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**“The Disclosure of Origin of Genetic Resources in Patent
Applications”**

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ABSTRACT

The disclosure of genetic resources and associated traditional knowledge (TK) in patent applications was originally mooted by civil society organisations, but has now been adopted by a number of countries. The proposal is intended to help realise fair and equitable benefit sharing as required by the Convention on Biological Diversity. It is supposed to do this by ensuring that the resources and, in some cases, TK, were acquired in accordance with biodiversity access and benefit sharing regulations in the provider countries, and other provisions of the Convention on Biological Diversity relating to national sovereignty, technology transfer and the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles.

The first section examines the various versions of the disclosure of origin concept as a means to clarify its meaning and provides some commercial and political context in order to understand why the disclosure of origin proposal has been formulated and to explain the problems it is intended to solve.

The disclosure of origin debate at the TRIPS Council, WIPO and the Conference of the Parties to the Convention on Biological Diversity is examined and surveys efforts to introduce the various forms of disclosure of origin into national and regional access and benefit sharing (ABS) and intellectual property laws and regulations.

The next section considers the practical and commercial benefits and disadvantages of disclosure of origin for business and for developing countries. Among the questions which are considered here are: (i) would disclosure of origin achieve its proponents' objectives? (ii) is it feasible to expect companies to be able to trace the source of biogenetic material and associated traditional knowledge from which an invention or new plant variety is derived? (iii) would disclosure of origin turn out to be burdensome or damaging for industry, especially SMEs, to the extent that

bio prospecting, research or business development would be discouraged; and (iv) would compliance impose excessively high costs on SMEs?

The concluding section offers proposals and recommendations with respect to the ongoing international negotiations on this subject.