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

**Thirteenth Session
Geneva, October 13 to 17, 2008**

**WIPO PANEL ON, “INDIGENOUS AND LOCAL COMMUNITIES’
CONCERNS AND EXPERIENCES IN PROMOTING, SUSTAINING
AND SAFEGUARDING THEIR TRADITIONAL KNOWLEDGE,
TRADITIONAL CULTURAL EXPRESSIONS AND GENETIC
RESOURCES”**

**EXPERIENCES FROM THE WIPO PILOT TRAINING PROGRAM ON INTELLECTUAL
PROPERTY AND CULTURAL DOCUMENTATION**

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* This document comprises the presentation in the form received from the presenter. Any views expressed in the presentation are not necessarily those of WIPO or any of its Member States.

The essential elements of the Maasai culture are:

- Bonfire, story telling sessions music and fashion ornaments(beads done by women).
- The tree.
- The cattle.
- The long walks in the open nature
- The cattle enclosure.
- The manyatta ceremonies.
- Celebratory elements of their culture which start from child birth, child naming, rites of passage and marriage.

These elements are considered very important in the community and are simply their way of life.

Nature and conservation is embedded in the Maasai culture and lifestyle as an essential element of maintaining equilibrium with the world.

There are experts of all aspects of community life who are then required to pass their knowledge to younger generations to ensure continuity of precious knowledge.

Customary Laws and Practices.

The Maasai customary laws are based on age sets a cultural structured hierarchy for good governance where the whole community is bonded tightly by social and communal activities, rituals and ceremonies punctuating the regular flow of life.

The basis of for traditional Maasai system of government is devolution to the small village levels there are no written rules but a full body of oral rules which are passed from generation to generation they are embedded on a personal code of conduct, integrity and decent behavior. This rules help the community understand what aspects of their traditional knowledge is to be made public and is to remain within the confines of the community and with who among community members.

Women too have a role to ensure that the basic knowledge of all the essential elements of the community are passed to children as they grow. For example the bonfire is supposed to serve as the arena for for story telling and for music and songs.

There is a council of elders who deal with everything and conduct ceremonies for purification of past sins.

Misappropriation and Misuse.

Maasai are mostly viewed as objects of to be exploited rather to than subjects with a right to decide what aspects of their culture they would like to share to the rest of the world and they wish to keep to themselves.

Their precious trees with medicinal value have been taken to labs used to make medicine for example malaria tablets made from a tree in Laikipia sold in the market and no

profits have been given to the community which has been using this herbs to cure malaria since time immemorial of course the copyrights now belong to the international company that refined this herbs to anti malaria tablets.

Their beautiful bead ware are worn by all and sundry without appreciating what they mean to the Maasai there is a market in Nairobi named Maasai market where 80% of the merchandise sold are Maasai artifacts which of course are not authentic but to a visitor they are Maasai there are even beaded shoes imported from India and sold to unsuspecting visitors who believe they are Maasai.

They have further been used as means to market Kenya , if you came to Nairobi the capital city of Kenya most billboard have pictures advertising the big five and a Maasai, the national courier Kenya airways also has several videos of Maasai in its entertainment channels.

Community Responses.

The community has realized that apart from exploitation by members outside the community, the culture is seriously under threat from outside pressures and risks being eradicated.

They then want to take the following steps:

1. Protecting the culture from further exploitation through documenting aspects of their culture thus becoming copyright owners and controlling their accessibility to the wider public.
2. Developing a trade mark that is distinctive enough for all their artifacts and other resources.
3. Preserving the maa culture through establishing a cultural museum and a heritage school to train the younger generations on the cycles of Maasai culture.
4. Promoting the Maasai culture through cultural education and cultural talks.

Towards meeting these goals the community identified two people who were trained on basic skills of collection, preservation and planning at the American Folk life center and on how to document at the center for documentary studies at Duke University and they were also trained on Intellectual Property issues by WIPO.

Needs and Expectations.

The community needs to record and collect information and putting it into some kind of context for the benefit if a future generation since adaptation which is the price of survival is taking its toll on the culture and change is now corroding the foundations of the culture.

It further needs to prevent all the forms of exploitation by considering all forms of protection and enforcing trade mark rights.

There is also the need to educate and sensitize the community as a whole on IP issues.

Building bridges through working with the local national museums and international museums and other partners.

Lessons for the Intergovernmental Committee.

The local community initiatives in protecting TKS and TCES are mostly constrained by lack of education especially on IP issues and lack of financial resources the committee should help build the peoples capacities and work with the indigenous communities towards using their cultures to obtain resources to enforce their trademarks.

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