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

**Eighth Session
Geneva, June 6 to 10, 2005**

**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 INDONESIA

JUNE 6, 2005

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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.

1. If I have to compress the message to the IGC, that would be “to guarantee the social function of traditional knowledge”. This is what my organization represents and this is the short message to the IGC at its 8th session meeting. Our organization, ITWN, is a network working for local and indigenous groups in Indonesia. We have been established quite some time ago by 18 NGOs and now we have 61 members in 11 provinces. We have a very simple vision which is taught in society and based on the cultural horizon, and we have a simple mission but we realize that it is not easy to achieve - to strangle and suspend the traditional wisdom of the local community. And since we were established until today, these are some endeavors that we have been through and as you can see most of our activities and concerns are around the issue of how we protect, how we work together with the community to protect and to preserve the local knowledge and wisdom and within this including the genetic resources and folklore.
2. These are the facts about Indonesia. Practically we have 17,508 islands. We have more than 500 ethnic groups with their own uniqueness and our country is the world’s third highest cultural diversity after Papua New Guinea and India. We have 90 different types of eco-systems, spanning from the ice fields in the highest mountain in Indonesia to the deep sea eco-systems. So this is just the figures to give you a picture in that sense how rich we are and how bad they are misappropriated.
3. This is our organization's view on what we call traditional knowledge. The first point is that it is an inseparable part of the wisdom of the communities. As a system, traditional wisdom consists of four items. First is knowledge itself, second is the skills of basic knowledge, and then ethics and norms system. This is what we understand as the traditional wisdom which is based on the community's faith and beliefs.
4. They are practiced in a social system in a management of the community as means of interaction. I think this is the point. Traditional wisdom is means of interaction with other communities and I think this is what is now being undermined by the logic of economy which in a brutal way spreads all over our aspects of life.
5. And then the second point is that of course it's obvious that traditional knowledge is dependant on and fairly highly related to the communities physical as well as social environment including genetic resources and within its eco-system. And I think this is our common understanding that traditional knowledge gives better traditional cultural expression of community in utilizing its resources.
6. Traditional community interest this is what the network stands for. Firstly, that the indigenous communities have their rights to preserve their cultural identity, community life and sustainable relationship within community and environment. And then our second point, as a cultural identity, traditional knowledge must be protected from abuse and unaccountable use particularly those against local ethics. And we would like to highlight that there have been many violations on this particular point.
7. With regard to the community life, the economic failure of traditional knowledge should be available for community in a more just way. The fact that we know bio piracy exists in a widespread and a wide scale, for example, means that the benefit sharing for the commercialized or commodified traditional knowledge is still neglected.
8. And then the last point. As a system, traditional knowledge is an important factor for sustainable environment and life which need to be preserved and protected and probably this

is the other extension to that sentence, particularly from mindless development practices, national parks and the like which usually wipe communities off.

9. We have been asked to present the measure of traditional knowledge, traditional communities expressions and genetic resources which is not easy for us because of the richness that I have mentioned in the beginning. But just to mention a few. For example, we have the woods peel, this is the intellectual property of community in particular places over there. It has now been exported to the USA in a fabric scheme funded by furnishers working with the community. There are many aspects of life which are brought together into what we call traditional knowledge or local intellectual property.

10. Regarding customary laws and practices, I think the customary laws are not adequately adopted within the legal system. There are examples of several customary laws and practices that I can present to you of governing the local culture, governing the use of the forest primarily as a place of living and religious ceremonies, etc.

11. But what happens today? We have quite serious problems and misappropriation in relation to the fact that the current agreement does not accommodate the social condition and traditional cultural community in Indonesia in general. In the IPR regime what is acknowledged is only intellectual property of individual or group, and in generality, I think, intellectual property belongs to community as well.

12. The most important thing about the misappropriation is that commercialization and commodification of traditional knowledge is done without benefit sharing schemes, even without asking permission from community which actually has rights to agree or otherwise. Some of the violations include misappropriation by researchers entering the country of Indonesia as tourists and taking so many things from the communities.

It is a sad fact that there is no or extremely few indigenous groups responding properly to the issue of the aforementioned problem. First, their incapacity to know that those misappropriation and misuses do happen because by nature the local communities are open to new people, to newcomers, so they don't realize that they are being misappropriated or misused. And then their own belief that commercialization of local knowledge is not appropriate because knowledge should be freely available, and we, as a network, also think that there is a lack of dissemination about the problems to the community concerned. We have been lacking the dissemination effort. Let me point this out the ITWN position on behalf of our communities, that probably this is the right time to refuse the WTO TRIPS Agreement. The Ministerial meeting is on its way in Hong Kong this year, but there has been very little review of the WTO agreements which are not appropriate for the local situation. Particularly we refer to the Article No. 27 on patent of living creatures and documentation of indigenous traditional knowledge. And then we encourage WIPO to take role as a decision-making organization for policy or mandate for GRTKF, so that all international policies should comply with the policy. And then we also urge to revisit all the patent laws, trademarks and intellectual property rights which are in nature undermining traditional communities. Of course it's not an easy decision, but we need to work together on this. And then there must be benefit-sharing for the commercialized traditional knowledge for the traditional communities concerned. And particularly we would like to ask for the government of Indonesia to postpone the process of preparing bill for genetic resources which was taken by the government before further public consultations and then to establish the Director for Protection and Development of the Regional IPR in the Directorate General of Intellectual

Property Rights within the Ministry of Law and Human Rights. These are two particular messages for the Indonesian government.

To conclude, firstly, the issue of IPR, as we all know, is the latest evolution of the very old issue of private property, and from the impetus of today's economy, it has come as a strong currency. The logic is that what was applied to the material entity in the past is now being applied to the virtual real. We can't compare with the shift from the real economy to the virtual economy. Saying so, I don't mean to depreciate the virtual invention. But we have to be careful with its extrapolation in the sense of attaching price tag to what is used to be public duty of intelligent citizens. This leads to pushing the IP related enforcement including traditional knowledge, but apparently any invention is being corporatized now. And it is the extending of these exclusive rights to the virtual real that may be the key to characterize recent world economic conditions. So the issue remains the same. It is not about the private property but a mechanical to guarantee the social function of IPR, including traditional knowledge. And the last point is that probably we should bear in mind that the more the regime argues that there is no other way to distribute the public goods of the invention except by market mechanism, the more it will be a self fulfilling prophecy.

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