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CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY

Twelfth meeting

Pyeongchang, Republic of Korea, 6-17 October 2014

Item 8 of the provisional agenda*

REPORT OF THE EIGHTH MEETING OF THE AD HOC OPEN-ENDED INTER-SESSIONAL WORKING GROUP ON ARTICLE 8(j) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY

INTRODUCTION

A. Background

1. The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity (the Working Group) was established by decision IV/9 of the Conference of the Parties. It held its first meeting in Seville, Spain, from 27 to 31 March 2000, and its second and third meetings in Montreal, from 4 to 8 February 2002, and from 8 to 12 December 2003, respectively. The fourth meeting was held in Granada, Spain, at the kind invitation of the Government of the Kingdom of Spain, from 23 to 27 January 2006, the fifth and sixth and seventh meetings were held in Montreal, from 15 to 19 October 2008, 2 to 6 November 2009 and 31 October to 4 November 2011 respectively. In paragraph 6 of its decision XI/14 A, the Conference of the Parties decided that the eighth meeting of the Working Group was to be organized prior to the twelfth meeting of the Conference of the Parties to further advance the implementation of its work programme. Accordingly, the eighth meeting of the Working Group was held in Montreal, from 7 to 11 October 2013, back-to-back with the seventeenth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice, at the headquarters of the International Civil Aviation Organization (ICAO).

B. Attendance

2. The meeting was attended by representatives of the following Parties to the Convention and other Governments: Angola, Antigua and Barbuda, Argentina, Australia, Belarus, Belgium, Benin, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Cambodia, Canada, Cape Verde, Central African Republic, Chad, China, Colombia, Comoros, Cuba, Democratic Republic of the Congo, Denmark, Dominica, Ecuador, Ethiopia, European Union, Finland, France, Gabon, Georgia, Grenada,

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Guinea, Guinea-Bissau, Haiti, Honduras, India, Indonesia, Iraq, Japan, Jordan, Kiribati, Liberia, Lithuania, Malaysia, Mali, Marshall Islands, Mauritania, Mexico, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, New Zealand, Niger, Norway, Palau, Peru, Philippines, Republic of Korea, Republic of Moldova, Sao Tome and Principe, Saudi Arabia, Senegal, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Tajikistan, Thailand, Togo, Tonga, Turkmenistan, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Yemen.

3. Representatives from the following United Nations bodies and specialized agencies also attended: Global Environment Facility; United Nations Development Programme - Equator Initiative; United Nations Educational, Scientific and Cultural Organization; United Nations Environment Programme; World Intellectual Property Organization.

4. The following organizations were also represented: Andes Chinchasuyo, Asia Indigenous Peoples Pact, Asociación Ixacavaa de Desarrollo e Información Indígena, Canadian Friends Service Committee (Quakers), CBD Alliance, Centre for International Sustainable Development Law, Centro de Estudios Multidisciplinarios Aymara, Chibememe Earth Healing Association, Chinese Research Academy of Environmental Sciences, Consejo Autónomo Aymara, Conservation International, Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica - COICA, ECOROPA, Environment Canada, Environmental Quality Protection Foundation, ETC Group, Finnish Saami Parliament, Folk Research Centre, Forest Peoples Programme, GENIVAR, Global Forest Coalition, Graduate Institute of International and Development Studies, Grand Council of the Crees (Eeyou Istchee), ICCA Consortium, IKANAWTIKET (Maritime Aboriginal Peoples Council), Indigenous Information Network, Indigenous Peoples of Africa Co-ordinating Committee, Indigenous Peoples' Foundation for Education and Environment, Indigenous World Association, Institute for Biodiversity Network, Instituto Indígena Brasileiro para Propiedade Intelectual, International Indian Treaty Council, International Indigenous Forum on Biodiversity, International Institute for Environment and Development, International University Network on Cultural and Biological Diversity, Inuit Tapiriit Kanatami, Japan Civil Network for the United Nations Decade on Biodiversity, Japan Committee for IUCN, L'Institut de la Francophonie pour le développement durable, McGill University, Mohawk Nation, Mundo Afro, Muséum National d'Histoire Naturelle, Namibia - Nama Traditional Leaders Association, National Biodiversity and Biosafety Center, National Institute of Biological Resources, Natural Justice (Lawyers for Communities and the Environment), OGIEK Peoples Development Program (OPDP), Plenty Canada, Red de Mujeres Indígenas sobre biodiversidad, Russian Association of Indigenous Peoples of the North (RAIPON), Saami Council, State University of New York (SUNY Plattsburgh), Stockholm Resilience Centre, Te Runanga o Ngati Hine (NZ tribe Ngati Hine), Tebtebba Foundation, The Nature Conservation Society of Japan, Tulalip Tribes, United Organisation for Batwa Development in Uganda, Université de Montréal, University of Saskatchewan, Waikiki Hawaiian Civic Club, WWF International.

ITEM 1. OPENING OF THE MEETING

5. The meeting was opened at 10.10 a.m. on Monday, 7 October 2013, by Mr. Hem Pande, the representative of the President of the eleventh meeting of the Conference of the Parties to the Convention on Biological Diversity, who invited Mr. Kenneth Deer and Mr. Charles Patton, Elders of the Mohawk Community from Kahnawake, (Canada), to give a traditional blessing. Mr. Patton performed a ceremonial prayer of welcome during which he spoke "the words that come before all things" and sang a traditional song of friendship. Mr. Patton was joined by Mr. Alfred Walker and Ms. Teagan Goolmer, youth ambassadors for the World Indigenous Network, who presented the Mohawk Community with the gift of a traditional memory stick from the indigenous peoples of Australia as a token of their respect.

6. Mr. Pande then welcomed participants and thanked the leaders of the Mohawk community for their ceremonial opening and prayer. He said that at the present meeting the Working Group would move forward with a new component of its work programme dealing with Article 10(c) by considering the

adoption of the draft plan of action for customary use of biological diversity. It would also advance its work on tasks 7, 10, 12 and 15. He said that the Parties had recognized that indigenous and local communities could make a key contribution to the objectives of the Convention and he expressed the hope that the meeting would contribute to the full engagement of indigenous and local communities in the pursuit of the Aichi Biodiversity Targets.

7. An opening statement was also made by Mr. Bráulio Ferreira de Souza Dias, Executive Secretary of the Convention on Biological Diversity.

8. Mr. Dias welcomed participants and thanked the Mohawk community for sharing its rich cultural heritage, which was a reminder of what could be gained from recognizing and making use of traditional knowledge. He also thanked the Governments of Canada, Denmark, Finland, Germany, India, New Zealand, Norway, Republic of Korea, South Africa, Spain, Sweden and Switzerland for their generous support for the participation of representatives of developing countries, Parties with economies in transition and representatives of indigenous and local communities in the present meeting. The Working Group had made tangible achievements since its inception and had raised the profile of indigenous and local community issues. It had given the indigenous and local communities an opportunity to contribute actively to the broader work of the Convention. A significant example of that was the programme of work on protected areas and the recognition of community conservation areas and their potential contribution to Aichi Biodiversity Target 11. The adequate participation of indigenous and local communities in the governance of such areas was important and Parties were encouraged to consider the recognition of additional community-based conservation areas.

9. The Working Group needed to keep in mind the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets, especially with respect to Article 10(c), customary sustainable use, which stood to contribute to the achievement of Aichi Biodiversity Target 18. The Working Group needed to consider the plan of action on customary sustainable use as that could contribute to poverty alleviation, the recognition of the value of ecosystems services and to discussions on sustainable development within the framework of the post 2015 development agenda. The finalization of the draft plan of action at the present meeting, and its recommendation for adoption at the twelfth meeting of the Conference of the Parties, would be a significant new milestone in the work of the Convention.

10. To aid in the effective implementation of the Convention, the Working Group also had to consider tasks 7, 10 and 12 of the programme of work, particularly as a complement to the Nagoya Protocol. That work included the consideration of guidelines on reporting and preventing the unlawful appropriation of traditional knowledge and guidelines to ensure that traditional knowledge was used based on prior informed consent and equitable sharing of benefits. Task 12 called for the development of guidelines to assist Parties to develop legislation, or other mechanisms, to implement Article 8(j) and its related provisions, mechanisms that could take the form of national action plans. The Working Group was also invited to consider task 15 on the repatriation of traditional knowledge. However, the Working Group was reminded that in its deliberation there was a need to implement, and build on, existing active decisions and not to reiterate existing decisions of the Conference of the Parties.

11. In closing, Mr. Dias reminded the Working Group that the Nagoya Protocol had been ratified by 25 Parties. The present meeting coincided with the Canadian holiday of Thanksgiving which celebrated the harvest season. In the Haudenosaunee culture, the name the Iroquois call themselves, a prayer was recited to honour “the three sisters,” beans, corn and squash, during the Fall harvest. That should be a reminder of the benefits that nature’s biological diversity generously bestowed, and the duty to ensure that nature was respected, its diversity cherished and its benefits shared fairly and equitably.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Officers

12. In accordance with established practice, the Bureau of the Conference of the Parties acted as the Bureau of the Working Group.

13. On the proposal of the Bureau, Mr. Boukar Attari of Niger acted as Rapporteur.

14. In keeping with past practice, indigenous and local community representatives were also invited to designate seven "Friends of the Bureau" to participate in Bureau meetings as well as to act as co-chairs of possible contact groups. On the proposal of the International Indigenous Forum on Biodiversity, the following were elected by acclamation as "Friends of the Bureau":

Arctic:

Ms. Gunn-Britt Retter (Saami, Norway);

Africa:

Ms. Lucy Mulenkei (Maasai, Kenya);

Asia:

Mr. Gam Shimray (Asia Indigenous Peoples Pact Foundation, India);

Latin American and Caribbean region:

Mr. Juan Carlos Jintiach Vargas (Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica, COICA);

Pacific region:

Ms. Beth Tui Shortland (Te Runanga o Ngati Hine, New Zealand);

North America:

Ms. Yvonne Vizina (Aboriginal Education Research Centre, University of Saskatchewan, Canada);

Central and Eastern European region:

Ms. Polina Shulbaeva (Russian Association of Indigenous Peoples of the North, RAIPON).

15. At the same time, it was also agreed that Ms. Gunn-Britt Retter would serve together with Mr. Hem Pande as Co-Chair of the Working Group.

2.2. Adoption of the agenda

16. At the 1st session of the meeting, on 7 October 2013, the Working Group adopted the following agenda, on the basis of the provisional agenda (UNEP/CBD/WG8J/8/1):

1. Opening of the meeting.

2. Organizational matters.
3. Progress report on the implementation of the programme of work on Article 8(j) and related provisions and mechanisms to promote the effective participation of indigenous and local communities in the work of the Convention.
4. Multi-Year Programme of Work on the Implementation of Article 8(j) and Related Provisions of the Convention on Biological Diversity:
 - (a) Article 10(c), as a new major component of work of the revised work programme for Article 8(j) and related provisions;
 - (b) Best-practice guidelines that would facilitate enhancement of the repatriation of indigenous and traditional knowledge (task 15);
 - (c) How tasks 7, 10 and 12 could best contribute to work under the Convention and to the Nagoya Protocol;
 - (d) *Sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices.
5. Recommendations from the United Nations Permanent Forum on Indigenous Issues.
6. In-depth dialogue on thematic areas and other cross-cutting issues: “Connecting traditional knowledge systems and science, such as under IPBES, including gender dimensions”.
7. Other matters.
8. Adoption of the report.
9. Closure of the meeting.

2.3. Organization of work

17. At the 1st session of the meeting, on 7 October 2013, the Working Group approved the organization of work for the meeting on the basis of the proposal contained in annex II to the annotations to the provisional agenda (UNEP/CBD/WG8J/8/1/Add.1/Rev.1); a list of documents for the meeting is provided in annex I of that document.

18. To ensure the full participation of delegates and observers in the deliberations of the Working Group, it was decided that the Working Group would work in plenary on the understanding that, where necessary and appropriate, contact groups could be established to examine specific issues.

2.4. Opening statements and general comments

19. At the 1st session of the meeting, on 7 October 2013, the representative of the International Indigenous Forum on Biodiversity thanked the Mohawk Nation for their ceremonial welcome and the Executive Secretary and the Parties, especially Finland, Germany, India, Norway, Spain, Sweden and Switzerland, for facilitating the participation of indigenous representatives through the Voluntary Fund for Facilitating the Participation of Indigenous and Local Communities in the Convention Process. She also thanked the Swedish International Biodiversity Programme (SwedBIO) for its generous support. As the midterm evaluation of the Strategic Plan for Biodiversity for the 2011 – 2020 period was drawing closer, the full and effective participation of indigenous peoples and local communities in its

implementation remained a commitment on paper. Aichi Biodiversity Target 18 was not a major focus of State investment or concern, and global support for the participation of indigenous peoples and local communities in the implementation of the Strategic Plan was important, as they faced similar levels of marginalization everywhere. The Forum appreciated the efforts of the Executive Secretary in developing a draft plan of action for customary sustainable use and looked forward to contributing to an optimal outcome. With regard to item 4 (b), the Forum supported the organization of an expert group on traditional knowledge repatriation with the full and effective participation of indigenous and local community representatives and looked forward to working with the Parties on developing the terms of reference for the group. Relevant guidelines needed to be tied to traditional knowledge associated with the full range of the conservation and sustainable use of biodiversity, not just genetic resources. Although the Forum generally agreed with the prioritization of tasks under item 4 (c), capacity-building was a significant task linked to task 7 that should be included as a priority action. Free, prior and informed consent required that indigenous peoples understood fully the terms related to access and benefit-sharing, the rights to allow or deny access and set the terms for the use of any shared traditional knowledge, and the full range of anticipated risks and benefits for any proposed actions. The term “free, prior and informed consent” was commonly recognized and an essential principle for indigenous peoples and should be used consistently in all meeting documents. She also urged Parties to begin using the term “indigenous peoples and local communities” in the text of the Convention itself and all the instruments and documents created under it, consistent with international practice.

20. The representative of the Indigenous Women’s Biodiversity Network of Latin America and the Caribbean thanked the Mohawk Nation for welcoming the meeting on their ancestral lands, and the Executive Secretary, Parties and other donors for their contributions to facilitate the participation of her organization. Indigenous women played a crucial role as custodians and protectors of life, and in the transfer of traditional knowledge to future generations. It was thus unfortunate that indigenous women continued to lack full and effective participation in Convention processes. Her organization had organized a series of regional workshops on Article 8(j) and traditional knowledge. That experience should be emulated in other regions and the Gender Plan of Action under the Convention should mainstream the full and effective participation of indigenous women in all decision-making processes. Indigenous women played a fundamental role when it came to identifying factors that promoted or hampered the conservation of traditional knowledge and the customary use of biodiversity. Greater momentum must be given to the definition and implementation of indicators, which could help assess Parties’ implementation of the Convention. With regard to the proposed indicators, namely “land use” and “traditional occupations”, the indigenous women could play an important role.

21. The representative of the Indigenous Youth said that the small number of indigenous youth representatives present in the meeting showed the need for greater financial support to enhance youth participation in decision-making processes at all levels. Nature was the basis of indigenous livelihoods, cultures, languages and identities, and for indigenous peoples decisions relating to biodiversity and nature were of crucial importance and had a direct impact on their future. When buying a package of rice or plastic-wrapped chicken in a supermarket, it was easy to forget that food came from nature and that the diverse use of natural resources was vital for human survival. Indigenous peoples were experts in the sustainable use of biological resources, and bearers of ancient traditional knowledge relating to sustainable living and the preservation of natural resources. The value of that knowledge was immeasurable and some of it was held only by the Elders, who spoke the language of nature. He expressed the hope that the Working Group would conduct its work on the basis of a common language and understanding.

22. The representative of Lithuania, speaking on behalf of the European Union and its 28 member States, said that traditional knowledge could play an important role in areas such as biodiversity conservation and sustainable use, climate change mitigation and adaptation, and medical care. The active and meaningful participation by indigenous and local communities, as the holders of traditional knowledge, was crucial for the effectiveness of the Convention’s work and played a significant role in the

achievement of sustainable development at all levels. The Rio+20 Outcome Document had recognized that the traditional knowledge, innovations and practice of indigenous peoples and local communities made an important contribution to the conservation and sustainable use of biodiversity, and that the wider application of that knowledge and those innovations and practices could support social well-being and sustainable livelihoods. The European Union and its 28 member States encouraged Governments, scientists, intergovernmental and non-governmental organizations, and indigenous and local communities to work together to contribute to the in-depth dialogue on connecting traditional knowledge systems and science, as well as to the recommendations that would be proposed by the Working Group.

23. The representative of Bosnia and Herzegovina, speaking on behalf of the countries of Central and Eastern Europe, said that the countries of the region shared a great history, culture and knowledge of traditional use of biodiversity. However, with their economies in transition, strategic decisions were often taken without consideration for their long-term impact on biodiversity and people. The countries of the region would welcome discussion within the Working Group of the socioeconomic impact of the loss of traditional knowledge and practices through rural-urban migration and, as a result, better practical solutions for national strategic planning. The countries of Central and Eastern Europe would continue their regional contribution to consideration of *sui generis* systems for the protection of traditional knowledge, and to the promotion of the full and effective participation of local communities in the implementation of the Convention.

24. The representative of Kiribati, speaking on behalf of the Asia and Pacific Group, said that capacity-building to enable greater participation of indigenous and local communities must be made a priority. The development of community protocols in national legislation on access and benefit-sharing could be a useful tool. Additional funding was a vital prerequisite for developing the capacity of indigenous and local communities in the implementation of the Convention. Limited human and financial resources at the local level impeded progress in that regard. The availability of additional adequate and predictable financial resources was vital for the implementation of the Strategic Plan for Biodiversity and he urged donors to step up efforts.

25. The representative of Senegal, speaking on behalf of the African Group, thanked the Canadian Government and people and the Mohawk Nation for their warm welcome, and donors for supporting the participation of African delegates. Traditional knowledge and practices were crucial to the sustainable use of biodiversity. Thanks to that knowledge, African indigenous and local communities had always lived in harmony with biological resources and additional efforts were needed to enhance the participation of indigenous and local communities in the work of the Convention, especially in the implementation of the Aichi Biodiversity Targets.

26. The representative of Nepal said that his country's commitment to respecting and preserving the knowledge, innovations and practices of indigenous and local communities would be reflected in its revised national biodiversity strategy and action plan. Issues related to access to genetic resources and associated traditional knowledge could be addressed through national legal frameworks. In order to provide clear guidance for country-led processes, further work was needed to build synergies among different activities under the Convention. He called for additional resource allocation to ensure the participation of indigenous and local community representatives from least developed countries in future meetings of the Working Group.

27. The representative of Jordan, thanking donors that had facilitated the participation of his country in the current meeting, said that additional funding was needed for capacity-building activities to enhance the participation of indigenous and local communities in Convention processes, especially with regard to traditional knowledge.

28. The representative of Peru said that, as heir to an ancestral and prevailing culture and a megadiverse country, his country was committed to furthering the objectives of Articles 8(j) and 10(c) of

the Convention with the effective participation of indigenous and local communities. His delegation's submissions under the different items during the current meeting had been prepared in cooperation with relevant ministries and representatives of indigenous organizations, with a special focus on the recognition and protection of customary use of biodiversity, the repatriation of cultural heritage, access and benefit-sharing and *sui generis* systems. In the preparation of its first national report under Article 8(j), special emphasis had been placed on the revision of indicators for the conservation of traditional knowledge and the contribution to the Aichi Biodiversity Targets and the Millennium Development Goals.

29. The representative of the World Intellectual Property Organization (WIPO) said that a draft of WIPO's Traditional Knowledge Documentation Toolkit had been published for consultation and field-testing. That toolkit provided practical guidance on how to undertake the documentation of traditional knowledge and address critical issues related to intellectual property as they surfaced during that exercise. While the toolkit did not promote the documentation of traditional knowledge, which was a decision for indigenous peoples and local communities, the toolkit could help them take into account the implications of intellectual property, as well as guidance on how intellectual property issues might be useful, which depended on the specific documentation objectives that indigenous peoples and local communities set for themselves. She also informed the meeting that the WIPO General Assembly had renewed the mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), which was negotiating a text to provide for the *sui generis* protection of traditional knowledge. Under its renewed mandate the IGC would expedite that work and had been requested to submit the text, or texts, of an international instrument, or instruments, to the meeting of the 2014 General Assembly which would take stock of the progress made and the further steps to be undertaken.

30. The representative of Indonesia said that his country had deposited its instrument of ratification of the Nagoya Protocol in September 2013 and urged others to follow its path. Indonesia was home to over one thousand greatly diverse traditional groupings called "adat", which were protected as such under the constitution. A specific law on the promotion and protection of those communities, and another on the management of genetic resources, were currently being finalized. The work under the Convention had provided important input into the work of the World Intellectual Property Organization on a legally binding instrument on genetic resources and he hoped that the current meeting would add further momentum to that process.

ITEM 3. PROGRESS REPORT ON THE IMPLEMENTATION OF THE PROGRAMME OF WORK ON ARTICLE 8(j) AND RELATED PROVISIONS AND MECHANISMS TO PROMOTE THE EFFECTIVE PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES IN THE WORK OF THE CONVENTION

Progress in the implementation of Article 8(j) and related provisions, including progress on indicators, and the participation of indigenous and local communities in the work of the Convention

31. The Ad Hoc Open-ended Inter-sessional Working Group took up item 3 at the 1st session of the meeting, on 7 October 2013. In considering the item, the Working Group had before it a note by the Executive Secretary on progress in the implementation of Article 8(j) and related provisions and its integration into the various thematic areas of work under the Convention and through the national reports, and participation of indigenous and local communities in the work of the Convention (UNEP/CBD/WG8J/8/2); and an update on indicators relevant for traditional knowledge and customary sustainable use (UNEP/CBD/WG8J/8/9). The Working Group also had before it the compilation of views on the participation of indigenous and local communities in the implementation of Article 8(j) and related provisions (UNEP/CBD/WG8J/8/INF/1 and Add.1), as well as a summary of the capacity-building

workshops facilitated by the Secretariat (UNEP/CBD/WG8J/8/INF/3) and the report on the capacity-building workshop for indigenous and local communities in support of implementing the guidelines on Biodiversity and Tourism (UNEP/CBD/WG8J/8/INF/4).

32. The Co-Chair invited the Working Group to consider the draft recommendations on progress in the implementation of Article 8(j) and related provisions, including progress on indicators, and the participation of indigenous and local communities in the work of the Convention.

33. Statements were made by the representatives of Australia, Bolivia (Plurinational State of), Brazil, Canada, China, Grenada, India, Jordan, Lithuania (on behalf of the European Union and its 28 member States), Mexico, New Zealand, Norway, Peru, Philippines, Sudan and Thailand.

34. Statements were also made by the representatives of the International Indigenous Forum on Biodiversity and the Indigenous Women's Biodiversity Network of Latin America and the Caribbean.

35. Following the exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group.

36. At the 4th session of the meeting, on 9 October 2013, the Working Group took up the revised text proposed by the Co-Chairs.

37. Following an exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group, which was subsequently circulated as draft recommendation UNEP/CBD/WG8J/8/L.2.

Action by the Working Group

38. At the 8th session of the meeting, on 11 October 2013, the Working Group took up draft recommendation UNEP/CBD/WG8J/8/L.2 and adopted it, as orally amended, as recommendation 8/1. The text of the recommendation, as adopted, is contained in annex I to the present report.

ITEM 4. MULTI-YEAR PROGRAMME OF WORK ON THE IMPLEMENTATION OF ARTICLE 8(j) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY

- (a) *Article 10(c), as a new major component of work of the revised work programme for Article 8(j) and related provisions*

Consideration of a draft plan of action

39. The Ad Hoc Open-ended Inter-sessional Working Group took up item 4 (a) at the 1st session of the meeting, on 7 October 2013. In considering the item, the Working Group had before it a note on Article 10, with a focus of Article 10(c), as a major component of work of the programme of work on Article 8(j) and related provisions (UNEP/CBD/WG8J/8/7/Rev.1, and Add.1) containing, in its annex, a draft plan of action for customary sustainable use; a compilation of views received on the development of the plan of action for customary sustainable use of biological diversity (UNEP/CBD/WG8J/8/INF/9 and Add.1) and the report of the International Conference for Indigenous Peoples and Local Community Land and Sea Managers and the Resulting Network (UNEP/CBD/WG8J/8/INF/12).

40. The Co-Chair invited the Working Group to consider the draft recommendations on Article 10(c), as a new major component of work of the revised work programme for Article 8(j) and related provisions.

41. Statements were also made by the representatives of Jordan, Mexico, Philippines and Thailand.
42. At the 2nd session of the meeting, on 7 October 2013, the Working Group continued its discussion of the agenda item.
43. Statements were made by the representatives of Argentina, Brazil (on behalf of the Latin American and Caribbean Group), Canada, China, Japan, Lithuania (on behalf of the European Union and its 28 member States), Norway, Peru, Sudan and Togo.
44. A statement was also made by the representative of the International Indigenous Forum on Biodiversity.
45. Following the exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group.
46. At the 4th session of the meeting, on 9 October 2013, the Working Group took up the revised text proposed by the Co-Chairs.
47. Statements were made by the representatives of Argentina, Australia, Benin, Bolivia (Plurinational State of), Brazil, Canada, China, Colombia, Ethiopia, Gabon, India, Lithuania (on behalf of the European Union and its 28 member States), Malaysia, Mexico, New Zealand, Norway, Peru, Senegal, South Africa and Thailand.
48. Statements were also made by the representatives of the Grand Council of the Crees, International Indigenous Forum on Biodiversity, the Maritime Aboriginal Peoples Council and the Congress of Aboriginal Peoples.
49. At the 6th session of the meeting, on 10 October 2013, the Working Group continued its discussion of the agenda item.
50. Following an exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group, which was subsequently circulated as draft recommendation UNEP/CBD/WG8J/8/L.3.

Action by the Working Group

51. At the 8th session of the meeting, on 11 October 2013, the Working Group took up draft recommendation UNEP/CBD/WG8J/8/L.3 and adopted it, as orally amended, as recommendation 8/2. The text of the recommendation, as adopted, is contained in annex I to the present report.

(b) Best-practice guidelines that would facilitate enhancement of the repatriation of traditional knowledge (task 15)

52. The Ad Hoc Open-ended Inter-sessional Working Group took up item 4 (b) at the 2nd session of the meeting, on 7 October 2013. In considering the item, the Working Group had before it a note by the Executive Secretary on development of best-practice guidelines for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity (UNEP/CBD/WG8J/8/5), a compilation of views on task 15 of the programme of work on Article 8(j) and related provisions (UNEP/WG8J/8/INF/7) and a list and brief technical explanation of the various forms in which traditional knowledge can be found (WIPO/GRTKF/IC/17/INF/9).

53. The Co-Chair invited the Working Group to consider the draft recommendations on best-practice guidelines that would facilitate enhancement of the repatriation of traditional knowledge (task 15).

54. Statements were made by the representatives of Argentina, Brazil, Canada, Colombia, Gabon, Lithuania (on behalf of the European Union and its 28 member States), Japan, Jordan, Mexico, Peru, Philippines, Saudi Arabia, Switzerland, Thailand and Yemen.

55. A statement was also made by the representative of the International Indigenous Forum on Biodiversity.

56. The Co-Chair said that in light of the discussion there was a need to establish a contact group to prepare, by consensus, a draft recommendation based on section VII of the note by the Executive Secretary, as contained in document UNEP/CBD/WG8J/8/5.

57. At the 3rd session of the meeting, on 8 October 2013, the Co-Chair asked Ms. Valeria González Posse (Argentina) and Mr. Gam Shimray (Asia Indigenous Peoples Pact Foundation, India) to co-chair a contact group to further discuss the draft recommendation contained in the note by the Executive Secretary.

58. At the 6th session of the meeting, on 10 October 2013, Ms. González Posse reported that the group had completed its work and she submitted the text of a revised recommendation for the consideration of the Working Group.

59. Following an exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group, which was subsequently circulated as draft recommendation UNEP/CBD/WG8J/8/L.4.

Action by the Working Group

60. At the 8th session of the meeting, on 11 October 2013, the Working Group took up draft recommendation UNEP/CBD/WG8J/8/L.4 and adopted it, as orally amended, as recommendation 8/3. The text of the recommendation, as adopted, is contained in annex I to the present report.

(c) How tasks 7, 10 and 12 could best contribute to work under the Convention and to the Nagoya Protocol

61. The Ad Hoc Open-ended Working Group took up item 4 (c) at the 2nd session of the meeting, on 7 October 2013. In considering the item, the Working Group had before it a note by the Executive Secretary on how tasks 7, 10 and 12 could best contribute to work under the Convention and to the Nagoya Protocol (UNEP/CBD/WG8J/8/4/Rev.2), the Expert Study on tasks 7, 10 and 12, taking into account work on *sui generis* systems and terms and definitions (UNEP/CBD/WG8J/8/INF/5) and a compilation of views received concerning tasks 7, 10 and 12 of the programme of work on Article 8(j) and related provisions (UNEP/CBD/WG8J/8/INF/6 and Add.1).

62. The Co-Chair invited the Working Group to consider the draft recommendations on how tasks 7, 10 and 12 could best contribute to work under the Convention and to the Nagoya Protocol.

63. Statements were made by the representatives of Argentina, Australia, Brazil, Canada, India, Jordan, Lithuania (on behalf of the European Union and its 28 member States), Mexico, Norway, Philippines, Switzerland, Thailand and Uruguay.

64. Statements were also made by the representatives of the International Indigenous Forum on Biodiversity, the Maritime Aboriginal Peoples Council and the Congress of Aboriginal Peoples.

65. Following the exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group.

66. At its 6th session of the meeting, on 10 October 2013, the Working Group took up the revised draft recommendation.

67. Statements were made by the representatives of Argentina, Brazil, Canada, Ethiopia, Mexico, Lithuania (on behalf of the European Union and its 28 member States), New Zealand, Niger, Norway and Switzerland.

68. A statement was also made by the representative of the International Indigenous Forum on Biodiversity.

69. Following the discussion, the Co-Chair asked Ms. Tone Solhaug (Norway) and Mr. Joshua McNeely (Maritime Aboriginal Peoples Council) to co-chair a contact group to further discuss the draft recommendation.

70. At the 7th session of the meeting, on 10 October 2013, Ms. Tone Solhaug (Norway) co-chair of the contact group, reported that the group had completed its work and she submitted the text of a revised draft recommendation for consideration by the Working Group.

71. Following an exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group, which was subsequently circulated as draft recommendation UNEP/CBD/WG8J/8/L.5.

Action by the Working Group

72. At the 8th session of the meeting, on 11 October 2013, the Working Group took up draft recommendation UNEP/CBD/WG8J/8/L.5 and adopted it, as orally amended, as recommendation 8/4. The text of the recommendation, as adopted, is contained in annex I to the present report.

(d) Sui generis systems for the protection, preservation and promotion of traditional knowledge, innovations and practices

73. The Ad Hoc Open-ended Working Group took up item 4 (d) at the 2nd session of the meeting, on 7 October 2013. In considering the item, the Working Group had before it a note on the development of elements of *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices relating to biological diversity (UNEP/CBD/WG8J/8/6) and its addendum on possible elements of *sui generis* systems for the protection, preservation and promotion of traditional knowledge relevant to conservation and sustainable use of biological diversity (UNEP/CBD/WG8J/8/6/Add.1 and Corr.1); a compilation of views received on *sui generis* systems for the protection of traditional knowledge (UNEP/CBD/WG8J/8/INF/8) and a Glossary of key terms related to intellectual property and traditional knowledge prepared by the WIPO Secretariat (WIPO/GRTKF/IWG/2/INF/2).

74. The Co-Chair invited the Working Group to consider the draft recommendations on *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices relating to biological diversity.

75. Statements were made by the representatives of Australia, Brazil, Jordan, Lithuania (on behalf of the European Union and its 28 member States), Mexico, Peru and Thailand.

76. At the 3rd session of the meeting, on 8 October 2013, the Working Group continued its discussion of the agenda item.

77. Statements were made by the representatives of Bolivia (Plurinational State of), Brazil, Indonesia, Peru and South Africa.
78. Statements were also made by the representatives of the International Indigenous Forum on Biodiversity and the Maritime Aboriginal Peoples Council.
79. Following the exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group.
80. At the 6th session of the meeting, on 10 October 2013, the Working Group took up the revised text proposed by the Co-Chairs.
81. Following an exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group, which was subsequently circulated as draft recommendation UNEP/CBD/WG8J/8/L.6.

Action by the Working Group

82. At the 8th session of the meeting, on 11 October 2013, the Working Group took up draft recommendation UNEP/CBD/WG8J/8/L.6 and adopted it, as orally amended, as recommendation 8/5. The text of the recommendation, as adopted, is contained in annex I to the present report.

**ITEM 5. RECOMMENDATIONS FROM THE UNITED NATIONS
PERMANENT FORUM ON INDIGENOUS ISSUES**

83. The Ad Hoc Open-ended Working Group took up item 5 at the 3rd session of the meeting, on 8 October 2013. In considering the item, the Working Group had before it a note by the Executive Secretary on the Recommendations Arising from the eleventh and twelfth sessions of the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity (UNEP/CBD/WG8J/8/8) and a compilation of views received on the use of the term “indigenous peoples” (UNEP/CBD/WG8J/8/INF/10 and Add.1).
84. The Co-Chair invited the Working Group to consider the draft recommendations on recommendations from the United Nations Permanent Forum on Indigenous Issues.
85. Statements were made by the representatives of Argentina (on behalf of the Latin American and Caribbean Group), Australia, Benin, Bolivia (Plurinational State of), Brazil, Canada, China, Denmark, Finland, France, Gabon, Grenada, Guinea, Indonesia, Japan, Jordan, Mexico, Norway, Peru, Senegal, Spain, Sudan, Sweden, Thailand, Togo, United Kingdom of Great Britain and Northern Ireland, and Uruguay.
86. Statements were also made by the representatives of Centro de Estudios Multidisciplinarios Aymara, ECOROPA, the Grand Council of the Crees, the International Forum of Local Communities, the International Indigenous Forum on Biodiversity, the Instituto Indígena Brasileiro Para Propiedade Intelectual, the Maritime Aboriginal Peoples Council and the Congress of Aboriginal Peoples.
87. Following the exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group.
88. At the 4th session of the meeting, on 9 October 2013, the Co-Chair said that in light of informal discussions in the margins of the meeting he was of the view that there was a need for further informal consultations on the revised text that he had prepared.

89. Statements were made by the representatives of Australia, Bolivia (Plurinational State of), Brazil, China, Denmark, France, Jordan, Lithuania, Namibia, New Zealand, Niger, Spain, Sudan, Sweden, Switzerland, Uganda and the United Kingdom of Great Britain and Northern Ireland.

90. Following the exchange of views, the Co-Chair asked Ms. Valeria González Posse (Argentina) and Ms. Clare Hamilton (United Kingdom of Great Britain and Northern Ireland) to facilitate an informal group to further discuss the revised draft recommendation.

91. At the 6th session of the meeting, on 10 October 2013, Ms. Hamilton, co-chair of the informal group, reported that the group had completed its work. The draft before the Working Group was a result of compromise on all sides after extremely difficult and polarized negotiations.

92. The representative of France said that her delegation could accept the draft recommendation as a basis for further work at the next session of the Conference of the Parties to the Convention on Biological Diversity. However, France remained reluctant to change the terminology in future decisions of the Conference of the Parties to the Convention and the Nagoya Protocol. France was of the view that such a change would have clear implications for the legal scope of Article 8(j) and would lead to a different interpretation of the scope agreed by consensus by the Parties to the Convention and the Nagoya Protocol. The change would thus imply that the Parties to the Convention intended to change the current interpretation, which would then no longer be in conformity with the text agreed by the Parties to the Convention and the Nagoya Protocol. Her delegation feared that changing the terminology constituted a de facto amendment of Article 8(j) of the Convention in disguise that circumvented the procedure set forth in Article 29 of the Convention for that type of modification. In order to make sure that that fear was unfounded, she asked the Secretariat to request the United Nations Office of Legal Affairs to conduct an analysis in regard to two questions, namely: whether a change in terminology in future decisions of the Conference of the Parties would have the same legal implications as an amendment of Article 8(j); and what the legal implications for any subsequent obligations of Parties to the Convention or the Nagoya Protocol were if the new terminology was used in future decisions of the Conference of the Parties.

93. The representative of Senegal (on behalf of the African Group) said that the African Group would, for the time being, maintain the terminology used in the Convention and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. Any change in terminology must be preceded by a study to identify the possible implications, in particular the legal consequences, of such change.

94. The Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group, which was subsequently circulated as draft recommendation UNEP/CBD/WG8J/8/L.7.

Action by the Working Group

95. At the 8th session of the meeting, on 11 October 2013, the Working Group took up draft recommendation UNEP/CBD/WG8J/8/L.7 and adopted it, as orally amended, as recommendation 8/6. The text of the recommendation, as adopted, is contained in annex I to the present report.

96. During the adoption of the recommendation, the representative of Japan stressed the importance of obtaining advice from the United Nations Office of Legal Affairs on the legal implications of the use of the term “indigenous peoples and local communities” for the Convention and its Protocols and of its being made available at least 90 days before the twelfth meeting of the Conference of the Parties. He also pointed out the challenges involved in taking a decision on that issue at that meeting if that advice was only made available 90 days before the start of the twelfth meeting of the Conference of the Parties, and that it might not be possible to take such a decision at that time.

ITEM 6. IN-DEPTH DIALOGUE ON THEMATIC AREAS AND OTHER CROSS-CUTTING ISSUES

97. At the 5th session of the meeting, on 9 October 2013, the Ad-Hoc Open-ended Working Group engaged in an in-depth dialogue on the cross-cutting issue of “connecting traditional knowledge systems and science, such as under the IPBES” including gender dimensions. The representative of the Secretariat introduced the panellist, who had been selected on the basis of regional balance and whose presentations would inform the subsequent dialogue.

98. Presentations were made by Ms. Joji Cariño (Director of the Forest Peoples’ Programme), Ms. Pernilla Malmer (Senior Advisor, the Resilience and Development Programme, Stockholm Resilience Centre), Ms. Kathy L. Hodgson-Smith (Métis Nation, Canada), Ms. Jennifer Rubis (Local and Indigenous Knowledge Systems (LINKS), UNESCO) and Ms. Brigitte Baptiste (General Director of the Colombian National Institute for Biodiversity “Alexander von Humboldt”).

Action by the Working Group

99. At the 8th session of the meeting, on 11 October 2013, the Working Group took note of a summary of the panel presentations and the question-and-answer session contained in document UNEP/CBD/WG8J/8/L.1/Add.1, which is attached as annex II into the present report.

ITEM 7. OTHER MATTERS

100. At the 3rd session of the meeting, on 8 October 2013, the representative of the Maritime Aboriginal Peoples Council expressed concern over the long-standing procedure whereby views expressed by indigenous and local community representatives made in the context of a contact group could only be taken into account in decisions adopted by the Working Group if they were supported by at least one Party. The issues discussed under Article 8(j) were highly pertinent to indigenous and local communities and their full, effective and equal participation in all deliberations, including in contact groups, was crucial. He invited the Secretariat to review the procedure with a view to changing existing procedures.

101. The representative of Canada asked that the following statement be included in the record of the meeting. “Canada takes its obligations as host country of the Secretariat of the Convention on Biological Diversity very seriously and is committed to respecting all of its obligations under the host country agreement. We would like to thank those people who had previously brought to our attention the matter of visas which had not been issued for those who wished to participate at this meeting. Our diplomatic and immigration services are looking into the issue to determine what happened in those particular cases. Canada values the contributions of all members and observers from the civil society and strives to deliver visa services around the world in a way that ensures the full participation by all interested parties while maintaining the integrity of its immigration programmes. We regret that not all those people who wished to participate are able to be with us in the deliberations of this Working Group this week.”

ITEM 8. ADOPTION OF THE REPORT

102. The present report was adopted, as orally amended, at the 8th session of the meeting, on 11 October 2013, on the basis of the draft report prepared by the Rapporteur (UNEP/CBD/WG8J/8/L.1).

ITEM 9. CLOSURE OF THE MEETING

103. Mr. Braulio Ferreira de Souza Dias, Executive Secretary of the Convention on Biological Diversity, congratulated the participants on the consensus that had been reached on the plan of action on

customary sustainable use, as well as the agreement on the way forward on tasks 7, 10 and 12 of the programme of work. He also thanked the Governments of Denmark, Finland, India, Korea, Norway, South Africa and Sweden for their financial support for the organization of the meeting and the Governments of Canada, Denmark, Finland, New Zealand, Norway, Spain, Sweden and Switzerland for supporting the participation of representatives of developing countries and Parties with economies in transition and indigenous and local communities from all regions of the world.

104. Mr. Hem Pande, Co-Chair of the meeting, thanked the Elders of the Mohawk Community for putting the meeting on the right path and enabling it to work in a spirit of cooperation and compromise. By working together the participants had assured the successful outcome of the meeting. The Chair also paid tribute to Mr. Olivier Jalbert, Deputy Executive Secretary, who will be retiring at the end of the year, for his contribution to the work of the Convention.

105. Following the customary exchange of courtesies, the Chair declared the eighth meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions closed at 11.40 a.m. on Friday, 11 October 2013.

Annex I

<i>Recommendation</i>	<i>Page</i>
8/1. Progress report on the implementation of the programme of work on Article 8(j) and related provisions and mechanisms to promote the effective participation of indigenous and local communities in the work of the Convention	18
8/2. Article 10, with a focus on Article 10(c), as major component of the programme of work on Article 8(j) and related provisions of the Convention	20
8/3. Development of best-practice guidelines for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity	29
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8/1. *Progress report on the implementation of the programme of work on Article 8(j) and related provisions and mechanisms to promote the effective participation of indigenous and local communities in the work of the Convention*

The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity *recommends* that the Conference of the Parties at its twelfth meeting adopt a decision along the following lines:

The Conference of the Parties,

Recalling its decisions X/43 on the Multi-Year Programme of Work on the implementation of Articles 8(j) and related provisions of the Convention and XI/14 on Article 8(j) and related provisions,

Progress and participation

1. *Acknowledges* the contribution that the World Indigenous Network, inaugurated by Australia and hosted by the Equator Initiative, can make to linking indigenous expertise and modern technology by developing enduring relationships for information-sharing and knowledge exchange;

2. *Encourages* participation by indigenous and local communities in the Network and *invites* donors to contribute to the ongoing implementation of the Network;

3. In light of the mid-term review of the Strategic Plan for Biodiversity 2011-2020, including Aichi Biodiversity Target 18, *invites* Parties, other Governments, international organizations, indigenous and local communities and other relevant organizations to submit information on the implementation of Article 8(j) and related provisions, and *requests* the Executive Secretary to compile and analyse information received and to make it available for consideration by both the ninth meeting of the Working Group on Article 8(j) and Related Provisions and during the mid-term review of the Strategic Plan for Biodiversity 2011-2020;

4. *Decides* that one meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions be organized prior to the thirteenth meeting of the Conference of the Parties;

Indicators relevant to traditional knowledge and customary sustainable use

5. *Welcomes* the work carried out under the Working Group on Indicators of the International Indigenous Forum on Biodiversity and other international organizations, and particularly the “community-based monitoring and information system” approach, to operationalize the indicators on the status of traditional knowledge, innovations and practices and customary sustainable use, to assess progress towards achieving the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets;

6. *Requests* the Executive Secretary, in collaboration with Parties, other Governments, relevant international organizations, the Working Group on Indicators of the International Indigenous Forum on Biodiversity, the Biodiversity Indicators Partnership and interested stakeholders, and subject to the availability of resources, to continue to organize and facilitate international technical workshops and regional workshops on indicators on the status of traditional knowledge, innovations and practices and customary sustainable use and to further explore the added value of community-based monitoring and information systems and the Multiple Evidence Base approach to indicators on the status of traditional knowledge, innovations and practices and customary sustainable use, in order to assess progress towards achieving the Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Target, and to inform

Parties, organizations and stakeholders of progress through the Traditional Knowledge Information Portal;

7. *Encourages* Parties and indigenous and local communities to consider how indigenous and local communities might effectively participate in the collection of data, including community-based monitoring, and further explore how community-based monitoring and information systems and Multiple Evidence Base approaches might contribute to future national reports and the mid-term review of the Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Targets and in particular Target 18;

8. *Invites* the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) to discuss the potential contributions of Community-Based Monitoring and Information Systems (CBMIS) in meeting the objectives of the Platform when developing work programmes of relevance and/or activities for the Multidisciplinary Expert Panel (MEP);

9. *Requests* the Executive Secretary to facilitate discussions on these matters in international technical workshops and regional workshops (referred to in paragraph 5 above) and to transmit information on CBMIS, as well as the note by the Executive Secretary on indicators relevant for traditional knowledge and customary sustainable use (UNEP/CBD/WG8J/8/9) to the IPBES Secretariat;

10. *Invites* Parties, Governments, relevant international organizations, indigenous and local communities, and interested stakeholders to submit information and data on status and trends in traditional occupations related to conservation and sustainable use of biological diversity and *requests* the Executive Secretary to make the compilation available for the consideration of the ninth meeting of the Working Group on Article 8(j) and Related Provisions;

In-depth dialogue on thematic areas and other cross-cutting issues

11. *Encourages* Parties, other Governments, relevant international organizations, indigenous and local communities and interested stakeholders, and *requests* the Executive Secretary to consider the advice and recommendations of the in-depth dialogue on “*Connecting traditional knowledge systems and science, such as under IPBES, including gender dimensions*” when implementing the relevant areas of work of the Convention; and *further requests* the Executive Secretary to report on progress made at the ninth meeting of the Working Group;

12. *Requests* the Executive Secretary to transmit the summary of the in-depth dialogue to IPBES, in order to contribute to its work on the development of guidelines to consider traditional knowledge in the IPBES process;

13. *Decides* that the topic for the third in-depth dialogue, to be held at the ninth meeting of the Working Group on Article 8(j) and Related Provisions, shall be:

(a) *Communication, education and public awareness (CEPA): Traditional knowledge, biodiversity, cultural diversity and well-being. Live well in harmony and balance with Mother Earth. Revitalization of traditional knowledge.*

Or

(b) *Protecting shared traditional knowledge across borders: challenges and opportunities for regional cooperation.*

8/2. Article 10, with a focus on Article 10(c), as major component of the programme of work on Article 8(j) and related provisions of the Convention

The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity *recommends* that the Conference of the Parties at its twelfth meeting adopt a decision along the following lines:

The Conference of the Parties

1. *Endorses* the plan of action on customary sustainable use of biological diversity, as annexed to this decision;
2. *Invites* Parties, other Governments, relevant organizations, indigenous and local communities and stakeholders to implement the plan of action on customary sustainable use of biological diversity and to report progress to the Secretariat as well as through the national reporting process;
3. *Requests* the Executive Secretary to compile and analyse the information received pursuant to paragraph 2 above and to make this information available to the next meeting of the Working Group on Article 8(j) and Related Provisions and through the Traditional Knowledge Information Portal of the Convention;
4. *Further requests* the Executive Secretary, in partnership with relevant organizations and subject to the availability of funding, to support implementation of the plan of action on customary sustainable use of biological diversity through organization of regional and subregional workshops and other capacity-building activities involving indigenous and local communities;
5. *Invites* Parties, other Governments, international organizations, programmes and funds, including the Global Environment Facility, to provide funds and technical support to developing country Parties and indigenous and local communities for implementation of programmes and projects that promote customary sustainable use of biological diversity.

Annex

DRAFT PLAN OF ACTION ON CUSTOMARY SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

I. OBJECTIVE

1. The objective of this plan of action is to promote, within the framework of the Convention, a just implementation of Article 10(c) at local, national, regional and international levels and to ensure the full and effective participation of indigenous and local communities at all stages and levels of its implementation.

II. GENERAL PRINCIPLES

2. The development and implementation of all activities of the plan of action on customary sustainable use of biological diversity should be undertaken with the full and effective participation of indigenous and local communities, particularly women and youth.

3. Traditional knowledge should be valued, respected and considered as useful and necessary for biodiversity conservation and sustainable use as other forms of knowledge.

4. The ecosystem approach, a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use of biological diversity in an equitable way, is consistent with the spiritual and cultural values as well as customary practices of many indigenous and local communities and their traditional knowledge, innovations and practices.

5. Recognizing that indigenous and local communities are the holders of their traditional knowledge, innovations and practices, access to their traditional knowledge, innovations and practices should be subject to their prior informed consent or approval and involvement.

III. CONSIDERATIONS OF SPECIAL RELEVANCE

6. Special considerations for this action plan include the following:

(a) Biodiversity, customary sustainable use and traditional knowledge are intrinsically linked. Indigenous and local communities, through customary sustainable use of biological diversity, constantly shape and reshape social and ecological systems, landscapes, seascapes, plants and animal populations, genetic resources and related management practices, and are therefore well placed to adapt to changing conditions such as climate change, and to contribute to the maintenance of biodiversity and ecosystem services, and the strengthening of the resilience of the social and ecological systems. Indigenous and local communities and holders of traditional knowledge related to customary sustainable use of biological diversity also contribute to the generation of new knowledge for the benefit not only of indigenous and local communities but of human well-being at large;

(b) Indigenous and local communities depend directly on biodiversity and its customary sustainable use and management for their livelihoods, resilience and cultures and are therefore well placed, through their collective actions, to efficiently and economically manage ecosystems using the ecosystem approach;

(c) Cultural and spiritual values and practices of indigenous and local communities play an important role in the conservation and sustainable use of biological diversity and transmitting its importance to the next generation;

(d) The full and effective participation of indigenous and local communities, in particular women, is of primary importance for successful development and implementation of policies and programmes for customary sustainable use of biological diversity;

(e) The development and implementation of policies and programmes for customary sustainable use of biological diversity should take fully into account Aichi Biodiversity Targets 14 (ecosystem services) and 18 (traditional knowledge and customary sustainable use), the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization and the programme of work on Article 8(j) and related provisions, with a view to avoiding duplication and ensuring complementarities;

(f) Cultural, social, economic and ecological elements associated with the traditional management systems of lands, waters and territories of indigenous and local communities and their involvement in the management of these areas should be recognized, secured and protected, as they contribute to customary sustainable use of biological diversity;

(g) Traditional knowledge and customary sustainable use of biological diversity are central to the full implementation of the ecosystem approach, which provides an important tool to strengthen the capacity of indigenous and local communities to fully practice customary sustainable use of biological diversity, as appropriate;

(h) Customary sustainable use of biological diversity is useful in facilitating learning of socio-ecological systems and possible innovations for productive ecosystems and continued human well-being;

(i) Measures should be taken to address unsustainable use of biological diversity and revitalize and restore degraded ecosystems.

IV. RATIONALE

7. Incorporating customary sustainable use of biological diversity with the effective participation of indigenous and local communities into national biodiversity strategies and action plans (NBSAPs) is an important and strategic way to integrate Article 10(c) and its implementation as a cross-cutting issue in the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets, the importance of which was reiterated in decision XI/14.¹

8. Many indigenous and local communities are engaged in community-based initiatives to enhance implementation of Article 10(c) at the national and local levels. Such initiatives include research and documentation of traditional knowledge and customary practices, education projects to revitalize indigenous languages and traditional knowledge associated with customary sustainable use of biological diversity, community mapping, community-based sustainable resource management plans, and biodiversity and climate change monitoring and research. An overview of such initiatives was presented at the meeting on Article 10, with a focus on Article 10(c) as a major component of the programme of work on Article 8(j) and related provisions² and more detailed cases were presented at a Philippine Workshop on Community-based Monitoring and Information Systems held in February 2013.³ By supporting such initiatives, or by getting involved in collaborative on-the-ground projects and monitoring of relevant CBD indicators, Parties and conservation organizations gain better insights into customary

¹ UNEP/CBD/COP/DEC/XI/14, preamble.

² See UNEP/CBD/WG8J/7/5/Add.1, para. 33. This presentation was based on a synthesis paper on examples, challenges, community initiatives and recommendations relating to CBD Article 10(c) by the Forest Peoples Programme and partners (October 2011): <http://www.forestpeoples.org/customary-sustainable-use-studies>.

³ The report of the Global Technical Workshop on Community-based Monitoring and Information Systems which took place in Bonn, from 26-28 April 2013 is made available as UNEP/CBD/WG8J/8/INF/7.

sustainable use of biological diversity issues in their countries. They can also more appropriately respond to existing needs or challenges, and become more effective in implementing Article 10(c) and in contributing to the achievement of Target 18 and other relevant targets of the Strategic Plan for Biodiversity 2011-2020.

9. Protected areas established without the prior informed consent or approval and involvement of indigenous and local communities can restrict access and use of traditional areas and therefore undermine customary practices and knowledge associated with certain areas or biological resources. At the same time, conservation of biodiversity is vital for the protection and maintenance of customary sustainable use of biological diversity and associated traditional knowledge. Customary sustainable use of biological diversity and traditional knowledge can contribute to the effective conservation of important biodiversity sites, either through shared governance or joint management of official protected areas or through indigenous and community conserved territories and areas. Community protocols and other community procedures can be used by indigenous and local communities to articulate their values, procedures and priorities and engage in dialogue and collaboration with external actors (such as government agencies and conservation organizations) towards shared aims, for example, appropriate ways to respect, recognize and support customary sustainable use of biological diversity and traditional cultural practices in protected areas.

V. ELEMENTS OF THE FIRST PHASE OF THE DRAFT PLAN OF ACTION ON CUSTOMARY SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

TASKS	Main actors	Possible actions ⁴	Timeframes for phased implementation	Possible indicators and means of verification
<p>1. To incorporate customary sustainable use practices or policies, as appropriate, with the full and effective participation of indigenous and local communities, into national biodiversity strategies and action plans (NBSAPs), as a strategic way to maintain biocultural values and achieve human well-being, and to report on this in national reports;</p>	<p>Parties with the full and effective participation of indigenous and local communities</p>	<p>Revision of the NBSAPs to incorporate customary sustainable use of biological diversity</p>	<p>Through the revision and implementation of NBSAPs 2014-2015 and, where feasible, reported through the fifth national reports and to the Working Group on Article 8(j) and Related Provisions, in time for the mid-decade review</p>	<p><i>Indicator:</i> Customary sustainable use of biological diversity incorporated by Parties, with the full and effective participation of indigenous and local communities, into NBSAPs</p> <p><i>Means of verification:</i> Future national reports, commencing with the fifth national report, where feasible</p>
<p>2. To promote and strengthen community-based initiatives that support and contribute to the implementation of Article 10(c) and enhance customary sustainable use of biological diversity; and to collaborate with indigenous and local communities in joint activities to achieve enhanced implementation of Article 10(c);</p>	<p>Parties, other Governments, the Secretariat of the Convention on Biological Diversity, relevant international organizations, donors, funders, academic and research institutions and indigenous and local communities</p>	<p>Mobilization of funds and other forms of support to promote and strengthen community-based initiatives that support and contribute to the implementation of Article 10(c) and promote good practices</p> <p>Collation of case studies, experiences and approaches and making them available through the Traditional Knowledge Information Portal and the information portal of the</p>	<p>Reported through future national reports, commencing with the fifth national reports, where feasible</p>	<p><i>Indicator:</i> Inclusion of diverse examples of community-based initiatives that support and contribute to the implementation of Article 10(c) in the national reports and the Traditional Knowledge Information Portal</p> <p><i>Means of verification:</i> Progress report for the Working Group on Article</p>

⁴ Refer to following section on guidance for possible actions.

		<p>International Indigenous Forum on Biodiversity (IIFB)</p> <p>Strengthening collaboration with other international agreements relevant to customary sustainable use of biological diversity, including with the International Treaty on Plant Genetic Resources for Food and Agriculture, for reinforcing mechanisms for community-based initiatives</p>		8(j) and related provisions, from ninth meeting onwards
3. To identify best practices (e.g. case studies, mechanisms, legislation and other appropriate initiatives) to:	Parties, other Governments, indigenous and local communities and the Secretariat of the Convention on Biological Diversity and other relevant organizations, programmes and funds	Reporting on best practices (case studies, mechanisms, legislation and other appropriate initiatives) that support customary sustainable use of biological diversity as an input to a compilation to be published as a CBD Technical Series	Reported through future national reports, commencing with the fifth national reports, where feasible	<i>Indicator:</i> Publication and dissemination of a CBD Technical Series on best practices, case studies, mechanisms, legislation and other appropriate initiatives that support customary sustainable use of biological diversity
(i) Promote, in accordance with national legislation and applicable international obligations, the full and effective participation of indigenous and local communities, and also their prior and informed consent to or approval of, and involvement in, the establishment, expansion, governance and management of protected areas , including marine protected areas, that may affect	(i) The Working Group on Article 8(j), Parties and other Governments, with the full and effective participation of indigenous and local communities	Compilation of best practices and existing guidelines on prior informed consent or approval and involvement of indigenous and local communities in the establishment, expansion, governance and management of protected areas and operationalize them by making them available through e-learning modules and tools for protected areas.	A compilation of best practices and existing guidelines on prior informed consent or approval and involvement of indigenous and local communities could be considered by the ninth meeting of the Working Group on Article 8(j) and Related Provisions	<p><i>Indicator:</i> Actions that support the tasks of the action plan for the customary sustainable use of biological diversity</p> <p>Best practices and guidelines are available</p> <p><i>Means of verification:</i></p> <p>Future national reports</p>

<p>indigenous and local communities;</p>		<p>Fostering the full and effective participation of indigenous and local communities through consultations and advisory relations</p>		<p>commencing with the fifth national reports, where feasible</p> <p>A compilation of best practices and existing guidelines</p>
<p>(ii) Encourage the application of traditional knowledge and customary sustainable use of biological diversity in protected areas, including marine protected areas, as appropriate and in accordance with national legislation;</p>	<p>(ii) Parties and other Governments, with the effective participation of indigenous and local communities</p>	<p>Revision of the NBSAPs to incorporate customary sustainable use of biological diversity and traditional knowledge</p> <p>Active involvement and effective participation of relevant indigenous and local communities in the planning, establishment and management of protected areas and the wider landscapes and seascapes</p>	<p>Revision of NBSAPs 2014-15</p> <p>Reported in future national reports, commencing with the fifth national reports, where feasible</p>	<p><i>Indicator:</i> Revised NBSAPs include promotion of traditional knowledge and customary sustainable use of biological diversity</p> <p><i>Means of verification:</i> Future national reports, commencing with the fifth national reports, where feasible</p>
<p>(iii) Promote the use of community protocols in assisting indigenous and local communities to affirm and promote customary sustainable use of biological diversity in protected areas, including marine protected areas, in accordance with traditional cultural practices and national legislation.</p>	<p>(iii) Parties, other Governments, Secretariat of the Convention on Biological Diversity, other relevant organizations, programmes and funds, ILC organizations and NGOs</p>	<p>Development of community protocols by indigenous and local communities</p> <p>Active promotion by Parties of the development and use of, and respect for, community protocols and other mechanisms that affirm customary sustainable use of biological diversity and traditional knowledge</p>	<p>Ongoing and reported through future national reports, commencing with the fifth national reports, where feasible</p>	<p><i>Indicator:</i> Parties recognize and support and indigenous and local communities develop community protocols and other mechanisms, as appropriate, that affirm traditional knowledge and customary sustainable use of biological diversity</p> <p><i>Means of verification:</i> Future national reports, commencing with the fifth national reports, where feasible</p>

VI. GUIDANCE FOR POSSIBLE ACTIONS

Task 1: To incorporate customary sustainable use practices or policies, as appropriate, with the full and effective participation of indigenous and local communities, into national biodiversity strategies and action plans, as a strategic way to maintain biocultural values and achieve human well-being, and to report on this in national reports.

Guidance

- Consider the establishment of and potential role for the national focal point for Article 8(j) (or the CBD national focal point) in promoting dialogue and creating bridges with indigenous and local communities to promote the incorporation of customary sustainable use practices and traditional knowledge into national biodiversity strategies and action plans.
- Promote the effective participation of representatives of indigenous and local communities in the revisions of the NBSAP and in the drafting the relevant sections of national reports.

Task 2: To promote and strengthen community-based initiatives that support and contribute to the implementation of Article 10(c) and enhance customary sustainable use of biological diversity; and to collaborate with indigenous and local communities in joint activities to achieve enhanced implementation of Article 10(c).

Guidance

- Parties, through the national focal point for Article 8(j), may wish to facilitate discussions with the relevant indigenous and local communities and compile an inventory of relevant existing or planned community-based initiatives at the local and subnational levels, in order to assist in the revision of NBSAPS and for submission to the national reports.
- Parties, through the national focal point for Article 8(j), may wish to facilitate discussions with the relevant indigenous and local communities regarding the value and contributions of these initiatives to customary sustainable use of biological diversity, as well as on existing and perceived obstacles and possible actions to overcome them.
- Parties, through the national focal point for Article 8(j) may wish to facilitate discussions with the relevant indigenous and local communities to support community initiatives and potential collaboration.

Task 3: To identify best practices (e.g. case studies, mechanisms, legislation and other appropriate initiatives).

Guidance

- Parties, through the national focal points for Article 8(j) and for protected areas (or CBD focal points where national focal points for Article 8(j) and for protected areas have yet to be established), with the effective participation of indigenous and local communities, may wish to scope and compile existing guidelines, and develop an inventory of best practices for promotion and operationalization.
- In identifying best practices, Parties and other relevant stakeholders may wish to draw on existing international initiatives, reference materials and tools for best practices in relation to protected areas and customary use of biological diversity, such as the CBD Technical Series No. 64: *Recognizing and Supporting Territories and Areas Conserved by Indigenous Peoples and Local Communities - Global overview and National Case Studies* on indigenous peoples and community conserved territories and

areas, the Whakatane Mechanism (<http://whakatane-mechanism.org>),⁵ and community protocols (www.community-protocols.org).

⁵ This mechanism, which is an outcome of the 4th World Conservation Congress, aims to support conflict resolution and best practices in protected areas by ensuring that conservation practices respect the rights of indigenous and local communities.

8/3. *Development of best-practice guidelines for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity*

The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity *recommends* that the Conference of the Parties at its twelfth meeting adopt a decision along the following lines:

The Conference of the Parties,

Recalling that, according to Article 8(j) of the Convention, Parties to the Convention shall, as far as possible and as appropriate, and subject to their respective national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles (hereafter referred to as “traditional knowledge”) relevant for the conservation and sustainable use of biodiversity, and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices,

Also recalling that, according to Article 17 of the Convention, Parties to the Convention shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries, that such exchange of information shall include, *inter alia*, traditional knowledge, and that it shall also, where feasible, include the repatriation of information,

Acknowledging that the repatriation of traditional knowledge of indigenous and local communities through the sharing and exchange of information should be consistent with international agreements relevant to the conservation and sustainable use of biodiversity and national legislation,

Bearing in mind the importance of international cooperation in providing access to traditional knowledge for indigenous and local communities, in order to facilitate the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity,

Mindful of the various international bodies, instruments, programmes, strategies, standards, guidelines, reports and processes of relevance and the importance of their harmonization and complementarity, and effective implementation,

1. *Decides* to convene a meeting of a regionally balanced group of government-nominated experts on the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity, with full and effective participation of indigenous and local community organizations, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Intellectual Property Organization (WIPO), the United Nations Permanent Forum on Indigenous Issues (UNPFII) as well as other relevant organizations, reflecting the expertise of the broad range of actors involved in the repatriation of traditional knowledge of relevance to the conservation and sustainable use of biodiversity, with a view to developing draft voluntary guidelines to promote and enhance the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity, for consideration by the ninth meeting of the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions;

2. *Invites* Parties, other Governments, UNESCO, WIPO, UNPFII, other relevant organizations as well as indigenous and local community organizations, to submit relevant information, including on best practices, and their views on the development of the draft voluntary guidelines to promote and enhance the repatriation of traditional knowledge relevant to the conservation and

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sustainable use of biological diversity to the Executive Secretary, having regard to the submissions already compiled in document UNEP/CBD/WG8J/8/INF/7, as well as the best practices summarized in section V of the note by the Executive Secretary on development of best-practice guidelines for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity (UNEP/CBD/WG8J/8/5);

3. *Requests* the Executive Secretary, in order to assist the technical expert group in its work:
 - (a) To compile the information and views received and make the compilation available to the meeting of the technical expert group;
 - (b) Taking into account the information and views received, to prepare draft elements of voluntary guidelines, for consideration by the meeting of the technical expert group;
 - (c) To transmit the result of the work of the technical expert group on the draft voluntary guidelines as well as the compilation of information and views referred to in paragraph 3 (a) above, to the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions at its ninth meeting, for its consideration, and with a view to consideration by the Conference of the Parties at its thirteenth meeting;
4. *Requests* the Executive Secretary to make the information and views submitted as well as their compilation available on a dedicated web page of the Traditional Knowledge Information Portal of the Convention as a tool to assist indigenous and local communities and potential entities repatriating traditional knowledge, in their efforts to repatriate traditional knowledge relevant to the conservation and sustainable use of biological diversity;
5. *Encourages* Governments, to the extent possible, to translate information and best practices to facilitate repatriation of traditional knowledge relevant to the conservation and sustainable use of biodiversity in local languages.

8/4. *How tasks 7, 10 and 12 could best contribute to work under the Convention and to the Nagoya Protocol*

The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity,

1. *Noting* the ongoing preparations for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization and efforts towards the implementation of the Protocol, *requests* the Executive Secretary to present the outcomes of this meeting of the Working Group on tasks 7, 10 and 12 to the third meeting of the Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol for its consideration;

2. *Recommends* that the Conference of the Parties at its twelfth meeting adopt a decision along the following lines:

The Conference of the Parties,

Taking note of the Expert Study on how the implementation of tasks 7, 10 and 12 of the revised Multi-Year Programme of Work could best contribute to the work under the Convention and the Nagoya Protocol,

Noting the desirability for consistent terminology throughout the programme of work on Article 8(j) and related provisions, and within the Convention,

Recalling decision IX/13 C on considerations for guidelines for documenting traditional knowledge,

Also noting that at this time there is no centralized mechanism for indigenous and local communities to report unauthorized access of their traditional knowledge,

Further noting the need to advance tasks 7, 10 and 12 in a manner that avoids any inconsistencies with the Nagoya Protocol, avoids duplication and overlap of work undertaken in other international fora, and takes into account relevant developments, including under the Nagoya Protocol, the United Nations Permanent Forum on Indigenous Issues and the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) of the World Intellectual Property Organization (WIPO),

Also noting that the Nagoya Protocol applies to traditional knowledge associated with genetic resources,

Recalling also the Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant to the Conservation and Sustainable Use of Biological Diversity,

Noting that this Working Group positively contributes to the implementation of the Nagoya Protocol,

Recognizing that the development of guidelines for tasks 7, 10 and 12 will contribute to capacity-building for the implementation of the Convention and the Nagoya Protocol,

1. *Decides* to implement tasks 7, 10 and 12 in an integrated manner that is mutually supportive of the Nagoya Protocol and of the work undertaken in other international fora through the

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development of voluntary guidelines with the full and effective participation of indigenous and local communities that will assist Parties and Governments in the development of legislation or other mechanisms, including national action plans and *sui generis* systems, as appropriate, for an effective implementation of Article 8(j) and related provisions, that recognize, safeguard and fully guarantee the rights of indigenous and local communities over their knowledge, innovations and practices, within the context of the Convention;

2. *Decides* to include the following sub-tasks in priority order:

Phase I

The Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity (“Working Group”) is to:

- (i) Develop guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure that private and public institutions interested in using such knowledge, practices and innovations obtain the prior informed approval of the indigenous and local communities;
- (ii) Develop guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure that indigenous and local communities obtain a fair and equitable share of benefits arising from the use and application of their knowledge, innovations and practices;
- (iii) Develop standards and guidelines for the reporting and prevention of unlawful appropriation of traditional knowledge;
- (iv) Develop a glossary of relevant key terms and concepts to be used within the context of Article 8(j) and related provisions;

Phase II

The Working Group may consider further work on the following sub-task, in light of progress made on priorities (i), (ii), (iii) and (iv) above, including:

- (v) Advancement of the identification of the obligations of countries of origin, as well as Parties and Governments where such knowledge, innovations and practices are used;

3. To ensure that advances made can contribute in a timely fashion to the effective implementation of the Convention, the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets, as well as the Nagoya Protocol, *decides* to address and adopt the voluntary guidance developed under each sub-task as a stand-alone but complementary element of the overarching task;

4. *Invites* Parties, Governments, relevant international organizations and indigenous and local communities to submit their views, including information on model clauses, best practices, experiences and practical examples for obtaining the prior informed consent or approval and involvement for access to the knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity and for the sharing of benefits arising from the use of this knowledge with those communities, and their complementarity with the Nagoya Protocol, on the sub-tasks (i), (ii), (iii) and (iv) to the Executive Secretary;

5. *Requests* the Executive Secretary to compile and analyse these views taking into account relevant work in related international processes and to draft guidelines for sub-tasks (i), (ii) and (iii) and,

following a gap analysis, draft a glossary for sub-task (iv) and to make them available to the ninth meeting of the Working Group on Article 8(j) and Related Provisions for its consideration;

6. *Noting* the relevance of the elements of *sui generis* systems as well as the draft glossary of terms to the revised tasks 7, 10 and 12, *invites* the Working Group to use the elements of *sui generis* systems (UNEP/CBD/WG8J/8/6/Add.1) as appropriate, in its work on those tasks.

8/5. *Sui generis systems for the protection, preservation and promotion of traditional knowledge, innovations and practices*

The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity

1. *Recalls* paragraphs 5 to 8 of decision XI/14 E and *urges* Parties, other Governments and relevant organizations to provide financial support for the implementation of that decision;

2. *Recommends* that the Conference of the Parties at its twelfth meeting adopt a decision along the following lines:

The Conference of the Parties

1. *Acknowledges* the contribution of *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices of indigenous and local communities to the achievement of Aichi Biodiversity Target 18;

2. *Takes note* of the revised elements for *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices of indigenous and local communities as contained in the note by the Executive Secretary (UNEP/CBD/WG8J/8/6/Add.1) and *invites* Parties to make use of them as may be appropriate in their particular circumstances;

3. *Recognizing* the relevance of the possible elements of *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices of indigenous and local communities as well as the draft glossary of terms as contained in the note by the Executive Secretary on the subject (UNEP/CBD/WG8J/8/6/Add.1) to tasks 7, 10 and 12, and taking into account the need to further refine the glossary of terms, *invites* the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions to use the possible elements and draft glossary, as appropriate, in its work on those tasks;

4. *Invites* Parties, other Governments, international organizations, non-governmental organizations and indigenous and local communities to submit views on possible elements of *sui generis* systems as contained in the note by the Executive Secretary and experiences regarding *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices of indigenous and local communities, including community protocols and other forms of legal provisions, to the Secretariat;

5. *Requests* the Executive Secretary to produce a technical series publication that draws from a geographically balanced set of existing case studies and examples related to the possible elements of *sui generis* systems taking into account the information submitted and experience gathered on a broad range of *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices of indigenous and local communities with a view to informing the work of Parties, other Governments and indigenous and local communities on the development of *sui generis* systems, including on future priority work on implementation of tasks 7, 10 and 12, and to provide for a peer-review of the final draft;

6. *Urges* Parties and other Governments to recognize, support and encourage the development of local *sui generis* systems by indigenous and local communities, including through the development of community protocols, as part of national action plans for the protection, preservation and promotion of traditional knowledge, innovations and practices within national biodiversity strategies and action plans, and *invites* Parties and other Governments to report on these initiatives through the national

reporting process, the Working Group on Article 8(j) and Related Provisions, and through the Traditional Knowledge Information Portal of the Convention;

7. *Encourages* Parties and other Governments to develop mechanisms to promote compliance with *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices of indigenous and local communities at national level, as well as tools to promote international cooperation in this regard;

8. *Requests* the Executive Secretary to continue to inform the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) of the World Intellectual Property Organization on the work carried out regarding *sui generis* systems for the protection, preservation and promotion of traditional knowledge, innovations and practices of indigenous and local communities, including working modalities for future consideration of this item, and other matters of mutual interest, with a view to ensuring complementarity and avoiding overlaps.

8/6. *Recommendations from the United Nations Permanent Forum on Indigenous Issues*

The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity

1. *Recalls* decision XI/14 G, paragraph 2, of the Conference of the Parties concerning the recommendation of the United Nations Permanent Forum on Indigenous Issues (UNPFII) to use the term “indigenous peoples and local communities” in the work of the Convention on Biological Diversity, and requesting the Ad Hoc Open-Ended Inter-sessional Working Group on Article 8(j) and Related Provisions to consider the matter, and all its implications for the Convention and its Parties, taking into account submissions by Parties, other Governments, relevant stakeholders and indigenous and local communities;

2. *Notes* the use of the term “indigenous peoples” in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Rio+20 Outcome Document;⁶

3. *Affirms* that there is no intention to reopen or change the text of the Convention or its Protocols, while noting that many Parties expressed a willingness to use the terminology “indigenous peoples and local communities” in future decisions and secondary documents under the Convention and some Parties needed further information and analysis on the legal implications of the use of the term “indigenous peoples and local communities” for the Convention and its Protocols in order to take a decision;

4. *Requests* the Executive Secretary to prepare an independent analysis, as referred to in paragraph 3 above, including by obtaining advice from the United Nations Office of Legal Affairs, and to make it available to the Conference of the Parties at least 90 days before its twelfth meeting with the view to facilitating further consideration of the matter;

5. *Recommends* to the Conference of the Parties to:

(a) Note the recommendations arising from the eleventh and twelfth sessions of the UNPFII and *request* the Executive Secretary to continue to inform the UNPFII on developments of mutual interest; and

(b) Decide, at its twelfth meeting, based on the results of the analysis and advice, on the appropriate terminology to use in future decisions and secondary documents under the Convention.

⁶ United Nations General Assembly resolution 66/288, annex.

Annex II

**IN-DEPTH DIALOGUE ON THEMATIC AREAS AND CROSS-CUTTING ISSUES:
“CONNECTING TRADITIONAL KNOWLEDGE SYSTEMS AND SCIENCE, SUCH AS THE
INTERGOVERNMENTAL SCIENCE-POLICY PLATFORM ON BIODIVERSITY AND
ECOSYSTEM SERVICES, INCLUDING GENDER DIMENSIONS”**

I. BACKGROUND

1. Pursuant to decision XI/14 A, paragraph 7, of the Conference of the Parties, the eighth meeting of the Ad Hoc Open-ended Inters-Sessional Working Group on Article 8(j) and Related Provisions held an in-depth dialogue on the issue of “*Connecting traditional knowledge systems and science, such as the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, including gender dimensions*”, on 9 October 2013. To assist the Working Group in its dialogue, the Executive Secretary had put together a regionally balanced panel to launch the discussions.

II. PANEL PRESENTATIONS

Ms. Joji Cariño, Director of the Forest Peoples Programme

2. Ms. Joji Cariño (Director of Forest Peoples Programme) said that the Convention had created a knowledge space of great cultural diversity. Experiences such as the ceremonial prayer offered by the Mohawk Elders to open the meeting and the engagement with delegates beyond the formal roles of State versus indigenous representative were deeply enriching. The way in which the Working Group, in particular, had institutionalized intercultural sensitivity in its meetings and practices could serve as a model for transforming the United Nations into an organization of the world’s peoples.

3. It was nevertheless difficult to create conditions of equal respect for cultures and knowledge systems within an intergovernmental structure where Parties held the power of decision-making. Full and effective participation mechanisms and intercultural sensitivity were useful tools, but modern science was the knowledge base of modern States and continued to dominate over indigenous and local cultures and knowledge. Traditional knowledge ran the risk of being reconstituted as a form of classical intellectual property, and of being dismembered into separate legal constructs, which ran counter to the interconnected, holistic indigenous worldview.

4. Despite those concerns and as a result of the work done under the Convention, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) was emerging as a diverse knowledge platform. As traditional knowledge was mainstreamed, free prior and informed consent and appropriate mechanisms for the full and effective participation of indigenous peoples and local communities must be incorporated into all newly created knowledge spaces as vital safeguards. Knowledge sharing could also provide great opportunities. Examples included community monitoring guided by indigenous spiritual frameworks as a new form of maintaining the resilience of social-ecological systems. There were also examples where community monitoring had led to the revitalization of customary institutions and rules for forest and ecological agriculture restoration. Knowledge formed peoples’ ways of living in the material world. It could also transform that world. Given that power of knowledge, cultural diversity, sharing and collaboration were challenges to be grasped.

Ms. Pernilla Malmer, Senior Advisor, the Resilience and Development Programme, Stockholm Resilience Centre

5. Ms. Pernilla Malmer shared some of the conclusions of the Guna Yala dialogue workshop on connecting diverse knowledge systems held in April 2012. The original aim of the workshop had been to strengthen exchange and cross-fertilization between knowledge systems, connect them for better ecosystem governance, and improve knowledge generation, ecosystem assessments and capacity-building in knowledge-related processes. Trust, reciprocity, equal sharing and transparency had been identified as

key ingredients of dialogues across knowledge systems. Dialogue must be voluntary, with the human being at its core, and motivated by a genuine interest in learning from others.

6. While sharing could serve to preserve knowledge, some knowledge was sacred and appropriate safeguards were needed to prevent its misappropriation. Learning and knowledge were closely linked to spiritual belief systems. It was important to identify appropriate mechanisms for the validation of knowledge across knowledge systems used to inform policy decisions. Western knowledge systems were not fit to validate indigenous knowledge, and vice versa.

7. Exchange between different knowledge systems could take various forms: they could be integrated, operate in parallel, or co-produce knowledge through engagement of mutual processes of knowledge generation. The multiple evidence based approach emphasized the complementarity of knowledge systems, the importance of letting each knowledge system speak for itself, and the need for respective mechanisms within each system to evaluate knowledge. It could be applied, for example, in a study on reindeer grazing and its impact on biodiversity and vice versa conducted by the Swedish Biodiversity Centre in collaboration with the Swedish Saami Parliament. The study had shown that the scientific study was useful for providing specific data for a specific period, while Saami knowledge was derived from observations over a long period of time and often transmitted from generation to generation. The two systems combined facilitated a greater understanding of the results, provided valuable input for policymaking, and empowered the communities that managed the ecosystem in question. That approach was also applicable to work on community based monitoring and information systems implemented by indigenous peoples, as it facilitated the generation of more diverse data and thus provided a more complete picture for ecosystem assessments.

Ms. Kathy L. Hodgson-Smith, Métis Nation, Canada

8. Ms. Kathy Hodgson-Smith introduced the results of a study on Métis women's traditional knowledge which had formed part of a project to engage Métis youth in the traditional Métis territories in the province of Saskatchewan, Canada. The study had used photographs of families and interviews to uncover the role that women played in Métis culture. The knowledge held by Métis women had to be placed in its geographic context, and the results of the study had been digitized to produce maps of the activities of the Métis in their territories. The interviews had revealed the importance of the traditional knowledge of Métis women and their function within Métis society. Women were as familiar as men with the techniques of navigation, hunting, fishing and the gathering of natural medicines. They were producers of crops, such as potatoes, and understood and practiced the techniques required for the preparation and storage of food.

9. Métis women were also teachers who were responsible for the intergenerational transmission of knowledge through techniques of work and play, which was illustrated by the use of dance as a mechanism of socialization which taught children about social relationships and safe physical contact. Traditional knowledge was set within cultural identity, and women played an important role in choosing how to transmit that knowledge to young people. They were important as land managers and leaders, sometimes being called upon to testify to traditional practices. Women were also important actors at the gatherings held on burial sites where the Métis met periodically to share knowledge and experience. However, Métis women also met on their own to speak among themselves and share their experiences among themselves.

10. Ms. Hodgson-Smith also explained that research was often limited by the capacity of researchers to understand, or not understand, what they were being told. Synergies were often lacking between research projects. That had been the case among a number of the other studies that had taken place at the same time as the study she was presenting. The unique point revealed by her study was what it revealed about the importance of Métis women's traditional knowledge and how that was situated within the context of shared cultural values and was linked to specific territories. That knowledge had been generated over a long period and was shared between generations and within extended family networks,

as well as across genders. It was also an essential part of the ongoing relationship of the Métis with their ancestral territory.

Ms. Jennifer Rubis, Local and Indigenous Knowledge Systems (LINKS), UNESCO

11. Ms. Jennifer Rubis introduced the programme on Local and Indigenous Knowledge Systems (LINKS) which had been established by The United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2002. She also gave an overview of the current activities on indigenous and local knowledge in the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES). She said that one of the key operating principles of IPBES was to recognize and respect the contribution of indigenous and local communities to the conservation and sustainable use of biodiversity and ecosystems. To advance that work, an international expert and stakeholder workshop on the contribution of indigenous and local knowledge systems to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, “*The Contribution of Indigenous and Local Knowledge Systems to IPBES: Building Synergies with Science*”, had been held in Tokyo, from 9 to 11 June 2013. That workshop had examined and identified procedures and approaches for working with indigenous and local knowledge systems in the framework of the Platform and had reviewed and assessed possible conceptual frameworks for the work of the Platform that were based on, or accommodated, indigenous and local knowledge systems and worldviews. The principles for the engagement with indigenous and local knowledge included building mutual trust and respect, ethical approaches to working with indigenous peoples and local communities, free, prior and informed consent, as well as the need for sharing the benefits of research and providing return value to the communities concerned. Capacity-building was also important for education and awareness-raising and the Tokyo workshop had identified the following capacity-building needs: education and awareness-raising, training scientists about indigenous and local knowledge, indigenous and local knowledge in education curricula, building awareness about the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services among indigenous people, building capacity of local and indigenous scientists, and the need to address that fact that the loss of ethno-biodiversity might be more serious crisis than the loss of biodiversity.

12. Representatives of the Tokyo workshop had attended the International Expert Workshop on the Conceptual Framework for IPBES, held in Cape Town, South Africa, from 25 to 26 August 2013, where the outcome of the Tokyo workshop had been presented. Looking to the future, Ms Rubis informed the meeting that the second meeting of the Platform’s Plenary (IPBES-2) would continue its work on its conceptual framework as well as deliverable 2(b): guidance on working with different knowledge systems. Ms. Rubis also explained that the outcomes of the different meetings of the Working Group on Article 8(j) and Related Provisions had provided significant inputs into the current Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services process on engagement with indigenous and local knowledge.

Ms. Brigitte Baptiste, General Director of the Colombian National Institute for Biodiversity “Alexander von Humboldt”

13. Ms. Brigitte Baptiste shared an anecdote about her experience as a researcher in the Colombian Amazon to illustrate that knowledge gathered by scientists was often part of traditional knowledge held by local indigenous peoples. When seeking to build synergies between knowledge systems, it was important to bear in mind the history of conflict and cooperation of methods and perspectives. Knowledge helped humanity adapt to change and although the current need for adaptation was a global issue, local communities were often the ones that had first-hand experience in that regard.

14. Different worldviews underpinning different knowledge systems, issues of accessibility and governance, and traditional hierarchies of knowledge systems needed to be taken into account when designing an overall conceptual framework for the integration of different knowledge systems. Such a framework must give equal importance to all worldviews and epistemologies. Knowledge sharing required a global community of learning in a truly multicultural setting. Intercultural training activities

could be useful tools to make the concepts of biodiversity accessible across cultures. There was also a need to promote innovative practices of knowledge production and cooperation.

15. The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services could serve to document and discuss previous conflict and cooperation experiences. It must go beyond utilitarian goals and recognize knowledge systems as the basis for a sense of place, identity and culture in all societies. A vision of the Earth shared by humanity as a whole was urgently needed. The Platform could help express knowledge complexity in new ways and languages, including by using oral tradition or artistic representation. It could also develop and promote knowledge co-production involving multiple stakeholders; facilitate cooperation between scientists and local and indigenous experts by redirecting investment and institutional innovation; and redress uneven knowledge distribution. Dialogue across knowledge systems was highly complex and more detailed work was required within the Platform to find innovative answers.

III. THE QUESTION -AND-ANSWER SESSION

16. Following the presentations by panellists, an interactive dialogue ensued. It emerged that in order to connect traditional knowledge systems and science, mutual respect, reciprocity and building trust were seen as paramount. One participant said that indigenous peoples would only share their deep knowledge and experience gained from living in harmony with nature and to engage in multilateral processes if their culture, identity and territories were respected. Once trust had been broken, it was hard to regain. Another participant agreed that respect, reciprocity and free prior and informed consent must be more than commitments on paper. In order to create global knowledge platforms for all, building trust, openness and an in-depth understanding of different cultures were crucial. Studies relating to traditional knowledge must be conducted in cooperation with indigenous peoples, who were no longer willing to serve as objects of study, but instead wanted to engage and share their vast knowledge in a framework of mutual respect. In order to create global knowledge platforms, stakeholders must recognize each other as equal human beings deserving respect and solidarity.

17. Several participants noted that the indigenous perception of nature widely differed from concepts used in international forums. The notion of separating biodiversity, genetic resources and other issues, for example, was entirely foreign to the indigenous worldview. One participant pointed out that the historic power imbalance between science and traditional knowledge was a consequence of colonialism. Few countries had integrated traditional knowledge into the education system, which often depicted modern science as superior to other knowledge systems. Furthermore, science remained a largely male-dominated field and indigenous women, in particular, were marginalized. Indigenous women researchers had difficulty in accessing funding and efforts must be made to promote their role in research. Recovering traditional indigenous knowledge was a way for indigenous peoples to recover their identity and strengthen indigenous institutions. Traditional knowledge, in particular indigenous women's knowledge, was based on everyday life experiences and deeply rooted in indigenous spirituality and identity. Another participant, concurring on the difficulty of being an indigenous researcher, shared her own experience with trying to reconcile her indigenous epistemology with the requirements of a western scientific university environment. Resolving issues of validation and historic power imbalances was a lonely task that required great spiritual strength.

18. The moderator shared the story of an Australian anthropologist who had thought that traditional knowledge was held by aboriginal men only, because the aboriginal women questioned had shared no such information with him. That story illustrated the gender barriers in the transmission of knowledge. Another participant pointed out that a form of "gender solitude" permeated even the work under the Convention. It would be important to share experiences on ways to cross those barriers to facilitate the sharing of common knowledge spaces.

19. Several participants had queries about the validation of knowledge. One participant shared the experience drawn from a project aimed at creating an inventory of native plants in which both scientists and indigenous knowledge holders had participated. The successful outcome of the project had validated both of the methods used. The moderator said that an Aboriginal Elder had explained to him that the knowledge held by one individual was validated by other Elders and eventually by transmission to future generations; unworkable or inappropriate knowledge did simply not get transmitted. He also pointed out that the notion whereby no culture was in a position to validate another culture's knowledge underpinned the entire the Convention process. One participant shared lessons learned from a Millennium Ecosystem Assessment project, which had illustrated the value of traditional knowledge and the worldview associated with such knowledge in respect to ecosystem assessment and management. At the same time, the project had demonstrated the value of scientific input in broadening the understanding of that ecosystem. The experience had been enriching for both parties and validated both systems.

20. With regard to the different options for cooperation across knowledge systems, participants enquired whether the three options, namely integration, parallel operation of systems or co-production of knowledge, had a competitive advantage over one another. One participant shared his country's experience with the creation of a "knowledge dialogue" as a basis for the revalorization of the local knowledge and wisdom of indigenous peoples in order to pave the way for an inter-scientific and intercultural dialogue between traditional knowledge-based science and modern Eurocentric western science. He suggested taking on board that experience and similar initiatives currently being developed in different academic scientific institutions around the world that cooperated with indigenous peoples in developing activities for intergenerational community processes with a territorial approach. In order to create conditions where such inter-scientific dialogue could occur, there was a need to recognize the equality of indigenous, local and western science and link indigenous peoples with decentralized and polycentric structures to facilitate active, transparent and legitimate participation.

21. There was widespread interest in the opportunities arising from the integration of traditional knowledge in the education system. One participant enquired about panellists' views on that possibility, including the integration of traditional knowledge in the training of scientists. One participant explained that universities in his country had opened their doors for indigenous youth. At the same time, indigenous holders of traditional knowledge on medicinal plants, for example, were invited to share that knowledge at university. In that connection, he wondered which body might be competent to validate traditional knowledge used in education systems. The moderator said that indigenous education could facilitate co-production of knowledge. Also, experience had showed that the quality of indigenous children's early childhood was a determining factor for their success, or failure, later in life.

22. One participant said that idea of a multiple evidence-based approach was not new. The common understanding of the world would be enhanced and deepened as hypotheses came together. However, he agreed with other participants that sharing knowledge carried risks and appropriate safeguards were needed. Given the widespread use of the Internet and social media, for example, safeguards must be put in place to ensure that sacred knowledge did not enter the public domain.

23. In regard to the frequently mentioned dichotomy between science and traditional knowledge, one participant pointed out that although science was frequently used in reference to modern science, traditional knowledge was also a form of science. Another participant agreed that the division between the two was somewhat artificial.

24. One participant requested additional information on the areas of capacity-building within the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services framework.

25. Ms. Joji Cariño said the integration of traditional knowledge in the education system was indeed beneficial. The breakdown of indigenous knowledge transmission systems was a key factor in the loss of such knowledge. It was therefore important to create an interface the education systems and involve indigenous elders or holders of traditional knowledge in those systems. At the same time, it was important

that young indigenous students were not removed from their cultural community and maintained their cultural integrity while, at the same time, getting the skills they needed to live effectively in the 21st century and broader society. As to the use of the word “science”, she said that if knowledge platforms were meant to assemble knowledge from different systems, the term might not be useful in describing that accumulated knowledge. The term “science” could serve the purpose, however, if it were defined as deriving from diverse knowledge systems.

26. Ms. Pernilla Malmer said the different ways of cooperating across knowledge systems were complementary. The advantage of one system over another depended largely on the situation. Assessments, for example, benefited from parallel processes while co-production might be more useful when it came to problem solving. More important than the system, however, was the degree of respect and transparency afforded to all involved. There was a commonly held view that knowledge was and should be validated within its own cultural system. The integration of knowledge acquired from outside into a community’s knowledge base, for example, was one form of validation. If knowledge holders participated on an equal basis in a project, as was the case in the collaborative project on reindeer grazing, knowledge from different systems could be converged and validated through that process. It was important to remember that science must not be perceived as superior, but rather as one among many equally valid knowledge systems.

27. Ms. Brigitte Batista said that the terminology to be used to describe a given knowledge system was a profound issue. Western scientists were frustrated by the lack of consideration for their findings in political decision-making. The complexity of politics left little room for taking such findings on board and global science needed to be given greater legitimacy in policy processes. At the same time, there was a common recognition of the limitations of science, and of the need to integrate other forms of knowledge in order to save the planet. Science in a broader sense could be seen as a systematic form of generating knowledge within certain rules set by a given social context. As such, it was a product of culture.
