

Indigenous ~~Caucus~~ Statement Concerning WIPO

Expert Mechanism on the Rights of Indigenous Peoples
4th session 11-14 July 2011 Caucus Position Statement
Presented by Ambassador Ronald Barnes

Greetings Madame/Mr. Chair,

The World Intellectual Property Organization is developing an international legal instrument on Traditional Knowledge (TK), Genetic Resources (GRs) and Traditional Cultural Expressions (TCEs). The Indigenous Peoples and Nations attending the deliberations are being denied the effective participation as nations and peoples recognized and vested with the right to self-determination, this foundation being reflected as the "equal right and self-determination of peoples" in Article 1.2 of the Charter of the United Nations and other international instruments.

The World Intellectual Property Organization (WIPO) is attempting to develop an international treaty affecting the rights of Indigenous Peoples to their Traditional Knowledge (TK), Genetic Resources (GR) and Traditional Folklore or Traditional Cultural Expressions (TCE). Indigenous Peoples possess the right to their full and equal participation in the WIPO process to submit proposals and to agree to the final text because these proposals and the potential treaty emanating from them, intimately and irreversibly affect the future survival of Indigenous Peoples and Indigenous Nations. The qualification that at least one state member must agree to proposals presented by Indigenous Peoples in order that they remain in the draft document is unreasonable, unacceptable, and contrary to emerging norms of international law. Indigenous Peoples must be allowed free, prior and informed consent at all phases and levels of deliberation and acceptance of the international treaty, including the final consent process at the General Assembly level.

The right to self-determination is indivisible, interdependent and interrelated to all other rights, including our right to develop our economic, social and cultural rights. We therefore call upon WIPO to include in the preamble and in the operative paragraph the phrase: Indigenous Peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Indigenous Peoples Permanent Sovereignty Over Natural Resources is a necessary component of the right to Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions.

Indigenous Peoples must be recognized as Nations who have the collective right to their territory and all aspects of their economic, social and cultural development.

Indigenous Peoples and Nations request our presence of the next General Assembly of WIPO and to present their concerns in all matters relating to the development of the international treaty at all levels of development as peoples and nations in their own right.

Indigenous Peoples call for an international monitoring and arbitration body as part of the dispute resolution mechanism for TKs, GRs, and TCEs, as a part of the mechanism recommended by Professor Miguel Alfonso Martinez in the Final Report of the Study on Treaties, Agreements and other Constructive Arrangements.

Finally, we call upon States to give specific justification for proposals or text that affects the scope of the rights of Indigenous Peoples in any way.