

**Fifteenth Session of the Permanent Forum
on Indigenous Issues
New York, May 9 to May 20, 2016**

**Intervention by the Secretariat of
the World Intellectual Property Organization**

(under Agenda 4,
Tuesday, May 10, 2016)

DRAFT

Thank you Chair for giving us the floor.

My name is Hai-Yuean Tualima, from Samoa. I am the WIPO Indigenous Fellow and have the honour to speak on behalf of the WIPO Secretariat.

We would like to start by extending our warm thanks to the Secretariat of the Permanent Forum for the organization of the present session and wishing the distinguished Members of the Forum and yourself a fruitful session.

The present agenda item 4 refers to the UN Declaration on the Rights of the Indigenous Peoples and its implementation throughout the six mandated areas of the Forum.

As will be mentioned later, the Inter-Agency Support Group on Indigenous Issues, which the WIPO Secretariat is a member of, has contributed to the finalization of the System Wide Action Plan on Indigenous Peoples. The Secretariat of WIPO is committed to contribute to its implementation in accordance with its mandate and resources.

Article 31 is a key reference within the legal regime defined by the UNDRIP. In this regard, WIPO is pleased to inform the Forum about the renewal of the mandate of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the Committee) for 2016 and 2017. This renewal was adopted by the WIPO General Assembly in 2015.

Since 2009, the WIPO Committee is undertaking intense text-based negotiations with the objective of reaching an agreement on an international legal instrument or instruments relating to intellectual property which will ensure the balanced and effective protection of genetic resources, traditional knowledge and traditional cultural expressions.

The three current draft texts that are before the Committee will be further worked

upon, during the five remaining negotiating sessions that have been scheduled for the present biennium, after the first one that took place in February this year. Three of the sessions, including the next one that will take place from May 30 to June 3, will be preceded by international seminars on the issues involved. Indigenous persons will be invited to participate in, and contribute to, the seminars.

These draft texts of international legal instruments reflect *sui generis* approaches to the protection of genetic resources, traditional knowledge and traditional cultural expressions against misappropriation and misuse. While still being negotiated and therefore not yet agreed, the current drafts include Indigenous Peoples and local communities as the beneficiaries of the protection of traditional knowledge and traditional cultural expressions and make provision for the recognition of and respect for customary laws in national protection systems. The meaning, boundaries and contours of the “public domain” are also much discussed in these negotiations.

Chair, as mentioned at previous occasions, WIPO has taken robust and consistent measures, including capacity-building initiatives, to address the concerns and interests of indigenous peoples and local communities and ensure their participation in the negotiating process at WIPO in line with Articles 31 and 41 of the UNDRIP. At WIPO negotiation sessions, indigenous representatives contribute with important comments and proposals.

The WIPO Voluntary Fund for Accredited Indigenous and Local Communities provides funding in support of the participation of accredited representatives of indigenous peoples and local communities in the IGC. WIPO has a fast-track, inclusive approach to its accreditation procedure. To date, we have 366 accredited observers to the IGC, many representing Indigenous Peoples and local communities.

The WIPO Voluntary Fund is presently depleted and this is a matter of great concern. Repeated calls for replenishment are being extended to potential donors, including those that may attend the Forum.

Adding to the initiatives and training tools already developed, three regional multi-stakeholder practical workshops, involving invited indigenous and local communities representatives, were organized in Namibia (for six English-speaking African countries), Panama (for Central and South American countries) and Samoa (for Pacific Island countries in 2015 and one more is being organized in Morocco in this year for six French-speaking African countries). Our practical workshops are addressed to government officials and indigenous peoples and local communities, and they share knowledge, build understanding and foster coordination within and between countries.

The Permanent Forum recommended at its 11th Session that WIPO commission a Technical Review within the framework of indigenous human rights, to be conducted by an indigenous expert, focusing on the draft texts that have been

developed within the WIPO negotiations.

In consultation with the Permanent Forum Secretariat, James Anaya, Professor of Human Rights Law and Policy, University of Arizona, United States of America, was commissioned by WIPO to undertake this technical review, with the view to its submission to, and its further circulation by, the Permanent Forum. The Review has been completed by Professor Anaya, submitted to the Permanent Forum and forwarded by the UN Permanent Forum to the WIPO Committee in February this year.

It is my pleasure to announce that a side-event is being organized by WIPO on Thursday, May 12, 2016 in Conference Room D from 1.15 pm to 2.30 pm, with the participation of the author of the Technical Review, Professor Anaya, Mr. Preston Hardison, Policy Analyst, Tulalip Tribes, Mr. Conde Choque, Legal Officer of the Center for Multidisciplinary Studies Aymara and Mr. Les Malezer, Chairperson, Foundation for Aboriginal and Islander Research Action who will share an indigenous perspective on the IGC negotiations.

You are warmly invited to attend this side-event.

I thank you for your attention.
