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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**

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

**Eighth Session**

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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 ZAMBIA

JUNE 6, 2005

*Statement of Mrs. Elisabeth Mullenje Chombo NKOMESHYA,  
Cheftainess Mukamambo II, Traditional Chief, Food Technology Research Unit,  
National Institute for Scientific and Industrial Research, Lusaka, Zambia\**

\* 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.

1. Before I make my presentation, I wish to thank WIPO for inviting me to share with members my community's concerns and experiences in promoting, sustaining, and safeguarding traditional knowledge (TK), traditional cultural expressions and genetic resources. My presentation will focus on the themes that have been given to me. The themes include nature of traditional knowledge, customary law and practices, misappropriation and misuse, community response, needs and expectations as well as lessons for the Intergovernmental Committee.

*The essence of traditional knowledge*

2. In terms of essence of Traditional Knowledge (TK) my country, Zambia, is endowed with an abundant heritage of a diversity of cultures and biological diversity. This great heritage has for centuries been expressed through TK systems, traditional knowledge and indigenous innovations. TK systems are functional entities and institutions that serve as custodians of specialized areas of TK and indigenous innovations. These include traditional administration authorities, traditional natural resource managers, traditional health providers, storytellers, singers, dancers, etc. In Zambia we view TK as being a body of knowledge that has always been vital to our day to day life while indigenous innovations is seen as a way for generating new or improved methods of using TK.

3. Global TK systems, traditional knowledge and indigenous innovations have contributed significantly to the present body of knowledge possessed by scientists, such as ethno botanists, ethno pharmacologists, and by agriculturists, foresters, and food technologists. There has been superficial acknowledgement of this. Sadly, the acknowledgement is not tied to legal recognition and protection. The lack of legal recognition and protection has led to a situation where custodians of knowledge and innovations derived from TK systems and TK are not acknowledged nor rewarded for contributions rendered.

*Customary law and practice*

4. In terms of customary law and practice, traditional administration authorities are the custodians or customary law and they are its enforcers. These authorities have jurisdiction in areas that are in their chiefdoms regardless of the origins of the people found in these localities. Some parts of Zambia have Paramount Chiefs with a number of subordinates starting with Senior Chiefs to ordinary chiefs while some parts of Zambia do not have Paramount Chiefs.

5. Customary law is administered through local courts by traditional judges but lawyers do not take part in the proceedings. The jurisdiction of local courts is stipulated in the laws of Zambia. The aggrieved have a right to appeal all the way to Supreme Court. The nature of cases that appear in local courts include lands disputes, marriages and minor civil cases. Sentencing is usually restricted to fines and sending people to prison.

6. Customary law is critical in the management of natural resources as is in sustaining and safeguarding TK since the two are linked. The sustainable use of biological diversity and genetic resources is usually achieved through accepted conduct and use of *taboos*. *Taboos* practices are accepted without question and are passed from generation to generation.

*Abuse of traditional knowledge*

7. In terms of abuse of TK, in our communities, misappropriation and misuse of traditional knowledge and indigenous innovations is clearly seen in the areas of traditional medicine and agriculture. My community faces a growing problem of misappropriating of genetic resources that have medicinal value. A new culture of profiteering is misleading some health practitioners to use genetic resources unsustainably. For instance, some varieties of a plant called the *African Potato* are almost finished.

8. Hybrid seeds used in modern agriculture have benefited from local crops. However, seed companies do not share their profits with our communities where the original seeds came from. Seed banks in developed countries are keeping our genetic resources for the common good of human kind, but our communities are not compensated for this.

*Community response and expectation*

9. And in terms of community response and expectation, communities are calling for the protection and recognition of the knowledge and innovations derived from TK systems and TK. There is recognition that contributions of traditional knowledge in development are not appreciated.

10. There is a concern about the erosion of TK systems and TK. This erosion is attributed to the mistaken assumption that African cultural values are an obstacle to the advancement of development. Another factor which has contributed to the demise of TK systems and TK is the introduction of foreign values, foreign religions, changing life styles, and the legacy of colonialism. These have contributed to the lowering of the status of TK systems, TK and indigenous innovations in my community like elsewhere in Africa. There's therefore a need to have means to protect TK.

11. The first in step in developing mechanisms for protecting knowledge and innovations derived from TK systems and TK is to address the status of TK systems and TK in the quest of national development. The relationship between TK and western knowledge should neither be hierarchical nor a relationship of subordination. Western innovations systems should in fact complement TK systems, TK and indigenous innovations for national development to take place.

12. Our communities expect the integration of indigenous knowledge and technology into national development. This entails acceptance, recognition and the protection of the knowledge and innovations derived from TK systems and TK. In addition, it requires developing innovative mechanisms for rewarding custodians of knowledge and innovations derived from TK. This must be based on fair and equitable sharing of benefits arising from the use of TK. The principle of advanced informed agreement is also very important. An important prerequisite of integrating indigenous knowledge and technology into national development is to value them. This must be followed by the development of appropriate proprietary right regimes that are comparable to the intellectual property rights. In addition, material transfer agreements should be centered on mutual benefit.

*Lessons for the Intergovernmental Committee*

13. In terms of lessons for this Committee, mechanisms for recognition and protecting knowledge and innovations derived from TK systems and TK must be established at national, regional and global levels. In developing these mechanisms, it is necessary to acknowledge the existence of unique lifestyles and social structures in different communities.

14. In the cultural sense developing countries look at themselves as custodians of TK systems, TK and indigenous innovations and not the owners. They do not see TK and indigenous innovations as commodities. It is in the same manner they do not look at biological diversity and genetic resources as commodities to be exploited for profit at the expense of this generation and future generations. This means that current intellectual property regimes cannot accommodate knowledge and innovations derived from TK systems and TK.

15. Knowledge and innovations derived from TK systems and TK cannot be credited to a single inventor. They are community – based and acquired over time and generations. TK systems, TK and innovations are part and parcel of the day to day life of people. The motivation of innovations derived from TK systems and TK is not profit or individual gain but the welfare and common good of the entire community and future generations.

*Conclusion*

16. It is imperative that a legally – binding international instrument that protects, rewards and governs the use of TK and innovations derived from it is established. This is what our communities expect as the ultimate and logical outcome of the Intergovernmental Committee.

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