



Joint Statement from the Indigenous World Association and Indigenous Media Network

Traditional Knowledge and the Information Society

Mr. Chariman,

We would like to draw your attention to Conference Room Paper 4 (CRP4) which outlines our serious concerns with the threat to our Traditional Knowledge in the Information Society.

Our collective knowledge is not merely a commodity to be traded like any other in the market place. We strongly object to the notion that it constitutes a raw material or commercial resource for the knowledge-based economy of the Information Society. We equally denounce the conception that genetic information of humans and other life forms would be a mere resource for commercial use and economic development. We are deeply concerned that privatization and commodification of our knowledge and natural resources, as currently taking place, will undermine the political, social, economic, and cultural integrity of our peoples.

Furthermore, we stress that there are striking similarities between seizing our territories and the taking of our knowledge by defining it as part of the public domain. Both are based on the notion that they constitute *res nullius*, the property of no one, and can be treated as such. Placing our knowledge into the public domain turns it into a freely available resource for commercial utilization. Thus, it also creates the pre-condition for using non-indigenous Intellectual Property Rights (IPR) regimes to patent "inventions" based upon our knowledge. The same principle is being applied to our own human genes as well as to genetic information contained in other life forms taken from our ancestral territories. One example is the current practice of third parties to seek IPR protection on medicinal products derived from our medicinal knowledge and curative properties carried by the flora and fauna of our ancestral territories.

Other affected areas include our cultural expressions such as oral traditions, literatures, designs and visual and performing arts. In this context, we also highlight that digital recording and documentation of our knowledge and cultural heritage in order to strengthen our own cultures simultaneously contributes to their easy accessibility for inappropriate use and exploitation by third parties - as the content is being considered part of the public domain when displayed.

We therefore strongly reject the application of the public domain concept to any aspect related to our cultures and identities, including human and other genetic information originating from our lands and waters.¹ We equally reject the application of IPR regimes to assert patents, copyrights, or trademark monopolies for products, data, or processes derived or originating from our traditional knowledge or our cultural expressions, when conducted without due authorization by our peoples. Genetic material, isolated genes, life forms or other natural processes must be excluded from IPR regimes.

Furthermore, we assert our right to control the dissemination and use of genetic information contained in our human cells or in biological material taken from our ancestral territories. We thus request non-

Indigenous actors to refrain from unauthorized bioprospecting and research activities on our traditional territories.

Finally, we are concerned about current practices by third parties of storing our traditional knowledge on public and private databases for scientific, economic or development purposes. These practices contribute to either placing our knowledge in the so-called public domain or creating private property rights on such databases containing the foundations of our cultures.

Also, respect for the integrity of our knowledge has to be shown when creating databases. Much of our knowledge contains teachings and should not be stripped of its holistic contents, when codified for digital storage. Furthermore, not all knowledge can be digitally stored or preserved. Our cultural obligations and customary laws have to be respected and recognized as a guideline when creating databases.

Sharing is part of our cultures. We readily contribute our knowledge for the benefit of human kind and global human progress. However, sharing of our knowledge must take place on our own terms and cannot put us at risk of losing our cultures and identities.

Recommendations for Action

1. We urge Governments to establish specific legal frameworks, recognizing Indigenous Peoples' rights to self-determination and ancestral territories as a necessary prerequisite to ensure the protection, preservation and development of our traditional knowledge.

2. In this context we particularly call on Governments to adopt the United Nations Draft Declaration on the Rights of Indigenous Peoples as approved by the UN Working Group on Indigenous Populations and the UN Sub-Commission on the Protection and Promotion of Human Rights.

3. Furthermore, we strongly request the implementation of Agenda 21 recommendation 26.4 to "adopt or strengthen appropriate policies and/or legal instruments that will protect indigenous intellectual and cultural property and the right to preserve customary and administrative systems and practices".

4. We therefore demand, in co-operation with Indigenous Peoples, the elaboration of an international legal instrument for the full and adequate protection of our intellectual and cultural property rights in the Information Society. Existing legal mechanisms are clearly insufficient and do not support our right to equal participation in the evolution of the Information Society on our own terms.

5. We request that the elaboration of an international instrument should, inter alia, take into account the following aspects:

- our right to the full ownership, control and protection of our cultural and intellectual property;
- our culturally diverse concepts and provisions of our customary laws in defining the term "intellectual and cultural property";
- our cultural obligations towards communicating, sharing, disseminating, using and applying our knowledge;
- a cooperative rather than competitive system
- alternatives to the application of the public domain concept to our knowledge and genetic information;
- alternatives to the application of current IPR regimes to our knowledge and genetic information;
- the collective status of our knowledge;
- our culturally diverse concepts of ownership;
- a multi-generational coverage span;
- our right to be first beneficiaries of our knowledge;
- culturally appropriate mechanisms of benefit sharing;
- our right to say "no"
- adequate monitoring mechanisms.

6. Until the development of a respective legal instrument we request the exemption of our knowledge and genetic information from application of regulations under the Trade Related Aspects of Intellectual Property Rights (TRIPs) Agreement of the World Trade Organization (WTO).

7. We further demand the halt of all unauthorized exploitation of our knowledge and our biodiversity.

8. We strongly call for the development of models and guidelines for the culturally respectful creation of databases when using Indigenous knowledge. For this purpose, a process should be set up between Indigenous and relevant non-Indigenous actors of the Information Society, such as the scientific community, the private sector and development agencies.

9. We demand the establishment of mechanisms between the scientific community, the media and Indigenous Peoples to determine the future use of

- all human, botanical and genome collections taken from Indigenous Peoples, and
- all collections of Indigenous songs, videos, digitized photos and other collections of their traditional knowledge and cultural expressions.

10. Finally, we stress that funds should be made available to establish legal services by Indigenous Peoples for Indigenous Peoples to support them in knowing and exercising their intellectual and cultural property rights.

Thank you,
Mr. Chairman

Note:
This document derives from the Indigenous Position Paper for the World Summit on the Information Society. Geneva, December 2003 (Draft version). The paper is available at:
<http://www.unige.ch/iued/wsis/DEVDOT/02511.HTM>

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