

# WIPO



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## INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE

**Eleventh Session**  
**Geneva, July 3 to 12, 2007**

### BANDUNG DECLARATION ON THE PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS, TRADITIONAL KNOWLEDGE, AND GENETIC RESOURCES

*Document submitted by the Delegation of Indonesia*

1. An official communication from the Permanent Mission of the Republic of Indonesia to the United Nations and other International Organizations in Geneva, sent to the International Bureau of the World Intellectual Property Organization (WIPO) on June 27, 2007, referred to the convening of the Asian African Forum on Asian-African Forum on Intellectual Property and Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources, held in Bandung from June 18 to June 20, 2007, and conveyed the outcome of the meeting in the form of the Bandung Declaration on the Protection of Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources with the request that this outcome be circulated as an official document of the eleventh session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore ('the Committee'). This outcome is annexed to the present document in the form received.

2. *The Committee is invited to take note of the Declaration annexed to the present document.*

[Annex follows]

ANNEX

BANDUNG DECLARATION  
ON THE PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS,  
TRADITIONAL KNOWLEDGE, AND GENETIC RESOURCES

We, the Representatives of the New Asia Africa Strategic Partnership countries participating in the Asian-African Forum on Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources held in Bandung, 18-20 June 2007, hereby:

1. Recall the Declaration on the New Asian African Strategic Partnership (NAASP) adopted in Bandung on 24 April 2005, and its Joint Ministerial Statement on the Plan of Action, adopted in Jakarta on 20 April 2005 which specifically stressed the need to take concrete and practical measures to maximize the benefits arising from the protection of intellectual property rights by advancing the protection of Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources;
2. Underline the importance of the NAASP as a framework for cooperation between Asia and Africa, covering three broad areas of partnership, namely political solidarity, economic cooperation, and socio-cultural relations;
3. Reaffirm the growing interest in the common concern of the Asian – African countries on the issue of Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources;
4. Affirm the importance of national, regional and international efforts to preserve, protect, develop, revitalize, and promote Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources in member states;
5. Emphasize that Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources are national resources that have, but not limited to, social, cultural, economic and spiritual values that should be addressed in a fair and equitable manner;
6. Emphasize that member states are the custodians of Traditional Cultural Expressions and Traditional Knowledge, and have sovereign rights over their Genetic Resources;
7. Stress the urgent need and resolve to take measures to prevent all forms of misuse, distortion, and misappropriation of Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources;
8. Acknowledge the urgent need to expedite the establishment of international legally binding instruments inclusive of *sui generis* mechanisms on Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources;
9. Determine to work closely with relevant organizations in regional and international fora for the establishment of international legally binding instruments on the protection of Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources;

10. Underline the need to have a concerted effort in ensuring the protection of Traditional Cultural Expressions, Traditional Knowledge, and Genetic Resources in various fora; and
11. Urge International and regional organizations, and countries who have the capacity to do so, to provide technical assistance and capacity building, and transfer of technology to developing countries and LDCs in their endeavors to establish a national mechanism towards the protection and development of Traditional Cultural Expression, Traditional Knowledge, and Genetic Resources.

Bandung, 20th June 2007

[Appendix I follows]

APPENDIX I

THE ASIAN - AFRICAN FORUM ON INTELLECTUAL PROPERTY AND  
TRADITIONAL CULTURAL EXPRESSIONS, TRADITIONAL KNOWLEDGE,  
AND GENETIC RESOURCES

BANDUNG, 18-20 JULY 2007

REPORT OF THE MEETING

1. The Asian-African Forum on Intellectual Property and Traditional Cultural Expressions, Traditional Knowledge and Genetic Resources met in Bandung, Indonesia from July 18 to 20, 2007. It was attended by representatives of the New Asian African Strategic Partnership (NAASP) countries namely Afghanistan, Angola, Bangladesh, Bhutan, Cambodia, China, Republic of Congo, Democratic Republic of Congo, Ethiopia, Fiji, Ghana, Indonesia, India, Iran (Islamic Republic of), Iraq, Jordan, Kenya, Republic of Korea, Mali, Malaysia, Maldives, Mongolia, Morocco, Myanmar, Namibia, Nigeria, Nepal, Pakistan, Palestine, Papua New Guinea, Philippines, Saudi Arabia, South Africa, Sudan, Tanzania, Thailand, Uganda, United Arab Emirates, Vietnam and Zambia. The Forum was also attended by the representatives of UNDP in Jakarta and seventeen NGOs; in addition, representatives of the African Union, the African Regional Intellectual Property Organization and the Andean Community, as well as representatives of the World Intellectual Property Organization (WIPO), also made presentations during the Asia-Africa Forum.
2. All participants expressed their deep gratitude to the Government of the Republic of Indonesia for the warm hospitality extended, and the excellent working environment that was provided for the Forum. They remarked on the positive and constructive discussion on policy and legal issues, and the value of open dialogue and exchange of experience from throughout Asia and the African region.
3. Deep appreciation was also extended to WIPO for their cooperation and assistance, thus contributing to the success of the forum. WIPO has provided valuable insights and information on how the member states may proceed with their endeavors in achieving the objectives of the forum.
4. Discussions at the Asia-Africa Forum were informative and stimulating. The Asia-Africa Forum began with an overview of work being undertaken in various relevant international and multilateral forums and processes related to traditional knowledge (TK), traditional cultural expressions/expressions of folklore (TCEs/EoF), and genetic resources (GR). It also discussed the work to date of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC GRTKF) and touched upon the Revised Draft Objectives and Principles for the Protection of TCEs/EoF (refer to WIPO/GRTKF/IC/9/4) as well as the Revised Draft Objectives and Principles for the Protection of TK (refer to WIPO/GRTKF/IC/9/5). It was followed by the discussions on the topics of national and regional experiences in the Asian, African, and other region namely Latin America.
5. On the basis of these discussions, the participants reached certain conclusions, which are recorded in this adopted statement. These conclusions are not intended to reflect the formal positions of the countries represented at the Asia–Africa Forum, nor prejudice any

positions that may be adopted by these countries, or groups of them, in the WIPO IGC GRTKF or in any other forum. These conclusions are intended as a contribution which might assist countries and regional organizations in developing their approaches and positions on the present and future work on various international forum on this issue, including in the preparation for the eleventh session of the IGC GRTKF WIPO that will taking place from July 3 to 12, 2007.

6. Participants in the Asia – Africa Forum are requested and encouraged to pass copies of this statement on to their respective governments, related international organizations and diplomatic representatives in Geneva.

[Appendix II follows]

APPENDIX II

ASIAN AFRICAN FORUM ON INTELLECTUAL PROPERTY AND TRADITIONAL  
CULTURAL EXPRESSIONS, TRADITIONAL KNOWLEDGE  
AND GENETIC RESOURCES

SUMMARY OF DISCUSSIONS AND CONSULTATIONS

BACKGROUND

GENERAL DISCUSSION I

SETTING THE SCENE:

STATE OF PLAY IN THE INTERNATIONAL PROTECTION OF TRADITIONAL  
KNOWLEDGE (TK) AND TRADITIONAL CULTURAL EXPRESSION (TCES) AND  
THE IP ASPECTS OF GENETIC RESOURCES (GR)

*Topic 1: Overview of international developments and perspectives on options for  
international outcomes: review of the WIPO IGC*

The discussion was chaired by Mr. Asianto Sinambela and presentations were made by Mr. Antony Taubman, Ms. Inger Holten, and Mr. John Asein.

The first speaker, Mr. Antony Taubman expressed that the issue of GRTKF has become mainstream and developing countries have taken steps to find a global solution to recognize it. Current work of IGC consists of the essence of protection, issues for policy makers, and vehicles for international dimensions. Review of IGC on GRTKF include clarity of understanding of protection and preservation of TK, consultation with member states and NGO, and content and context of a solid conceptual basis. IGC helped restore and provide options to develop protection and preserve TK and TCEs. The options are focused on how to prevent misappropriation and misuse, how to lock the progress already being made and what vehicle to move forward internationally.

The second speaker, Ms. Inger Holten, presented Norway's view that protection should be afforded to prevent misappropriation and misuse of TK. The measures taken in this regard should also contribute to objectives such as recognition of value, promotion of respect, and meet the actual needs of the community. The legal instrument draws inspiration from other developments at the international level, which are built on consensus on fundamental principles that result in legally binding instruments. The instrument is to be complemented by soft laws for a more speedy implementation. Procedural follow up, such as revision should be conducted to include the different needs and experiences of member states. Norway also sees that mandatory obligation to disclose the origin of genetic resources and traditional knowledge should apply to all patent applications and as it ensures compliance with CBD.

The last speaker, Mr. John Asein, explained that protection of folklore and TK should go further as to provide a tool for achieving the goals and aspirations of relevant peoples, including the respect for cultural rights and the protection of tradition-based creativity as an ingredient of sustainable economic development, as they are also economic assets. IGC members should meet the challenge of finding a balance between the need for protection with the sustainable use of these assets.

A discussion involving the participants followed in which a number of them inquired on how to best provide for an international instrument to protect TK and genetic resources. The participants expect to be able to learn from one another during the course of the meeting of the strategies and efforts which have been undertaken by member states in their attempt to protect TK and genetic resources, whether it be on a national or a regional level. The issue of patent application was also raised and what important requirements should be made mandatory in the process of applying for a patent. The participants also exchanged views on the implementation of patent application in their respective countries.

*Topic 2*  
*Review of regional developments*

The Session was chaired by Mr. Ary Ardanta Sigit and the speakers included Mr. Emanuel Kofi-Ayigir Sackey, Ms. Yang Hongju, and Ms. Begoña Venero.

The first speaker, Mr. Sackey, spoke about the African Regional Intellectual Property Organization (ARIPO) and its goals to promote IP culture, develop IP laws, deliver services of industrial property titles, enhance cooperation and promote awareness as well as capacity building. Its new mandates include legislative and database development for the protection of GRTKF. Africa is rich in biodiversity with genetic resources that contribute significantly to the ecological management, sustainable agriculture, health and food security. These resources are under threat due to ongoing misappropriation, commercialization and extinction and holders of the knowledge are disinherited and marginalized. Africa proposed a regional legal instrument which includes the necessary issues to be addressed in the protection of GRTKF. ARIPO highlighted the need for national and regional consultations, revision and harmonization, as well as adoption of the instrument.

Ms. Yang Hongju shared with the participants China's view that Asian-African countries have a common mission and responsibility that require them to strengthen cooperation for a new strategic partnership. WIPO held a Symposium in China in the Henan province that is rich in cultural resources and has a vast intangible cultural heritage. The Symposium discussed protection of GRTKF and how to implement them as well as exchanged experiences. It is important for countries to realize their common goals so that they may come to a consensus on how to the implement protection.

Ms. Begoña Venero conveyed that Latin American countries have been very active in their endeavors to address protection of GRTKF since 1996. She also explained that in the beginning, Peru had no reference or experience in dealing with the issue. Developments in the region have since been made including the formulation of new laws that established a regime to the access of genetic resources and protection traditional knowledge, as well as rules for patent law and trademark law. These provisions go as far as the requirements for the approval of the origin of traditional knowledge and sanctions in case of non-compliance. In comparison, Costa Rica, Venezuela and Panama have enacted laws in biodiversity, which include recognition and protection of GRTKF. On the other hand, as a part of the region, Brazil approved a law that also develops a system to the access of genetic resources and protection of traditional knowledge. (Kata/Kalimat Pengubung ) Peru has also enacted national regulations which not only protects traditional knowledge but also enable compensation for indigenous people. One of Peru's approaches is that FTAs being negotiated as well those already in force must include a provision on the protection of traditional

knowledge. National laws and the development of a system are important for a country in protecting GRTKF.

During the discussion, the participants raised the issue of the duration of TK protection. Participants inquired on the validity of the protection before it becomes public domain to which some proposed that it should be provided through a system that involves documentation and legal perspectives. The formulation of laws should consider including indigenous people and for documentation the participants proposed that it should be made easier for granting patent process. Participants agree that Asian-African countries should contribute positively to the progress of the negotiation, for example during the WIPO Fact-Finding consultations in 1999 and an African meeting in Lusaka in 2003.

## GENERAL DISCUSSION II TOWARDS THE EFFECTIVE PROTECTION OF TRADITIONAL CULTURAL EXPRESSIONS/FOLKLORE

The discussion was chaired by Ahmed Morsi, Professor of Folklore and Traditional Knowledge, Cairo University, Egypt and the speakers are Professor Edi Sedyawaty from Indonesia, Mr. Wend Wendland and Mr. John Asein.

### *Topic 1 Lessons from National and Regional Experiences*

The first presentation by Professor Edi Sedyawati touched upon the definition of culture and the forms of cultural expression which have different implications. Sharing and borrowing of creations became common practice within an ethnic group, which includes copying of art work and exchanging of ideas. Along the historical timeline, some cultural expressions have also traveled from one place to another by way of migration of people who own the culture. Trans-border appropriation also occurs with many types of economic consequences. This is a problem that countries must assess with care. Indonesia is making efforts to integrate data and TCE of the many ethnic groups in Indonesia, such as making a national list of the kinds of handicrafts made by the ethnic groups. Technology also has implications in altering the forms of the expressions as well as economic outcomes. In this case, expertise is needed to distinguish between the original and the altered version to determine whether it can be classified as a proliferation or an individual creation. Traditional art, if regarded solely as public domain may be appropriated and commercialized by people from outside the nation. It then becomes important that nations, in particular developing nations, find means to protect their TCEs.

### *Topic 2 Essential Elements of Protection of TCEs/Folklore*

The second topic by Mr. Wend Wendland explained that essential elements for protection are setting policy objectives and responding to core substantive questions. TCEs have dual role as economic and cultural assets that deserve promotion and protection. Safeguarding and supporting traditional cultures include promoting access to diversity of cultural expressions, stimulating creativity and local economic development, promoting artistic freedom of creativity and cultural exchange, celebrating cultural diversity as well as respecting the rights and claims of indigenous peoples and local communities. It also requires knowing what is to be protected, which acts should be prevented or subject to prior authorization, who should

benefit from this protection and how would these rights be obtained, lost, managed and enforced.

*Topic 3*  
*Overview and Perspectives on International Issues*

The last topic, presented by Mr. John Asein, highlighted the economic, cultural and social importance of genetic resources. TCEs are regarded as essential element in community harmony and have influenced many modern creations. But often times the owner is marginalized from his rights to the TCEs, thus receiving no economical gains. This issue of TCE has surfaced since four decades ago and there has been attempts made at international level to address the issue, such as in the Berne convention.

During the discussions the participants expressed that TCEs are not just expressions of a sacred or cultural nature, but that it also has economic implications, especially when it has been transformed by technology into forms which can be easily disseminated. In this regard it most pertinent that the rights of the TCEs holders are not lost and benefits may be shared equitably.

GENERAL DISCUSSION III  
TOWARDS THE EFFECTIVE PROTECTION OF TK

The discussion was chaired by Mr. Ansori Sinungan and presentations were made by Mr. Tom Suchanandan, Mr. Antony Taubman, and Ms. Yang Hongju.

*Topic 1*  
*Lessons from National and Regional Experiences*

The first speaker, Mr. Tom Suchanandan, mentioned that initiatives taken in response to the adoption of IKS policy by Africa for the recognition, promotion, development and affirmation of IKS. Advocacy and policy development comprise of a number of activities among others to develop policies and legislation, managing interdepartmental relationships and establishment of the ministerial advisory committee. Knowledge development and knowledge management are also parts of the adoption of IKS, which are implemented through various activities such as establishing a research management agency, IKS laboratories, IKS Centers of Excellence, develop audit of database and develop register of IKS holders. South Africa's IKS offers opportunities for innovation and competitiveness for indigenous people. Protection and promotion of IKS will improve their livelihoods and well-being, thus ensuring benefit sharing. Legislations associated with IKS are already being developed and will strengthen collaboration on IPR. The extent of protection goes as far as protection to individuals, already written and recorded information, and community rights.

*Topic 2*  
*Essential Elements of Protection of TCEs/Folklore*

The second speaker, Mr. Antony Taubman expressed that a fully systematic approach should be taken towards TK including research, policy framework and consultations. IP aspects of TK can also be criticized as not addressing the issue comprehensively. The broad objective is

to preserve TK and protect it against misappropriation and misuse. Appropriate protection of TK may come in a form of ‘incentive structure’ which involves an understanding of the environment of the TK. In principle IP mechanisms generally define restrictions or conditions for use by third parties and give TK holders a say in how it is to be used. To promote respect of TK involves a local approach, to respond globally, an international can be enforced in foreign jurisdiction and harmonization of legal principles. WIPO policy objectives and core principles for TK protection include policy objectives, general guiding principles and substantive principles. The final approach is by adhering five key aspects by defining TK in customary law, scope of rights, prior informed consent, equitable benefit sharing, and remedies and sanctions.

*Topic 3*  
*Overview of and Perspectives on the International Issues*

The last speaker, Ms. Yang Hongju, discussed that China has a many sources of TK and heritage for which they are making efforts to protect. Many improvements have been made such as adopting and putting in effect laws on intangible heritage. China has designated 518 ICHs, establish a database, set up a national center and conduct exhibitions of ICHs. Traditional Chinese Medicines (TCM), for example, is being protected by given IP protection which includes patent, trademark, plant variety, and copyright. There are regulations on the protection of varieties of TCM and prevention of loss of the resources as well as documentations in the field. At the local level, some provinces adopted rules on the preservation and use of TCM. At the national level a National Intellectual Property Strategy is being developed which contains provisions on the preservation and inheritance of TCM, encourage the development of TCM and protect rights and interest of TK holders. China is of the view that ethical groups should be taken into account for the confirmation of the right’s holder and that both the origin and the primary creators should be respected and protected properly. IGC should develop an internationally binding instrument to protect TK.

During the discussion with the participants it was concluded that misuse of TK is not merely an act of taking advantage in commercial and economic sense but also may cause severe harm to the community TK may overlap with TCEs. Protection of TK requires a knowledge system of the TK that we are attempting to protect. Protection against illegitimate use may be given by providing legal measures at national, regional and international level and by providing capacity building and empowering TK holders. Participants agree that China’s national IP strategy could be set as an example for other countries to implement IP protection.

GENERAL DISCUSSION IV  
INTELLECTUAL PROPERTY (IP) ISSUES AND GENETIC RESOURCES

The session was chaired by Mr. Emmanuel Sackey, ARIPO and the speakers are Mr. Antony Taubman and Ms. Begoña Venero.

*Topic 1*  
*The International Legal Environment*

During the discussion, the main issue that was discussed by the participants is two point of interactions of the IP system which are whether genetic materials can fit into patent inventions and what issues may arise. CBD emphasizes on the sovereignty over genetic resources, which

according to CBD is biological material with functional units of heredity of potential value to humanity and includes genetic materials such as plant, animal, or microbial material and genetic resources that. CBD encourages the use of genetic resources and the sustainability of the use provided that benefits are shared equitably. CBD has the objective to conserve genetic resources, however because of its genetic nature, it makes it easier for genetic resources to be exploited.

*Topic 2*  
*Overview of Issues to be Resolved on the International Plane*

During the discussions, Ms. Begoña Venero shared Peru experiences and knowledge about establishing The National Commission Against Piracy, which consisted of 13 representatives from governmental institutions, academicians, and civil society. Peru has also identified 3 American patents and 1 PCT application which showed Peru how difficult it is to challenge a patent. Peru has been working on the cases for five years. They receive many supports from different sides and has placed a lawyer in the U.S. The application of PCT cannot be intervened until it has passed the national phase. Only when it has reached the international phase actions may be taken against it. Peru has issued warnings to countries in the world, such as letter to the Japanese patent office, to refuse patent, but with no results so far. Peru also provided information on the use of the resource and publications which have been made with regards to such resource (example *Maca*). A patent in the *Maca* case was rejected by the Japanese but not because of the information Peru has provided rather because Japan had found another resource. Peru wishes that this kind of information was taken into consideration by other parties, because they are trying hard to identify the resources which may be registered in other countries. Peru strongly feels that there must be restrictions or conditions to the uses of genetic resources by third parties. On an international plane, recommendation can be made for the procedure of patent application and making the PCT procedure more friendly. A database should be established to accommodate necessary information for patent examination purposes, but not for wide public purpose. Special care must be taken in documenting such information.

The discussion that followed suggested that protection of genetic resources require a unique legal framework because of its nature that makes it susceptible to exploitation. In constructing a legal framework, several steps shall be taken into consideration, such as the creation of a database. This database will consist of information on the genetic resources owned by a country which is accessible to patent authorities in other countries to avoid patent registration of the genetic resource in a country different than its origin.

*Panel Discussion*  
*What Options for International Legal Protection of TK and TCEs?*

The discussion was chaired by Mr. Mario Rodriguez Montera and facilitated by Mr. Jacob Simet and Mr. John Asein.

Mr. Jacob Simet conveyed that the SPC member states attempted to adopt the law for modern protection of TK following the WIPO model and adjusted to the needs of the region. In 2002 the model was endorsed by Pacific Ministers of Culture. which gives special consideration to the area of TK. The model was then sent to member states to be adopted. Vanuatu and Palau have adopted the model and Fiji, Samoa and Guam are in the process of adopting the model. The pacific issues include culture as heritage, protection of culture, and equitable sharing of benefits. PNG views TK as heritage from the past handed over to future generations in good

form in this sense they are only custodians and not owner of the TK. TK is important to people's lives and therefore protection must be made an important part of the legal instrument. Recognition has also been made to ensure that indigenous people benefit equitably from the use of cultural resources.

Mr. John Asein stated that a multilateral instrument is the best way to provide protection. Many countries have been heavily engaged in the formulation of an international instrument that we lack focus on national instruments that should address our own different needs. Utilization of genetic resources is inevitable, must it be laid out clearly so that there is benefit sharing between the user and the owner.

The discussion concluded that at international level, instruments should draw inspiration from national endeavors, to understand what can work at international level that did not at national level. Countries now must see what problems surface at international level and come up with solutions. The current forum is also expected to come up with a proposal in preference for an international instrument.

### *Working Sessions*

Chaired by Dr. Bambang Kesowo and facilitated by Prof. A. Zen Umar Purba, Prof. Ahmed Morsi, Mr. Tom Suchanandan, and Mr. Mario Rodriguez Montero.

#### *Working Session I*

##### *The Objectives: What Objectives for Strengthened International Protection?*

The forum discussed the main issues included in implementing the existing IPR system which should be based on common interest to develop TRIPS based IPR system by incorporating GRTKTCE and combating bio-piracy. Suggestions for action include implementing the TRIPS-based IPR using best efforts to develop the IPR system by accommodating the GRTKTCE. At national level it needs a serious political will and must be put in a high priority, with a nation wide campaign to raise awareness especially to key areas that has TK and CE, R&D, inventory and publication of TK and CE. At regional level it should be *mutatis mutandis* with national efforts and at international level special attention and assistance from international organizations are needed.

International protection of TCEs means protection of owners or custodians. This must be done through an IP system at the international level. International protection is needed to help provide the owners the rights of ownership and at the same time enable development of their TCEs. International protection will induce creativity, better relations and development.

The recommendations should accommodate the proposal made by ARIPO, Mali and PNG. The questions of definition should include community individuals, cross border rights, protection of life forms, behavior, values, misappropriation and enforcement.

Current issues on the table include definition on TCEs/TK that should be protected, right holders, objective of protection, forms of behaviors considered unacceptable, limitations to rights, duration of protection, gaps in existing IP system to be filled, sanctions, division between international and national regulation and treatment of beneficiaries.

*Working Session II**The Outcome: Drafting the Forum Conclusion*

Participants expressed their view on the draft outcome, in particular their support on the draft and the elements that it consists of. Some inquiries were made on the terminologies to be used in the final draft. The draft was formulated based on the general consensus of the topics and issues discussed during the meeting.

GENERAL DISCUSSION V  
FOCUS ON CAPACITY BUILDING

The discussion was chaired by Mr. Dian Wirengjurit and the speakers are Ms. Hira Djamthani from ITWN/JKTI, Mr. Herman Ntchatcho and Mr. Wend Wendland.

A participant from Indonesia, Ms. Hira Djamthani gave a presentation on the perspectives of community representative who reiterated that GR/TK/TCE is a heritage that defines the identity of a certain community and includes a belief system, ethics and moral values, as well as customary laws and norms. TK is a creative manifestation of human thought through various forms of expression which also requires skills in their implementation. However, communities often find difficulties in that technical assistance offered in this regard are not rooted in real situations at country or local level, that there are too many negotiation forums and inadequate representation of communities and civil society in WIPO and similar forum. The forum is expected to invoke the Bandung spirit towards a brighter future of the member states.

A presentation by WIPO followed, which highlighted on WIPO's technical assistance and capacity building programs that enable countries to protect their TK and genetic resources. The programs provide support for effective use of IP as a tool for economic, social and cultural development. Assistance is usually provided by request of the concerned countries and there is a needs assessment. The activities include promotion of IP treaties and conventions, assist in developing IP strategies and most importantly, develop effective tool and means for IP protection. The Creative Heritage Project offers assistance and guidelines for the digitalization of intangible cultural heritage. The project has the objective of safeguarding and supporting traditional cultures which involves promoting access to diversity of cultural expressions, stimulating creativity and local economic development, celebrating cultural diversity, promoting artistic freedom creativity and cultural exchange, and respecting the rights and claims of indigenous peoples and local communities.

The participants discussed with regards to access and benefit sharing on genetic resources, TK and TCEs should be discussed as one package for better coordination. Some highlighted the importance of relearning of forgotten TK that belongs to a community. Participants raised concern over the numbers of GRTKF forums being held simultaneously which creates confusion, however, being discussed on a single forum only may also hinder the progress of ideas. In conclusion at the end of the session, participants agreed for an enhancement on capacity building programs not only by the Governments and WIPO, but also from NGOs and communities.

**WORKING SESSION III  
THE OUTCOME: DRAFTING THE FORUM CONCLUSION**

The Forum adopted the draft conclusion. In addition, there was also an agreement that this outcome will be conveyed to the WIPO IGC on GRTKF. In relation with the process in the IGC GRTKF, the participants noted with concern that the IGC is at its 11th session, hence it urged WIPO and other related multilateral fora to move forward towards accelerated outcomes regarding the protection and development of traditional cultural expressions, traditional knowledge and genetic resources.

[End of Appendix II and of document]