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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”**

EXPERIENCES FROM UKRAINE

JUNE 6, 2005

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\* This document comprises the presentation in the form received from the presenter. Any views expressed in the presentation are not necessarily those of WIPO or any of its Member States.

*Dear Mr. Chairman!  
Distinguished Ladies and Gentlemen!*

I have the great honor and responsibility for representing here the Indigenous Peoples of former Soviet Union Countries.

This part of the World is so big and populated by such a large number of Indigenous Peoples with so different cultural, anthropological and economic characteristics that it is really very hard and ambitious task to describe their situations and needs in a few words. One of the most difficult problems is that many of them do not even know about the concerns and legislative actions of the International Community for the Indigenous Peoples. Those who know, unfortunately, have no access to these processes for financial, geographical, educational, technical and political reasons.

First of all, with all my due respect for the activity of the WIPO and other international agencies concerned, I would urge you to look for the opportunities to build contacts and to involve directly my brothers and sisters from these regions into issues of mutual interest and exceptional importance as far as possible.

Nevertheless, I'll try to give you a review of the most urgent and still not positively solved problems of the Indigenous Peoples of CIS countries within the context of preserving and managing their traditional knowledge, culture and genetic resources.

#### Nature of TK/TCEs/GR

*Outline the nature of traditional knowledge (TK) and/or traditional cultural expressions (TCEs), as well as related genetic resources (GR) that are held by your community, and their importance to the cultural identity, community life, and sustainable relationship with the environment of your community.*

- for Northern and Siberian Peoples (Khanty, Mansi, Nenets, Selkup, Chukchas, Evenks and many others): traditional reindeer-herding culture, hunting, fishing, shamanism – extremely important, since their cultures are depending on the traditional way of life, which is in danger of destruction by the oil and gas industry. A lot of them as Telinghits or Shors for example lost their lands without any compensation or redress. Coal and other mining companies destroyed their land physically in direct sense of the word using the open excavating method of mining. No place, no space to put a foot. Sacral and ceremonial places, historical and cultural landscape, forests and mountain, rivers and springs, animals and birds disappeared. Their traditional culture and knowledge as a fact of reality were killed. Now it is going to die in theory so far as elders preserved them in their minds will go away;
- for most of them even for those who live in European part as Maris or Udmurts: traditional ethnic religion (animism or nature religion) is an extremely important part of their ethnic identity;

- another very valuable part are narrative and verbal stories, rules, songs and dances, national costumes which should be produced and used in families and communities; and
- medicine, sanitary, environmental, psychological and spiritual knowledge are very famous but very few authentically known in outside world.

#### Customary law and practices

*Describe the role of customary law, practices and protocols in sustaining and safeguarding your TK/TCEs and related GR*

For present days the systems of customary law have been destroyed by the Soviet Communists almost everywhere, so there is the need to revive them. However, this revival is extremely difficult in the framework of the Russian society (legislative and emotional environment). Place by place these old institutions and rules live in the form confused or mixed with official local self-government, somewhere they act parallel to official power (councils of elders for example), somewhere they exist in hidden form.

#### Misappropriation and misuse

*Describe, from your community's perspective, practical experiences with misappropriation and misuse of TK/TCEs/GR, including concerns about lack of external understanding of and respect for customary law and community values*

The Russian-speaking majority (not always ethnic Russians) which settled at the regions of Indigenous Peoples mostly during XX century, business or State officials essentially (perhaps with except of “greens”) have no respect to the environmental security, natural resources recuperation and way of life of the local peoples. Hunting and fishing as kind of sport or as an industry in favor of non Indigenous population of country, oil and gas pollution in Siberia and the northern part of Russia, administrative restrictions for the traditional economy or life style of Indigenous inhabitants undermined totally their own sustainability and turned most of them into dependants of Governmental activity. Will Government allow to them fishing and give the quota they'll live. If not as it was last year on Kamchatka and Chukotka they will stay dying.

This is very difficult in those circumstances to tell something about preservation of TK/TCEs/GR without crying for the land rights, right to self-government and facilitation of self-sustainability.

Bad practice is that representatives of one IPs are involved into activity undermining another. For example a lot of Volga Tatars and Caucasian peoples having no job in their own regions went to the North to work in mining enterprises taking part objectively in destruction of the life of another Indigenous Peoples.

That kind of involuntary regress or anthropological and cultural differences of small peoples very often becomes the object of publicly made racist sentences, anecdotes, articles, humorists shows etc., which are not persecuted by the law. Public opinion mostly supports this racist view to the values and culture of small peoples.

Soviet style folklorism is misusing the authentic IPs traditions by distorting them and putting them in inappropriate context. Nevertheless in earlier years a lot of unique materials were collected. Especially this is right for the non littered languages and music. Most of them are held in archives of Scientific and Academician Institutions or small, sometimes school's museums. They were written or fixed with the very primitive techniques as old recorders and cinema cameras etc. Now the traditional holders of the most of that knowledge and music or visual expressions are not alive. This is extremely important to re-write these materials to the contemporary technical and digital means. But State and local budgets don't allocate money for these purposes.

### Community responses

*Outline your community's responses to the problem of misappropriation and community initiatives to safeguard and sustain TK/TCEs/GR, including practical, legal, educational, and social responses.*

It is incredibly hard task for the small Indigenous peoples (some of them are only 600 people as Keta) to find appropriate response on the local level. Any kind of resistance may be oppressed by the authorities immediately.

There are three main ways to try to look for the solution:

- to ask kindly the local and central authorities for more human behavior. Sometimes it works. For example Mari people's religious activists established ethnic religious organizations in co-operation with the local government in the Republic of Mari El.
- to try to unite efforts and to create more influential institutions of lobbying and public relations. Some of them were created as Russian Association of Indigenous Peoples of the North or Council of Finno-Ugric Peoples.
- to request for international concern.

### Needs and expectations

*Outline the needs and expectations of your community, within national system and beyond, including within the international community*

There is an urgent need to improve the Russia's legislation concerning the collective rights of Indigenous peoples to their traditional knowledge and, on the other hand, to create the state-recognized subjects to enjoy such rights. Certainly the register of those peoples must be developed. Nowadays criteria which exclude from the Indigenous Peoples those ones who are more that 50 000 in number or whose original territory already was overpopulated by other ethnic groups and for these reasons local peoples didn't preserved their traditional way of life is not just and human.

It is extremely important to arrange a legal procedure accessible for the Indigenous Peoples to defend their legal interests including their intellectual and cultural ones. If not they are unable to do anything if even there is a law formally providing with the rights. For example the Law on the Territories of Traditional Using of Nature was issued in Russia but no one such territory has been recognized or established because nobody can make the regional or local authorities to do it.

For those peoples who already has been deprived of their land and resources for TK/TCEs/GR the just redress and territorial compensation at the same or neighboring area must be given. Their self-rule and way of life must be respected and protected from any intervention including Government and private sector.

TK/TECS/GR of these peoples must be defended from profanation and racist attitudes particularly in public life.

#### Lessons for the Intergovernmental Committee

*Based on your community's experience, needs and expectations, what should the Committee pay most attention to in its work; and how can its work better meet the needs and expectations of your community?*

It looks like IGC urgently:

1. Should pay it's attention not only to the situation of peoples and communities who may be only touched or are endangered to be deprived of their cultural and intellectual heritage in future but as well to the situation of those ones which already forcibly were deprived or are being in process of fast losing of their TK/TCEs/GR.
2. The question of physical basis for the preservation and using of TK/TCEs/GR must be regarded attentively and question for the redress for the involuntary loses to be included into document.
3. Another point is that if the TK/TCEs/GR of some communities preserved by any technical means earlier must be restored, fixed ad given back to these communities with the Governmental money in order they to use them as it is appropriate to them. These materials must be covered by the document despite they were already taken from Indigenous Peoples or local communities in quasi- or semi-voluntary manner.

#### Ukraine

As for my country Ukraine, the material and physical basis of traditional knowledge of Indigenous Peoples (Crimean Tatars, Karays, Krimchaks and Urums) has been totally destroyed. The destruction began after the annexation of Crimea to Tsarist Russia and continued in the nineteenth century. But crucial point was the forcible deportation of the largest group of Indigenous inhabitants, i.e. Crimean Tatars, in 1944. It was necessarily a genocidal disaster for the people and at the same time special cultural ethnocide was arranged. Practically all historical geographical names were changed by three decrees of the Soviet Power into Russian names. The Academy of Sciences of USSR held its special session in

Crimea in 1952, where openly the task of abolishing any traces of Turkic speaking culture and history and turning Crimea into a pure Russian and Slavic region with artificially implanted quasi-Russian culture and history were accomplished. Our landscape, architecture and religious monuments were ruined, most of the handicrafts and museum artifacts were stolen or transferred to Russian or Ukrainian museums, all books and manuscripts were burned, and the Crimean Tatar nation was declared not ever existed.

This is my big concern: Ukraine continues to perpetuate these racist, inhuman approaches to our culture and knowledge. Yes, of course, there are some ensembles, etc. But all cultural and intellectual objects of Crimean Tatar, Karay, Krimchak and Urum peoples are declared to be State property in accordance with the Law on Cultural Heritage of Ukraine. But this does not mean that State actually takes care of them. This is only “legal” in order to prevent the very possibility of Indigenous People’s taking control over their traditional culture/knowledge/genetic resources. State exploits these objects of our culture without any compensation and uses its power to destroy them in time. I can even list all cases of that behavior but only try to illustrate it with a few examples.

#### Nature of TK/TCEs/GR

*Outline the nature of traditional knowledge (TK) and/or traditional cultural expressions (TCEs), as well as related genetic resources (GR), that are held by your community, and their importance to the cultural identity, community life, and sustainable relationship with the environment of your community.*

We have obviously antagonistic approach to the meaning of our traditional knowledge/culture/genetic resources with the State. The normal way of life of Indigenous Peoples of Crimea was inherent with their TK/TCEs/GR. It was deeply imbedded with the Crimean nature, landscapes and economic activities. Our behavior towards them was pragmatic and spiritual at the same time. For instance, during many centuries we maintained special knowledge of the preservation and development of the springs. Crimea had excellent drinking water from the springs. We had arranged special channels and designs, and there was a special ritual for taking water. It was prohibited after the sunset. However, if guests came to your home, you could go to a spring, offer your apology and ask for water for the guests. After our deportation, new settlers started mass building, which destroyed 90% of the springs. They did even worse. We had dug and designed thousands of wells in Crimea. Some of those in the mountains or steppes even had a length of about 150 meters. Practically all of these wells have been filled by waste by new settlers. This way, not only wells were damaged but the underground water sources were poisoned forever. Now we drink water from plastic bottles brought from outside or from the Dnepr River, contaminated with nuclear pollution after Chernobyl accident.

During many centuries our ancestors developed the vineyards and wine production based on indigenous grapevine. In fact, the Crimean wine was famous for these indigenous grapes. They were destroyed totally. Nowadays the so-called Crimean wine is not really Crimean; it is produced from European and Caucasian grapevines, which have nothing common with their name. The same for tobaccos and fruit trees. If somebody asks you “try the Crimean apple,” do not be misled. Probably, it is not true.

Until the 20th century, Crimean Tatars were known for their horses. After the deportation of our people, the best of the horses were taken out of Crimea and are now known as the pride of Ukrainian horse developers. The same is also true with our traditionally developed kind of the shepherd dog “Barak.” The best of them were taken to the dog exhibition in Moscow in 1938 and others were killed during the WWII and postwar period. After the deportation, nobody mentioned Crimean Tatars. Now this dog is known as “Southern Russia shepherd dog.”

I could continue but this is enough I think. I would, however, like to emphasize that all these and other traditional achievements of Indigenous Peoples of Crimea were not and are not only utilitarian in nature. We have certain moral and rational principles as well as folkloric expressions inherently linked to this entire heritage. In general, I would say that all together it was our way of life. For example, everybody who lived in the mountainous area would take part in the community cleaning of the forests and grafting of the fruit trees. Anybody afterwards could use the fruits of these forest gardens “chahirs”. It was a matter of honor and pride of the village community to have good forests, clean springs and fruit gardens.

Now in Crimea we have an ecological disaster, created by polluted water and air, absence of standard sanitation, allergies and cancer diseases, etc.

The non-Indigenous population and their Governments did not and have not respected the Crimean land itself. They only exploit it, use it in their own favor without thinking about the consequences and paying attention to the values and limitations of traditional knowledge. They involve us in the troubles created by them and we can not prevent it.

### Customary law and practices

*Describe the role of customary law, practices and protocols in sustaining and safeguarding your TK/TCEs and related GR*

Most of the Indigenous Peoples in Crimea had different traditional rules and institutions to preserve, to promote, to develop and to use TK/TCEs/GR. Some of them were and are very sacred, and not everybody had a right to be involved, even as a member of the community. More or less open knowledge was concentrated in the hands of those who were called “ustas” or masters. Anybody from the community could apply to the master and become his apprentice, let it be music, wrestling or calligraphy. Other practices were secret. Mostly they were connected with healing and religious knowledge such as “Sufism” among Crimean Tatars or sacred ceremonies of the Karays.

The situation in which Indigenous Peoples of Crimea found themselves in recent decades led to the point that some and probably most of this knowledge was finally lost. For instance, even in the 60s the Karay worshippers held their ceremonies secretly in their sacred places. There was a rule that only members of the selected families could implement these ceremonies, and none of them knew everything but knowledge was accurately divided among several people. Because of this strict rule that required knowledge to be shared with only selected persons it was eliminated. Elders died without transmitting it.

In order to restore and to develop that kind of knowledge, it must be very definitely guaranteed by law and an institutional system so that it won't be insulted or profaned by anybody, let it be Government or private sector.

### Misappropriation and misuse

*Describe, from your community's perspective, practical experiences with misappropriation and misuse of TK/TCEs/GR, including concerns about lack of external understanding of and respect for customary law and community values*

There are several misunderstandings on the part of the State and non-Indigenous majority of the traditional knowledge and culture of Indigenous Peoples of Crimea. For example, based on the historical experience of Russia and Ukraine, the Government does not accept our concept of multi-culturalism and multi-religious society, although there are very fashionable slogans used recently in Ukraine as everywhere. Four Indigenous Peoples of Crimea had four different religions. Crimean Tatars were and are Muslims, Urums Christians Orthodox, Krimchaks rabbinic Jewish, Karays have their special direction of Avraamic religions named Karaimism. We lived during centuries together without any kind of permanent intercultural or interconfessional conflicts. And what do we have now?

The Ukrainian Government turned over the medieval mountain monasteries and churches to the Russian Orthodox Church of the Moscow Patriarchy with the assumption that those were the monuments of Christian culture. I mention here the Meryem Ana Monastery, Mangup Kale etc. However, the founders and holders of early Christian culture in Crimea were never Russian or Slavic People generally.

The ancient and medieval Christians in Crimea were those ethnic groups who partially had become the ancestors of Crimean Tatars and partly of Urums, another group of Indigenous People of Crimea who still are Christians but do not live in Crimea. Nobody else but the Tsarist Russia exiled them to another region of Ukraine named Mariupol. Those were Goths, Visantians, the Genovese, Venetians, and groups of Turkic peoples such as Kypchaks, Khazars and even a part of Mongols. Some of them voluntarily accepted Islam and became Crimean Tatars, others kept Christianity and became Urums.

Now on the bones of our ancestors, a foreign religious organization named Russian Orthodox Church of Moscow Patriarchy has a lot of real estate in different places of Crimea, originally populated by Indigenous Peoples. They "reconstruct" (i.e. re-destroy) the traditional religious complexes of our Christian ancestors, using them for their propaganda and institutional needs and actually perverting the design as well as the spiritual meaning of them. Even more. Because they handle our medieval Christian heritage now it becomes easier for them to declare that we are not Indigenous Peoples and that the Slavic population in Crimea is Indigenous. Surely, this is distortion of history but our Government and the majority of population are very much in favor of this myth.

To say that this is insulting means to say nothing. Present Ukrainian Government implements that very task which was assigned to it as far back as Stalin's time.



The legal basis for that approach consists of several components:

The State does not recognize that Indigenous peoples exist in Crimea, so there is no legal provision for their rights (TK/TCEs/GR).

All the existing cultural and intellectual heritage of Indigenous Peoples is treated as State property, so Indigenous People may not control its usage or use it for their own purpose.

Some parts of the Indigenous Heritage are not similar to the cultural or moral values of the dominant population, and its Government does not regard it as a cultural phenomenon to be protected. So the destruction of these kinds of TK/TCEs/GR continues.

In those cases where some parts of Indigenous Heritage are recognized as cultural or historical monuments, they are exploited and at the same time perverted by the State or private corporations and persons, without any use, compensation or respect for our values.

For example, formerly Soviet and now Ukrainian State have used the medieval Karay temple Dzhuft kale near Bakhchisaray for touristic purposes. The State, which did not place one stone on this temple, receives at least \$100,000 (US) per year from tickets sales. Yet, in the last three last years it allocated about \$8,000 (US) from the state budget for the cultural revival of Karays and Krimchaks. The lack of respect for the Karay points of view is so deep that in all State documents this temple is named mistakenly Chufut kale despite the repeated protests of Karay People's representatives.

The situation has recently become worse; the entire traditional Crimean Tatar village of Cherkes Kermen, with a long history, including our historical cemetery, was privatized by a Russian person with the permission of local authorities and in accordance with Ukrainian law. That person plans to destroy all old constructions and build hotel there.

### Community responses

*Outline your community's responses to the problem of misappropriation and community initiatives to safeguard and sustain TK/TCEs/GR, including practical, legal, educational, and social responses.*

Unfortunately, Indigenous Peoples of Crimea have no legal right to call upon courts to settle their claims because the Ukrainian law does not recognize them as legal entities. No NGO or individual has the right to file a claim against the State for this offensive behavior because this is not a private issue of this organization and State doesn't allow to apply to the court on behalf of the people. So we have only the possibility of settling our grievances out of the courts. Our most important undertakings were:

To arrange civil protests and demonstrations in the most critical situations;

To inform international institutions and agencies such as Working Groups of UNO, UNESCO, WIPO, and CoE;

To create our own Working Group on the Cultural Heritage of Indigenous Peoples of Crimea, which consists of the most advanced and active members of our national intelligentsia and public activists;

To try to arrange talks with the Government and local authorities on the issues.

But I would like to emphasize that these negotiations are mostly useless for the reasons mentioned above. I only need to mention that we had three conferences about the return of the cultural artifacts of Crimean Tatar people, including those which were taken to the Ukrainian museums outside of Crimea. No Ukrainian museum ever gave them back to us.

### Needs and expectations

*Outline the needs and expectations of your community, within national system and beyond, including within the international community*

We certainly expect and demand that:

1. Ukraine to recognize us Indigenous Peoples by Law and that recognition is to include our right to take part in the handling of issues that concern us.
2. Complete registration of objects and expressions of our cultural heritage, including not just physical ones, must be carried out with our right for participation.
3. Within the sphere of our Cultural Heritage (TK/TCEs/GR), we have to have an ad hoc right to hold, to keep, to preserve, to use, to manage and to get profits from them. Any other entity, let it be Government or private sector, must respect our right and may touch and use them only with our prior and voluntary consent. For this purpose, a new Ukrainian Law relating to the protection of Cultural Heritages must be passed and all legal procedures must allow our participation.
4. The Ukrainian law must restore all historical geographical names of Crimea.
5. Parts of our cultural heritage (TK/TECs/GR), which were ruined, taken out without our consent or are in use or possession of any other entity, including the State and private sector, must be given back. Just compensation must be paid for those objects of Cultural Heritage, which were destroyed or were used for profit or income. The origin of such objects, resulting from the efforts of Indigenous Peoples of Crimea, must be recognized officially and publicly.

### Lessons for the Intergovernmental Committee

*Based on your community's experience, needs and expectations, what should the Committee pay most attention to in its work; and how can its work better meet the needs and expectations of your community?*

I read the draft of the document that would be discussed by the IGC several times and very carefully. No doubt, this represents an obvious and essential progress in the development of international standards concerning TK/TCEs/GR.

However, I have tried to apply it to the situation of the Indigenous Peoples of Russia, Ukraine and Central Asia and would like to point out that:

1. In so far as Governments will have the possibility of avoiding the official and legal recognition of local communities and Indigenous Peoples, not one provision of that document will bind them. So, we need a provision for the legalization of Indigenous Peoples and local communities to be included into the text.

2. These principles will work only for those Indigenous Peoples who were lucky enough to preserve main parts of their TK/TCEs/GR from destruction. In the future, they may have a chance to take advantage of this document. Those people whose properties were confiscated or whose Heritage has been destroyed already won't drive any benefit from it.

So, we need to insert the provision that parts of our cultural heritage, TK/TCEs/GR, which were ruined, taken out without our consent or are in use or possession of any other entity, including the State and private sector, must be given back. Just compensation must be paid for those objects of Cultural Heritage, which were destroyed or were used for profit or income. Their origin, resulting from the efforts of Indigenous or local communities, must be recognized officially and publicly.

3. The historical geographical names are an inherent part of Cultural Heritage, incorporating the collective ethnic memory and experience of the Indigenous Peoples and local communities, and they are part of the traditional knowledge and ethnic identity. They must be respected and protected against misuse or perversion.

So, we need that provision for the preservation and, if necessary, the restoration of the Historical toponyms in the areas where the Indigenous Peoples and local communities live to be included in the document.

There is not any kind of legal mechanism for the protection of the rights of the holders and for the case of non-implementation of the document on new abuses against TK/TCEs/GR.

So we need to establish it.

There is not any mechanism for international monitoring and dispute resolution.

So we need to arrange it as well.

If not, the document will stay as an unfulfilled dream for the majority of Indigenous Peoples of CIS region, an ideal which will never have a chance to become reality.

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