

**Commission on Human Rights  
Sub-Commission on the Promotion and Protection of Human Rights**

**Working Group on Indigenous Populations**

**22<sup>nd</sup> Session of the Working Group**

**Geneva, July 19 to 23, 2004**

**Statement on behalf of the World Intellectual Property Organization (WIPO)**

This statement aims to contribute to the discussions of the Working Group in a practical way firstly by giving a brief overview of the current activities of WIPO on issues of concern to Indigenous communities, and then by highlighting the opportunities for involvement of these communities in relevant areas of WIPO's work.

WIPO is undertaking a range of activities concerning intellectual property and traditional knowledge, folklore and genetic resources, under a new program established in 1998. This builds on a far longer history of work on folklore, which dates back several decades and finds recognition in various international instruments and many national laws. Recently, the term 'traditional cultural expressions' has been adopted in WIPO as an interchangeable synonym for 'folklore,' out of respect for those communities who have expressed concerns about negative connotations of the earlier term. The current work program seeks to respect the holistic quality of traditional knowledge, traditional cultural expressions and genetic resources in the traditional or customary context, while developing specific legal tools that reflect the broader legal environment and policy context for each holistic element of this traditional heritage. This also entails close consultation with and respect for the mandate and activities of other United Nations agencies and international processes.

The first step taken by WIPO was to visit traditional knowledge holders in many countries over the period 1998-99 to learn from them their needs and expectations. The fruits of these consultations were contained in a comprehensive report issued in 2000, which still forms the basis of much of WIPO's work, so that the perspectives of a wide cross section of TK holders have provided continuing guidance as later activities unfold. An important subsequent step was the formation of the the Intergovernmental Committee on Intellectual Property and Traditional Knowledge, Genetic Resources and Folklore (the IGC) as a policy forum for these issues. The IGC met for the first time in 2001, and has met six times in all. Its first phase of work, up to 2003, included policy debate, reports on national experience, empirical surveys, exchange of the experience of Indigenous and local communities, analysis of legal and policy options for enhanced protection for TK and TCEs, crafting specific practical tools, development of recommendations for revision of the international patent system to take account of TK, and review of capacity-building and awareness initiatives.

Meanwhile, WIPO has continued with other elements of this program beyond the IGC, including providing technical support and policy input at the national and regional levels, hosting and otherwise taking part in many forums aimed at developing a shared understanding of how best to develop and apply the principles of the intellectual property system to serve the



075

interests articulated by holders of TK and custodians of TCEs, commissioning independent studies and developing an array of publications and information resources for communities, policymakers, government officials, civil society and other stakeholders.

This first phase of IGC work, and the associated activities, laid a firm and inclusive basis for the second phase, which is aiming to develop more concrete and focussed outcomes at the international level. At present, this means in particular developing two complementary sets of shared objectives and core principles respectively concerning the protection of TCEs (or folklore) and the protection of TK. These principles give due recognition to the draft principles and guidelines considered under the present agenda item. These are to be supplemented by outlines of the policy options and legal mechanisms that are being used in practice to give effect to these objectives and principles. It is hoped that these outcomes will form a common platform for continuing international work on these pressing issues, facilitating a consensus on the context and substance of protection while also promoting convergence on the appropriate vehicle or vehicles for articulating and giving effect to these principles.

Indigenous and local communities have had an important and growing voice in the work of the IGC. A system of *ad hoc* accreditation for the IGC has led to the recognition of 100 new NGOs, many of them representing Indigenous communities. WIPO has also supported the valuable work of the UN Permanent Forum on Indigenous Issues since its inception, offering a formal invitation in 2002 for the Forum to attend the IGC and taking part in Forum meetings and related interagency support activities. The WIPO General Assembly and the IGC itself have both underscored the need to enhance the participation of Indigenous and local communities in the work of the IGC. This has led to a range of practical initiatives to enhance participation, which are outlined in IGC documents, and to proposals for funding mechanisms to support the attendance of representatives of these communities, which are currently being developed.

We are at the disposal of any interested participants to advise in more detail both on the substance of the work of the IGC and other WIPO activities in this area, and on the practical steps in train to enhance participation of Indigenous communities in this work.

Thank you for your attention.