



## Convention on Biological Diversity

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### CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY

Tenth meeting

Nagoya, Japan, 18-29 October 2010

Agenda item 6.7

#### **DECISION ADOPTED BY THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY AT ITS TENTH MEETING**

#### ***X/43. Multi-year programme of work on the implementation of Article 8(j) and related provisions of the Convention on Biological Diversity***

*The Conference of the Parties*

#### ***Progress reports***

1. *Notes* the progress made in the integration of the relevant tasks of the programme of work in the thematic programmes of the Convention and through the national reports;
2. *Requests* the Executive Secretary to report on progress on the implementation of Article 8(j) and related provisions to the seventh meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions;
3. *Urges* Parties, that have not yet submitted information regarding the implementation of the programme of work for Article 8(j) and related provisions, including on national participation of indigenous and local communities, to do so in consultation with indigenous and local communities, through the fourth national reports where possible, and in time for the seventh meeting of the Working Group on Article 8(j) and requests the Executive Secretary to analyse and summarize this information and make it available to the Working Group on Article 8(j) and Related Provisions at its seventh meeting;
4. *Decides* that the seventh meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions be organized prior to the eleventh meeting of the Conference of the Parties, preferably back-to-back with another meeting under the Convention on Biological Diversity, to further advance the implementation of the work programme on Article 8(j) and related provisions;

#### ***In-depth review and the revised multi-year programme of work***

*Recognizing* the need for a more holistic and forward-looking programme of work, taking into account recent developments, including the negotiation, adoption and implementation of the international regime on access and benefit-sharing,

*Recalling* paragraph 11 of decision IX/13 A, in which the Conference of the Parties decided to undertake at its tenth meeting an in-depth review of the tasks of the programme of work on Article 8(j) and related provisions,

5. *Decides* to revise the programme of work as adopted by decision V/16, as follows:

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- (a) To retire completed or superseded tasks 3, 5, 8, 9 and 16;
- (b) To maintain ongoing tasks including 1, 2, 4, 7, 10 and 12 and based on the results of the work, identify any further activities needed to fulfil these tasks and *requests* Parties, Governments, relevant international organizations and indigenous and local communities to submit national approaches to facilitate these tasks, and furthermore *requests* the Executive Secretary to compile and analyse this information with a view to identifying minimum standards, best practices, gaps and lessons learned, for the consideration at the seventh meeting of the Working Group on Article 8(j) and Related Provisions;

6. *Requests* that the Secretariat continue to compile and analyse submissions from Parties and other relevant organizations on national and international approaches for repatriation relevant to task 15, in accordance with Article 17, paragraph 2, of the Convention for the consideration by the Working Group on Article 8(j) in order to establish best practice guidelines;

7. *Decides* to postpone the consideration and commencement of other uninitiated tasks of the programme of work, pending the completion of current tasks, and in the light of ongoing developments, namely tasks 11, 6, 13, 14 and 17;

#### ***Article 10***

8. *Decides* to include a new major component on Article 10 with a focus on Article 10(c) in the revised programme of work on Article 8(j) and Related Provisions and requests the Ad Hoc Working Group on Article 8(j) and Related Provisions, building on the Addis Ababa Principles and Guidelines, to develop further guidance on sustainable use and related incentive measures for indigenous and local communities and also consider measures to increase the engagement of indigenous and local communities and governments at national and local level in the implementation of Article 10 and the ecosystem approach;

9. *Requests* Parties, indigenous and local communities and non-governmental organizations to submit information to the Executive Secretary regarding the implementation of Article 10 of the Convention, with a focus on Article 10(c), and requests the Executive Secretary to compile and analyse the information provided and to provide advice on how this component could be implemented to the seventh meeting of the Working Group on Article 8(j) and Related Provisions, to assist the Working Group in taking this task forward;

10. *Authorizes* the Secretariat to convene, subject to the availability of funds, an international meeting on Article 10 with a focus on Article 10(c), with the participation of Parties, Governments and international organizations, and representatives of indigenous and local communities, to provide advice on the content and implementation of the new major component for consideration at the seventh meeting of the Working Group on Article 8(j) and Related Provisions to assist the Working Group in taking this component forward;

11. *Requests* the Ad Hoc Working Group on Article 8(j) and Related Provisions, at its seventh meeting, to develop a strategy to integrate Article 10, with a focus on 10(c), as a cross-cutting issue into the Convention's various programmes of work and thematic areas, beginning with the programme of work on protected areas;

#### ***Revised agenda for the Working Group on Article 8(j) and Related Provisions***

12. *Decides* to include a new agenda item on future meetings of the Working Group on Article 8(j) and Related Provisions, commencing at its seventh meeting, entitled: "In-depth dialogue on thematic areas and other cross-cutting issues";

13. Decides to have an in-depth dialogue at the seventh meeting of the Working Group on Article 8(j) and Related Provisions, on the following theme: Ecosystem management, ecosystem services and protected areas;

***Indicators***

*Recognizing* that the status and trends of linguistic diversity and numbers of speakers of indigenous languages is a useful indicator for the retention and use of traditional knowledge, if used along with other indicators,

*Noting* the importance of both qualitative and quantitative indicators to provide a broad picture of the status and trends of traditional knowledge and capture indigenous and local community realities within the framework of the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets,

*Taking note* of the work carried out under the auspices of the Ad Hoc Open-Ended Working Group on Article 8(j) and Related Provisions, and including the regional and international technical workshops organized by the Working Group on Indicators of the International Indigenous Forum on Biodiversity, to identify a limited number of meaningful and practical indicators on the status of traditional knowledge, innovations and practices and in other focal areas, to assess progress towards achieving the Strategic Plan and the biodiversity targets,

*Expressing its warm gratitude* to the Spanish Agency for International Cooperation (AECI), the Government of Norway and the Swedish International Biodiversity Programme (Swedbio) for the generous financial support for this initiative,

14. *Adopts* the following proposed indicators:

- (a) Status and trends in land-use change and land tenure in the traditional territories of indigenous and local communities;
- (b) Status and trends in the practice of traditional occupations;

to complement the already adopted indicator on the status and trends of linguistic diversity and numbers of speakers of indigenous languages in order to assess progress towards the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets;

15. *Invites* the International Labour Organization to explore the possibility of compiling data concerning the practice of traditional occupations and to provide advice on the use of this indicator for the consideration of the Working Group on Article 8(j) and Related Provisions at its seventh meeting;

16. *Further invites* the relevant agencies, including the Food and Agriculture Organization of the United Nations, the International Fund for Agricultural Development and the International Land Coalition, to provide advice on the use on the indicator “Status and trends in land-use change and land tenure in the traditional territories of indigenous and local communities” for the consideration of the Working Group on Article 8(j) and Related Provisions at its seventh meeting;

17. *Requests* the Executive Secretary, in collaboration with Parties, Governments, international agencies, the Working Group on Indicators of the International Indigenous Forum on Biodiversity and interested parties, including the 2010 biodiversity indicators partnership, to pursue the ongoing refinement and use of the proposed indicators, also bearing in mind the implementation of Article 10 and the Strategic Plan for Biodiversity 2011-2020, including through further technical workshops, to consider availability of data, methodologies and coordinating organizations, and to report to the Working Group on Article 8(j) and Related Provisions at its seventh meeting to take these matters forward;

18. *Considering* the new emphasis being placed by Parties on the implementation of Article 10, requests the Executive Secretary, subject to the availability of funding, in collaboration with Parties, Governments, international agencies including the United Nations Permanent Forum on Indigenous

Issues, the Working Group on Indicators of the International Indigenous Forum on Biodiversity, relevant non-governmental organizations, and the 2010 biodiversity indicators partnership, to explore, through further technical workshops, the development of appropriate indicators for customary sustainable use and to report on this matter to the Working Group on Article 8(j) and Related Provisions at its seventh meeting, so that this matter can be advanced within the framework of the Aichi Biodiversity Targets and the Strategic Plan for Biodiversity 2011-2020;

19. *Further invites* Parties, international organizations, indigenous and local communities organizations and relevant stakeholders to provide views on the development of indicators on land tenure and requests the Executive Secretary to prepare an information note for the Working Group at its seventh meeting.

### ***Participation***

#### (a) Voluntary Fund

20. *Requests* the Secretariat, through the Voluntary Trust Fund to Facilitate the Participation of Indigenous and Local Communities in the Work of the Convention, to strengthen, where possible and subject to the availability of funding, the participation of indigenous and local communities in capacity-building workshops under the Convention, as appropriate;

#### (b) Local communities

21. *Noting* that the involvement of local communities in accordance with Article 8(j) has been limited for various reasons, *decides* to convene an ad hoc expert group meeting of local-community representatives, bearing in mind geographic and gender balance, with a view to identifying common characteristics of local communities, and gathering advice on how local communities can more effectively participate in Convention processes, including at the national level, as well as how to develop targeted outreach, in order to assist in the implementation the Convention and achievement of its goals;

### ***Capacity-building, community education and public awareness***

22. *Requests* the Executive Secretary to continue to work with donors and partners, with a view to increasing capacity-building efforts for indigenous and local communities, and in particular, where possible, and subject to the availability of funding, develop medium and long-term strategies, to raise awareness of and facilitate their effective participation in Convention processes, taking into account the negotiation, elaboration and implementation of the international regime on access and benefit-sharing;

23. *Further requests* the Executive Secretary to continue to develop communication, education and public awareness activities and products, including with the contributions of indigenous and local communities, to assist in the community education of indigenous and local communities about the work of the Convention and also raising awareness of the general public about the role of indigenous and local communities, especially the role of indigenous and local community women, and their traditional knowledge in conservation, sustainable use of biodiversity and other global issues, including climate change;

### ***Technical guidelines for recording and documenting traditional knowledge, innovations and practices***

*Recognizing* that the documentation and recording of traditional knowledge should primarily benefit indigenous and local communities and that their participation in such schemes should be voluntary and not a prerequisite for the protection of traditional knowledge,

*Noting* the lead role the Convention on Biological Diversity plays regarding traditional knowledge, innovations and practices on biological diversity,

*Further noting* the work of other organizations concerning guidelines for documentation of traditional knowledge, such as the development of a toolkit for the documentation of traditional knowledge by the World Intellectual Property Organization, and documentation and traditional knowledge projects

proposed by the United Nations Educational, Scientific and Cultural Organization and the desirability of harmonization of this work within the international system,

*Emphasizing* that the developing of guidelines should not prejudice the development of other forms of protections,

*Further noting* that documentation of the traditional knowledge, innovations and practices of indigenous and local communities for the purpose of safeguarding traditional knowledge should be conducted by indigenous and local communities with their prior and informed consent and remain under their ownership,

24. *Invites* Parties and Governments and international organizations to support and assist indigenous and local communities to maintain, control, protect and develop their traditional knowledge, innovations and practices, and by supporting capacity building and the development of necessary infrastructure and resources with the aim of enabling indigenous and local communities to make informed decisions regarding the documentation of traditional knowledge;

25. *Requests* the Executive Secretary to continue to collaborate with United Nations Permanent Forum on Indigenous Issues, the United Nations Educational, Scientific and Cultural Organization and the World Intellectual Property Organization, to assist the World Intellectual Property Organization in completing its work on the development of the WIPO toolkit on the documentation of traditional knowledge, addressing both the potential benefits and threats of the documentation of traditional knowledge and, in collaboration with the World Intellectual Property Organization, to make the toolkit available through the clearing-house mechanism and the Traditional Knowledge Information Portal;

***Recommendations of the United Nations Permanent Forum on Indigenous Issues***

26. *Takes note* of the recommendation of the United Nations Permanent Forum Indigenous Issues which “requests Parties to consider, in the development, negotiation and adoption of the 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, that the standard established in the code adequately reflect relevant international standards, including the Declaration on the Rights of Indigenous Peoples”;

27. *Takes note also* of the report of the Indigenous and Local Community, Business and Biodiversity Consultation (UNEP/CBD/WG8J/6/INF/11), held at United Nations Headquarters in New York on 12-13 May 2009, and encourages further discussions with a view to ensuring the effective implementation of the Convention on Biological Diversity, through creative partnerships between stakeholders, while stimulating community-level businesses based on the sustainable use of biodiversity;

28. *Requests* the Executive Secretary to inform the United Nations Forum on Indigenous Issues at its next session of progress made on the 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.

*Annex*

**TERMS OF REFERENCE FOR TASK 15 OF THE PROGRAMME OF WORK ON  
ARTICLE 8(j) AND RELATED PROVISIONS AS PRESENTED IN THE NOTE BY THE  
EXECUTIVE SECRETARY ON CONSIDERATION AND DEVELOPMENT OF TERMS OF  
REFERENCE FOR TASK 15 OF THE PROGRAMME OF WORK FOR ARTICLE 8(j) AND  
RELATED PROVISIONS PREPARED FOR THE SIXTH MEETING OF THE WORKING  
GROUP ON ARTICLE 8(j) AND RELATED PROVISIONS OF THE CONVENTION ON  
BIOLOGICAL DIVERSITY (UNEP/CBD/WG8J/6/2/Add.2)**

1. The purpose of task 15 is to develop guidelines that would facilitate repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity, in order to facilitate the recovery of traditional knowledge of biological diversity.
2. Task 15 is to be interpreted in accordance with the provisions of the Convention and, in particular in light of Article 8(j) and related provisions.
3. Task 15 is intended to build on, and enhance, existing repatriation activities undertaken by Parties, Governments and other entities including museums, herbaria and botanical gardens, data-bases, registers, gene-banks, etc.
4. Stakeholders include, *inter alia*:
  - (a) Parties and Governments;
  - (b) Museums, herbaria, botanical gardens and other collections containing information on the knowledge, innovations and practices of indigenous and local communities relevant for conservation and sustainable use;
  - (c) Relevant international organizations (and in particular UNPFII, UNESCO, WIPO);
  - (d) Representatives of indigenous and local communities;
  - (e) Relevant NGOs and IPOs with expertise on these issues.
5. The Secretariat shall:
  - (a) Compile and analyse submissions by Parties and other relevant organizations on national and/or international approaches for repatriation relevant to task 15, for consideration by the Working Group on Article 8(j) and Related Provisions at its seventh meeting, in order to establish best practices learned;
  - (b) Based on best practices, and advice from the Working Group, the Secretariat may develop for the consideration of the Working Group on Article 8(j) and Related Provisions:
    - (i) Best-practice guidelines for the initiation of national repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity, in order to facilitate the recovery of traditional knowledge of biological diversity; and
    - (ii) Best-practice guidelines or a framework for the initiation of international repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity, in order to facilitate the recovery of traditional knowledge of biological diversity.
6. Parties, Governments, international organizations, indigenous and local community organizations and non-Governmental organizations shall communicate to the Secretariat information on best practices for the repatriation of information, including cultural property relevant to task 15.

7. The Working Group on Article 8(j) and Related Provisions:

(a) Based on information received, will consider, at its seventh meeting, how this task can be taken forward in both the domestic and international contexts, taking into account information and advice received, the in-depth review of the programme of work for Article 8(j) and related provisions and the international regime on access and benefit sharing; and

(b) Further determine how task 15 should be considered within the in-depth review of Article 8(j) and incorporated in the multi-year programme of work, and also how work on this task might usefully complement the effective implementation of the international regime on access and benefit-sharing.

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