for National Congress of American Indians (NCAI) to Advocate to the United States Government to Sign and Ratify the World Intellectual Property Organization (WIPO) Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge' Res No 2025-30 (May 2025) <https://perma.cc/FJ6Y-TTR7>; Letter from Mark Macarro and Marvin Weatherwax to Secretary Antony Blinken, Secretary Gina Raimondo and Secretary Deb Haaland (April 17, 2024) <https://perma.cc/YG7W-28XG>.

[104] For examples relating to traditional plans and plant knowledge, *see Global Lessons from South Africa's Rooibos Compensation Agreement*, 575 NATURE 258 (Nov. 12, 2019), https://www.nature.com/articles/d41586-019-03488-2.; Tommy Trenchard, *Trendy Rooibos Tea Finally Brings Revenues to Indigenous South African Famers*, NPR (May 27, 2023), https://www.npr.org/sections/goatsandsoda/2023/05/27/1176439193/local-farmers-in-south-africa-were-cut-out-of-rooibos-tea-cash-now-change-is-bre. For examples from other industries, *see Draft Steps When Considering the Use of Elements of Indigenous Peoples' Traditional Cultural Expressions in Fashion*, WIPO (2024) (fashion), https://www.wipo.int/documents/d/traditional-knowledge/docs-en-traditional-cultural-expressions-fashion-steps-draft.pdf.; and Int'l Council on Mining & Metals, *Position Statement: Indigenous People* (August 8, 2024) (mining), https://www.icmm.com/our-principles/indigenous-peoples.

[105] *See* THE IMPLEMENTATION PROJECT, THE TRIBAL GUIDE TO IMPLEMENTING FPIC IN THE CONTEXT OF CONSERVATION AND DEVELOPMENT 9 (2025), https://un-declaration.narf.org/wp-content/uploads/tip-fpic-guide2025.pdf (discussing UN Permanent Forum on Indigenous Issues Member Study Implementing free, prior and informed consent in the context of Indigenous Peoples, https://docs.un.org/en/E/C.19/2023/6).

Jennifer Tauli Corpuz, a member of the UN Permanent Forum on Indigenous Issues, and Indigenous leader from the Igorot people of the Philippines, offered some remarks about the process at WIPO's IGC.[106] She noted that Indigenous Peoples from the Global South have not been well-represented at the WIPO IGC, though the Indigenous Caucus has typically selected co-chairs from both the Global North and Global South. She indicated the importance of participation by NCAI and the Native American Rights Fund, as well as Australian Aboriginal people, and, in the diplomatic conference, "technical people, knowledge holders, and spiritual people" from Brazil who helped to create a "successful formula" for securing the GRATK Treaty.[107] She expressed her hope for more representation by Indigenous Peoples from Asia, Africa, and Latin America in future processes.

Corpuz also made the important point that negotiators typically wish to hear practical examples regarding how traditional knowledge gets transmitted and what harms result to Indigenous Peoples if this happens inappropriately. She relayed the example shared by Governor Anthony Delgarito from Zia Pueblo who explained at a previous IGC session how taking of the Zia Sun Symbol constituted a derogatory use, an example that has "lingered in the minds of negotiators."[108] Corpuz also counseled consideration of different "tiers" of knowledge. In particular, she noted the highest level of protection may not be required for knowledge meant "to be shared," as in the Indigenous Peoples' community dances performed at the Baguio Panagbenga flower festival set to occur in the Phillipines the day after her presentation to the Workshop. Being clear about these instances could help negotiators better understand the intellectual property needs of Indigenous Peoples.[109]

V. International and Comparative Developments

Ongoing discussions regarding GRATK Treaty implementation remained a focus in July 2026, at both the 19th Session of the UN Expert Mechanism on the Rights of Indigenous Peoples and the 68th Series of Meetings of the Assemblies of the Member States of WIPO, both held in Geneva. NCAI President Macarro attended the EMRIP session and made an intervention calling for ratification and implementation of the GRATK Treaty. As this publication goes to print, we understand that EMRIP's Annual Report to the Human Rights Council will call upon the Council to encourage States to sign and ratify the GRATK Treaty.

In the margins of the EMRIP session, TIP and several partners hosted a high-level side event entitled, "Realizing the WIPO Treaty on Intellectual Property, Genetic Resources & Associated Traditional Knowledge," headlined by distinguished panelist Ambassador Guilherme de Aguiar Patriota, Permanent Representative of Brazil to the World Trade Organization and other and other Economic Organizations in Geneva, who served as President of the Diplomatic Conference that led to the adoption of the GRATK Treaty.

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[106] *See* Jennifer Tauli Corpuz, panel remarks, GRATK Treaty Workshop, *supra* note 9.
[107] *Id.*
[108] *Id.* Corpuz referenced WIPO presentations on uses of Zia Pueblo's Sun Symbol. For additional information, *see* Catherine Saez, Indigenous Knowledge Misappropriation: The Case Of The Zia Sun Symbol Explained At WIPO – Intellectual Property Watch, INTELLECTUAL PROPERTY WATCH, Dec. 11, 2016; *see also* June Lorenzo, *Zia Pueblo and the Sacred Sun Symbol in the Public Domain*, Indigenous World Association and International Indian Treaty Council, WIPO/IGC 38, Geneva, Switzerland, December 10, 2018..
[109] *See* Corpuz, panel remarks, GRATK Treaty Workshop, *supra* note 9.

Ambassador Patriota reflected on the diplomatic success of the GRATK Treaty as a major accomplishment and a significant development for Member States who have historically regarded WIPO as an institution devoted to private law concerns, with roots traceable to much earlier treaties on intellectual property. Reflecting on the achievements of the GRATK treaty, he noted the inclusion of provisions on Indigenous Peoples, not only in the preamble but also in the operative provisions of the Treaty concerning the mandatory disclosure requirement for patent applicants whose inventions are based on genetic resources or associated traditional knowledge. He also referred to his previous work in multilateral diplomacy, particularly the negotiations of the 2030 Agenda for Sustainable Development and its recognition of Indigenous Peoples rights. He credited the current Brazilian Government, including President Luiz Inácio Lula da Silva and the country's first ever Minister for Indigenous Peoples Sônia Guajajara, who have championed strong platforms in support of Indigenous Peoples.

Other distinguished panel speakers included NCAI President Macarro; UN Permanent Forum Member and Co-Chair of the Indigenous Caucus during the Diplomatic Conference, Jennifer Tauli-Corpuz; EMRIP Member Sheryl Lightfoot; and Principal of IndigiNational Strategies' Heidi Todacheene. Several of the speakers called for Indigenous Peoples' mechanisms to recommend that States ratify the GRATK Treaty and support such efforts through studies and reports.

TIP Co-Directors Kristen Carpenter and Sue Noe joined African Ambassadors for a discussion on Navigating the Global IP Architecture, held at the Geneva Centre on Knowledge Governance on July 17, 2026. Dr. Chidi Oguamanam situated the discussion in the biodiversity that exists across the African continent, the longstanding medicinal, nutritional and other knowledge held by African people, and the many disadvantages they face in global markets for pharmaceuticals and other products.[110] These dynamics reflect political differences at WIPO regarding ongoing negotiations for additional intellectual property instruments for the protection of traditional knowledge and traditional cultural expressions. Certain Member States, including the U.S., continue to favor non-binding guidance or softer legal instruments, while Indigenous Peoples and African countries generally favor rights-based international agreements. There is also a divide among Member States about drawing from WIPO's regular budget to fund participation of Indigenous Peoples, as well as local communities, in these ongoing negotiations.[111]

[110] Dr. Oguamanam published a blog reflecting several of these points, available at: "68th WIPO General Assembly: Gauging the Pulse on the IGC and the GRATK Treaty," July 28, 2026, https://abs-canada.org/68th-wipo-general-assembly-gauging-the-pulse-on-the-igc-and-the-gratk-treaty.

[111] *Id.* The vast majority of Member States support funding for such participation, but some holdouts, including the United States, continue to block approval notwithstanding WIPO's projected budget surplus of approximately 7.6 million Swiss Francs for the 2026-2027 biennium. *See* WO/PBC/39/8, June 10, 2025, https://www.wipo.int/edocs/mdocs/govbody/en/wo_pbc_39/wo_pbc_39_8.pdf.

Wend Wendland, former Director of the Traditional Knowledge Division, as referenced above, made a very strong call for ratification of the GRATK Treaty, to complement early ratifications by Malawi and Uganda, which have since been followed by Albania and, as recently announced, Peru. Wendland also noted the importance of TIP's work on raising awareness and promoting implementation of the GRATK Treaty. He proposed a forum, Friends of the GRATK Treaty, to champion and expedite the coming into force of the treaty and lay foundations for its governing body. [112] Such a body, according to Wendland, should be cross-regional and coordinate on the interpretation and implementation of the Treaty, so as to promote harmonization rather than fragmentation in international law.[113]

TIP Co-Directors Carpenter and Noe expressed appreciation for the strong partnership between African States and the WIPO Indigenous Caucus, highlighting it as a powerful example of collaboration that contributed to the adoption of the GRATK Treaty and continues to support efforts toward its implementation.

Finally, at Workshop held at University of Oxford, England, on July 22, 2026, Dr. S.N. Nyeck made a presentation about academic researchers and pharmaceutical companies based in the United States claiming to have "discovered" certain "new" medicines that turn out to be based on the knowledge of Indigenous Peoples and local communities in Africa.[114] In one example, the U.S. President recently issued an Executive Order accelerating research and drug approvals of "Ibogaine compounds" and similar products for use in treating addiction.[115] These drugs are based on the innovations of the Fang people of Gabon, among others, who have long used the Iboga shrub in their own medicine. Yet the scientific research and commercial developments taking place in the U.S., while offering promising treatment of veterans with traumatic brain injuries, appear to be occurring without disclosure, benefit-sharing, or participation by the original innovators of the treatments.[116]

Conclusion

Indigenous Peoples and many national governments are committed to promoting the GRATK Treaty's entry into force and implementation. Participation by and consultation with Indigenous Peoples will be critical to fostering the transparency, innovation, and biodiversity goals of the instrument.

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[112] Wendland published a blog reflecting his presentation, available at: Genetic Resources and Traditional Knowledge Treaty: Realising the Promise, Entry into Force, Resilience and Purpose, July 24, 2026, https://knowledgegov.org/realizing-the-promise-of-the-wipo-treaty-on-genetic-resources-and-traditional-knowledge. Wendland suggested using existing intergovernmental organizations' models as precedent for a vehicle to "develop joint interpretive guidance, checklists, practical guides and toolkits; provide training programs; establish information-sharing platforms; and, facilitate peer-to-peer support and mentorship."

[113] Wend Wendland, *Of Ceilings and Flaws: Negotiating Disclosure in the WIPO Genetic Resources and Traditional Knowledge Treaty*, GRUR INTERNATIONAL (2026), ikag080, https://doi.org/10.1093/grurint/ikag080.

[114] *See* Presentation of S.N. Nyeck, *Indigenous and Legal Concerns About President Trump's Order on Mental Health Treatment,* Indigenous Ideas of Human Dignity, Christ Church, University of Oxford, England, July 22, 2026. *See also* Sarah Williams, *Psychoactive drug ibogaine effectively treats traumatic brain injury in special ops military vets*, July 24, 2025, https://med.stanford.edu/news/all-news/2024/01/ibogaine-ptsd.html.

[115] E.O. 14401, April 18, 2026. Note that whether or not the U.S. ultimately ratifies the GRATK Treaty, U.S.-based entities doing research or business in jurisdictions where it has been adopted may be subject to its requirements.

[116] *See* Reilly Capps, *Colorado governor wants to legalize an African psychedelic but there's a conflict over where the drug is sourced*, THE COLORADO SUN, Nov. 7, 2025.

Appendix – The Treaty

WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge

Adopted at Geneva on May 24, 2024

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The Parties to this Treaty,

Desiring the promotion of the efficacy, transparency and quality of the patent system in relation to genetic resources and traditional knowledge associated with genetic resources,

Emphasizing the importance of patent offices having access to appropriate information on genetic resources and traditional knowledge associated with genetic resources to prevent patents from being granted erroneously for inventions that are not novel or inventive with regard to genetic resources and traditional knowledge associated with genetic resources,

Recognizing the potential role of the patent system in contributing to the protection of genetic resources and traditional knowledge associated with genetic resources,

Recognizing that an international disclosure requirement related to genetic resources and traditional knowledge associated with genetic resources in patent applications contributes to legal certainty and consistency and, therefore, has benefits for the patent system and for providers and users of such resources and knowledge,

Recognizing that this Treaty and other international instruments related to genetic resources and traditional knowledge associated with genetic resources should be mutually supportive,

Recognizing and reaffirming the role that the intellectual property system plays in promoting innovation, transfer and dissemination of knowledge and economic development, to the mutual advantage of providers and users of genetic resources and traditional knowledge associated with genetic resources,

Acknowledging the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and commitment to achieving the ends set forth therein, and

Affirming that best efforts should be made to include Indigenous Peoples and local communities, as applicable, in implementing this Treaty,

Have agreed as follows:

Article 1
Objectives
The objectives of this Treaty are to:
(a) enhance the efficacy, transparency and quality of the patent system with regard to genetic resources and traditional knowledge associated with genetic resources, and
(b) prevent patents from being granted erroneously for inventions that are not novel or inventive with regard to genetic resources and traditional knowledge associated with genetic resources.

Article 2
List of Terms
For the purposes of this Treaty:
"Applicant" means the person whom the records of the Office show, pursuant to the applicable law, as the person who is applying for the granting of a patent, or as another person who is filing or prosecuting the application.
"Application" means an application for granting of a patent.
"Contracting Party" means any State or intergovernmental organization party to this Treaty.
"Country of origin of genetic resources" means the country which possesses those genetic resources in *in situ* conditions.
"Based on" means that the genetic resources and/or traditional knowledge associated with genetic resources must have been necessary for the claimed invention, and that the claimed invention must depend on the specific properties of the genetic resources and/or on the traditional knowledge associated with genetic resources.
"Genetic material" means any material of plant, animal, microbial or other origin containing functional units of heredity.
"Genetic resources"[1] are genetic material of actual or potential value.
"In situ conditions" means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"Office" means the authority of a Contracting Party entrusted with the granting of patents.
"PCT" refers to the Patent Cooperation Treaty, 1970.
"Source of genetic resources" refers to any source from which the applicant has obtained the genetic resources, such as a research center, gene bank, Indigenous Peoples and local communities, the Multilateral System of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), or any other *ex situ* collection or depository of genetic resources.
"Source of traditional knowledge associated with genetic resources" means any source from which the applicant has obtained the traditional knowledge associated with genetic resources, such as scientific literature, publicly accessible databases, patent applications and patent publications.

Article 3
Disclosure Requirement
3.1 Where the claimed invention in a patent application is based on genetic resources, each Contracting Party shall require applicants to disclose:
(a) the country of origin of the genetic resources[2], or,
(b) in cases where the information in Article 3.1(a) is not known to the applicant, or where Article 3.1(a) does not apply, the source of the genetic resources.
3.2 Where the claimed invention in a patent application is based on traditional knowledge associated with genetic resources, each Contracting Party shall require applicants to disclose:
(a) the Indigenous Peoples or local community, as applicable[3], who provided the traditional knowledge associated with genetic resources, or,
(b) in cases where the information in Article 3.2(a) is not known to the applicant, or where Article 3.2(a) does not apply, the source of the traditional knowledge associated with genetic resources.
3.3 In cases where none of the information in Articles 3.1 and/or 3.2 is known to the applicant, each Contracting Party shall require the applicant to make a declaration to that effect, affirming that the content of the declaration is true and correct to the best knowledge of the applicant.
3.4 Contracting Parties shall provide guidance to patent applicants on how to meet the disclosure requirement as well as an opportunity for patent applicants to rectify a failure to include the minimum information referred to in Articles 3.1 and 3.2 or correct any disclosures that are erroneous or incorrect.
3.5 Contracting Parties shall not place an obligation on Offices to verify the authenticity of the disclosure.
3.6 Each Contracting Party shall make the information disclosed available in accordance with patent procedures, without prejudice to the protection of confidential information.

Article 4
Non-Retroactivity
A Contracting Party shall not impose the obligations of this Treaty in relation to patent applications which have been filed prior to the entry into force of this Treaty with regard to that Contracting Party, without prejudice to existing national laws on disclosure that apply to such patent applications.

Article 5
Sanctions and Remedies
5.1 Each Contracting Party shall put in place appropriate, effective and proportionate legal, administrative, and/or policy measures to address a failure to provide the information required in Article 3 of this Treaty.
5.2 Subject to Article 5.2(*bis*), each Contracting Party shall provide an opportunity to rectify a failure to disclose the information required in Article 3 before implementing sanctions or directing remedies.

5.2*(bis)* A Contracting Party may exclude from the opportunity to rectify under Article 5.2 cases where there has been fraudulent conduct or intent as prescribed by national law.
5.3 Subject to Article 5.4, no Contracting Party shall revoke, invalidate, or render unenforceable the conferred patent rights solely on the basis of an applicant's failure to disclose the information specified in Article 3 of this Treaty.
5.4 Each Contracting Party may provide for post grant sanctions or remedies where there has been fraudulent intent in regard to the disclosure requirement in Article 3 of this Treaty, in accordance with its national law.

Article 6
Information Systems
6.1 Contracting Parties may establish information systems (such as databases) of genetic resources and traditional knowledge associated with genetic resources, in consultation, where applicable, with Indigenous Peoples and local communities, and other stakeholders, taking into account their national circumstances.
6.2 Contracting Parties should, with appropriate safeguards developed in consultation, where applicable, with Indigenous Peoples and local communities, and other stakeholders, make such information systems accessible to Offices for the purposes of search and examination of patent applications. Such access to the information systems may be subject to authorization, where applicable, by the Contracting Parties establishing the information systems.
6.3 In regard to such information systems, the Assembly of the Contracting Parties may establish one or more technical working groups to address any matters relating to the information systems, such as accessibility to Offices with appropriate safeguards.

Article 7
Relationship with Other International Agreements
This Treaty shall be implemented in a mutually supportive manner with other international agreements relevant to this Treaty[4][5].

Article 8
Review
The Contracting Parties commit to a review of the scope and contents of this Treaty, addressing issues such as the possible extension of the disclosure requirement in Article 3 to other areas of intellectual property and to derivatives and addressing other issues arising from new and emerging technologies that are relevant for the application of this Treaty, four years after the entry into force of this Treaty.

Article 9
General Principles on Implementation
9.1 Contracting Parties undertake to adopt the measures necessary to ensure the application of this Treaty.
9.2 Nothing shall prevent Contracting Parties from determining the appropriate method of implementing the provisions of this Treaty within their own legal systems and practices.

Article 10
Assembly
10.1 The Contracting Parties shall have an Assembly:
(a) Each Contracting Party shall be represented in the Assembly by one delegate who may be assisted by alternate delegates, advisors and experts.

(b) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask the International Bureau of WIPO to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.
(c) The Assembly shall encourage the effective participation of representatives from Indigenous Peoples and local communities as accredited observers. The Assembly will invite Contracting Parties to consider financial arrangements for participation of Indigenous Peoples and local communities.
10.2 The Assembly:
(a) Shall deal with all matters concerning the maintenance and development of this Treaty as well as its application and operation;
(b) Shall perform the function allocated to it under Article 12.2 in respect of the admission of certain intergovernmental organizations to become party to this Treaty;
(c) Shall conduct the review referred to in Article 8;
(d) Shall decide the convocation of a Diplomatic Conference for the revision of this Treaty as referred to in Article 14, including as a result of the review referred to in Article 8, and shall give the necessary instructions to the Director General of WIPO for the preparation of any such Diplomatic Conference;
(e) May establish technical working groups as it deems appropriate;
(f) May adopt amendments to the present Article, excluding 10.1, 10.2(c), 10.2(d), 10.2(f) and 10.3, and to Article 11; and
(g) Shall perform such other functions as are appropriate to implementing the provisions of this Treaty, including promoting cooperation among Contracting Parties and requesting the International Bureau to extend existing mechanisms to support technical assistance and capacity building for developing countries.
10.3 The Assembly shall endeavor to take its decisions by consensus. Where a decision cannot be reached by consensus, the matter at issue shall be decided by vote. In such a case:
(a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name; and
(b) Any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States that are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and *vice versa*.
10.4 The Assembly shall meet upon convocation by the Director General of WIPO and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of WIPO.
10.5 The Assembly shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions.

Article 11
International Bureau
11.1 The International Bureau of WIPO shall perform the administrative tasks concerning this Treaty. In particular, the International Bureau shall prepare the meetings and provide the secretariat for the Assembly and for such technical working groups as may be established by the Assembly.
11.2 The Director General of WIPO and any staff member designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly and any such technical working groups established by the Assembly. The Director General, or a staff member designated by the Director General, shall be *ex officio* Secretary of such a body.

11.3 The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any Diplomatic Conferences. The Director General of WIPO and persons designated by the Director General shall take part, without the right to vote, in the discussions at such Conferences.

Article 12
Eligibility to Become a Party

12.1 Any Member State of WIPO may become party to this Treaty.
12.2 The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty.
12.3 Without prejudice to Article 12.2, the European Union may sign, ratify or accede to this Treaty. In that case, the European Union shall, at the time of signature, ratification or accession, make the declaration referred to in Article 12.2.

Article 13
Ratification and Accession

13.1 Any State or intergovernmental organization referred to in Article 12 may deposit with the Director General of WIPO:
(a) an instrument of ratification if it has signed this Treaty; or
(b) an instrument of accession, if it has not signed this Treaty.
13.2 The effective date of the deposit of an instrument of ratification or accession shall be the date on which that instrument is deposited with the depositary.

Article 14
Revision

This Treaty may only be revised by a Diplomatic Conference, in accordance with the Vienna Convention on the Law of Treaties. The convocation of any such Diplomatic Conference shall be decided by the Assembly.

Article 15
Amendment of Articles 10 and 11

15.1 Articles 10 and 11 of this Treaty may be amended by the Assembly, as provided in Article 10.2(f).
15.2 Proposals for the amendment of the Articles referred to in Article 15.1 may be initiated by any of the Contracting Parties or by the Director General of WIPO. Such proposals shall be communicated by the Director General of WIPO to the Contracting Parties at least six months in advance of their consideration by the Assembly.
15.3 Adoption of any amendment to the Articles referred to in Article 15.1 shall require three-fourths of the votes cast.
15.4 Any such amendment shall enter into force one month after written notifications of acceptance by the Contracting Parties, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of the Contracting Parties at the time the Assembly adopted the amendment. Any amendment thus accepted shall bind all of the Contracting Parties at the time the amendment enters into force, or which become Contracting Parties thereof at a subsequent date.

Article 16
Signature
This Treaty shall be open for signature at the Diplomatic Conference in Geneva and thereafter at the headquarters of WIPO by any eligible party for one year after its adoption.

Article 17
Entry into Force
This Treaty shall enter into force three months after 15 eligible parties referred to in Article 12 have deposited their instruments of ratification or accession.

Article 18
Effective Date to Become a Party
This Treaty shall bind:
(a) The 15 eligible parties referred to in Article 17, from the date on which this Treaty entered into force; and
(b) Each other eligible party referred to in Article 12, from the expiration of three months from the date on which it has deposited its instrument of ratification or accession with the Director General of WIPO.

Article 19
Denunciation
This Treaty may be denounced by any Contracting Party by notification addressed to the Director General of WIPO. Any denunciation shall take effect one year from the date on which the Director General of WIPO received the notification. It shall not affect the application of this Treaty to any patent application pending and any patent in force in respect of the denouncing Contracting Party at the time of the coming into effect of the denunciation.

Article 20
Reservations
No reservations to this Treaty shall be permitted.

Article 21
Languages
21.1 This Treaty shall be signed in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, all texts being equally authentic.
21.2 An official text in any language other than those referred to in Article 21.1 shall be established by the Director General of WIPO, after consultation with all the interested parties, in such other languages as the Assembly may designate. For the purposes of this paragraph, "interested party" means any Contracting Party whose official language, or one of whose official languages, is concerned.

Article 22
Depositary
The Director General of WIPO is the depositary of this Treaty.

[*] This Table of Contents is added for the convenience of the reader. It does not appear in the original text of the Treaty.

[1] The definition of "genetic resources" is, in line with the manner in which the term is understood in the context of the Convention on Biological Diversity, not intended to include "human genetic resources".

[2] Agreed Statement: In cases where there is more than one country of origin, the applicant shall disclose the country of origin from which the genetic resources were actually obtained.

[3] Agreed Statement: It is understood that the term "as applicable" in Article 3.2(a) shall not be interpreted as providing flexibility to the Contracting Parties to not require applicants to disclose the information required in Article 3.2(a). For greater certainty, Article 3.2(a) will be implemented without having any effect on the scope of the disclosure requirement in Article 3.

[4] Agreed Statement: The Contracting Parties request the Assembly of the International Patent Cooperation Union to consider the need for amendments to the Regulations under the PCT and/or the Administrative Instructions thereunder with a view towards providing an opportunity for applicants who file an international application under the PCT designating a PCT Contracting State which, under its applicable national law, requires the disclosure of genetic resources and traditional knowledge associated with genetic resources, to comply with any formality requirements related to such disclosure requirement either upon filing of the international application, with effect for all such Contracting States, or subsequently, upon entry into the national phase before an Office of any such Contracting State.

[5] Nothing in this Treaty shall derogate from or modify any other international agreement.