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

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**WIPO PANEL ON, “INDIGENOUS AND LOCAL COMMUNITIES’
CONCERNS AND EXPERIENCES IN PROMOTING, SUSTAINING
AND SAFEGUARDING THEIR TRADITIONAL KNOWLEDGE,
TRADITIONAL CULTURAL EXPRESSIONS AND GENETIC
RESOURCES”**

INDIGENOUS AND LOCAL COMMUNITIES TRADITIONAL KNOWLEDGE,
TRADITIONAL CULTURAL EXPRESSIONS AND GENETIC RESOURCES:
APPLYING THE PRACTICAL LESSONS OF COMMUNITY EXPERIENCE

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*Mr Chairperson,
Dear Panelists and colleagues,*

My name is Fawzia Yousif and I am representing the Sudanese Association for Archiving Knowledge /Sudaak/. It is a pleasure to be part of this Panel of Indigenous Communities.

Peace Agreement and the New Constitution in the Sudan

1. The Sudan, geographically the largest country in Africa shares borders with 9 neighbours. With over 100 languages, more than 60 recognized indigenous groups, 500 cultural universes, the Sudan is a treasure of social and bio-cultural diversity. The 9th of January 2005 witnessed the signing of the Comprehensive Peace Agreement (CPA) between the Government of the Sudan and the Sudan People's Liberation Movement to end a war that had lasted more than 30 years. The negotiations which preceded the agreement took place in Naivasha, Kenya under the auspices of IGADD, the Inter-Governmental Authority on Drought and Development. Representatives of indigenous communities in Sudan participated effectively in peace talks. The Sudan working to bring to an end this complex and protracted war provides an example of how effectively indigenous African cultures norms and values can support state institutions in identifying mechanisms for preventing, managing and resolving conflicts. The new Sudan Interim Constitution clearly states that "cultural and social diversity of the Sudanese people shall be the foundation of national cohesion and shall not be used for causing division."

2. In reference to the guiding principles in respect of an equitable sharing of the common wealth, the interim constitution requires that a process be instituted to develop progressively and to amend the relevant laws to incorporate customary law and practice and the local heritage, consistent with the international consensus. All indigenous languages of Sudan are recognized by the CPA as national languages and are to be respected, developed and promoted.

3. The Sudanese Association for Archiving Knowledge (Sudaak) is a Sudanese NGO. Sudaak believes that in this particular moment of Sudan history, a genuine partnership is required of all Sudanese people associated with the government or with NGOs in order to create a favourable environment for monitoring and transparency in the development and protection of indigenous peoples' rights.

Customary Law

4. Ever since the colonial era, legislation and successive systems of governance largely worked to underestimate land rights of rural communities, particularly the rights of small farmers and herders. The best known of these laws is the Land Law of 1970, which declared that all unregistered land at that time, mostly rainfall areas, to be State owned.

5. It is encouraging that the new Constitution calls for the integration of customary law and the establishment of land commissions for the arbitration of claims and to provide financial compensation and the making of recommendations in land reform laws. However, much concern has been expressed that the Peace Agreement, while attaching due importance to customary rights, does not manage to define the relationship of other governmental structures to the still functioning role of indigenous leaders. A wise implementation of the CPA suggests closer links of customary systems with state function.

6. Based on national experience we feel that the work of the IGC should acknowledge the limitations of national TK/GR legislation due to the complexity of related issues. The Committee should consider exploring experiences and initiatives linked with legislation and practices in less privileged communities in an attempt to generate wider consensus on core issues of relevance.

Genetic Resources

7. Divided into 5 distinct ecological zones: the desert, semi-desert, woodland savanna, flood region and montane vegetation, Sudan has a tremendous wealth of biodiversity and genetic resources, an animal and plant treasure. Products for example, Gum Arabic, Hamar sheep, Hibiscus flower have a high economic value and are articles in world-wide trade. It is evident that a policy of national legislation is required to promote Sudanese interests connected with IP classification and the registration of Sudanese plant breeds and protection of traditional knowledge.

8. Though rich in this diversity of ecosystems, habitats, species and genetic resources, no coordinated or comprehensive survey has yet been carried out. However, informal indications and observations show that there is a trend of declining diversity with the loss in many components. Many traditional plant species till now only partly characterized, are being grown to meet the demands for food, shelter, clothing, medicine and fodder. Some forest formations are unique to Sudan e.g. relics of Rain Forests termed “Bowl Forests” in Equatoria.

9. The continuous in-depth identification of impact of GR/TK/TCEs on IP system functioning is of direct relevance to the requirement of rehabilitation and sustainable development action plans in a post conflict area. The vegetation of Sudan remains inadequately explored and documented. Basic information about the current pattern of genetic diversity in forest tree species is lacking. National inventories and surveys are therefore urgently needed to obtain information on the above-mentioned areas.

10. WIPO has already shown a deep concern for the importance of a well thought out tracking of a collective international perspective of IP issues. This endeavor should be conducted through close national, regional and international coordination in conformity with the principles of international law and under the umbrella of the United Nations. It is of importance that international legislation is urgently put in place to regulate access to livestock genetic resources and to protect local pastoralists' rights. Rangeland legislation is required to address the urgent problems of land use and seek a balance between of animal production and cultivated crop production.

Traditional Knowledge

11. The rural people in Sudan have inherited a whole mass of indigenous knowledge on many aspects of their surroundings and their daily lives which constitutes a valuable resource for development. The indigenous knowledge covers a wide range of subjects concerned with land use and knowledge transfer. Although the potential of indigenous knowledge for development has been realized by professionals and scientists, it has remained until now a

neglected resource by government institutions. Gender relations and indigenous knowledge are linked in many ways of life.

12. Desertification now is widely recognized as the biggest environmental problem in Sudan. The Darfur question gives an illustration of this claim. For some time communities in Darfur have clashed over access to land and water, grazing and cultivation, but this had never developed into total violent conflict except in recent years. In arid regions of the Sudan nomadic tribes have been facing increasing difficulties in finding water for their livestock. In the past, the herders depended on the system 'Alhafeer' which is the digging ponds of perhaps a hundred meters width and a few meters depth to collect rainwater to ensure access to water even in the dry season. These pastoral groups want to see more attention given to promoting the Alhafeer system, more than to pumps and canals.

13. UN agencies and INGOs and NGOs in Sudan are now beginning to recognize the benefit available from traditional practice in water storage, local food, housing, and malaria treatment. IGC is called to give priority to the investigation of collective rights potential in different customary settings, understandings and protocols.

Traditional Cultural Expressions

14. Piracy has increased in recent years sharply in Sudan market of cultural industries. In the year 2000 cassette production estimated at 2200 tapes. In 2004 piracy has decreased production in only 1100 tapes creating a negative impact on individuals and companies.

15. Traditional culture is an expression of value system that is embedded to a large extent in the corresponding traditional knowledge. In this sense the definition needed for TCEs should be general and should contain the elements reflecting community traditional work. While considering the importance of cultural planning in post conflict countries like Sudan, the need is obvious for the international technical expertise of WIPO to those countries in areas of fact finding, awareness raising and needs assessment of IP cultural heritage issues.

Best Practice

16. Regardless of lack of information on IP/TK/ TCEs relationships some institutions of higher education in the Sudan are aware that action should be taken in this areas related to indigenous people rights. A good example in this connection is case of the traditional music archive unit of the Institute of African and Asian Studies, University of Khartoum/TRAMA/. As a research and documentation center which focuses on the collection, documentation, preservation and dissemination of traditional music and folklore TRAMA holds more than 4000 audiovisual records of Sudanese traditional music. Its collection is mainly derived from recordings obtained through fieldwork among ethnic communities in Sudan. TRAMA signs consents with the tribal representatives of each group before performances are recorded, and 50% of the profits of sales of cassette tapes are given to the group, a form of benefit-sharing. TRAMA and the communities concerned then sell the tapes to generate income.

Future

17. National, regional and interregional partnerships in areas of documentation of TK/TCE are of importance. Sudaak had established a relationship of cooperation with the University of Durham in UK to convert key sources about indigenous people in the Sudan to the digital format. The University of Durham possesses an archive of material that includes rare records on cultural expression and traditional knowledge in the Sudan. This cooperation is taking place through IP mutual understanding aiming towards joint research to explore areas of expression and cultural meanings. It is of high value the potential of bilateral partnerships in recording and archiving of TCEs, especially North-South partnerships. The study and evaluation of bilateral, regional or interregional initiatives and experience in TCEs documentation would largely assist in the collective search for identification of international forms of protection.

18. We realize that the new century needs agendas, strategies and knowledge that frame new understanding. Cultural coexistence requires a determination, consensus and compromise. It represents the common humane and effective defense against terrorism and extremism. Recognition, respect and the safeguarding of positive values of peace, coexistence as reflected through expression of culture give promise in a brighter future for our beautiful world.

I would like to thank WIPO and the IGC for the invitation to participate on this Indigenous panel. It has been a great opportunity to discuss some of the issues that are of concern to our Sudan indigenous people.

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