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Item 11.1 of the provisional agenda

**INFORMATION PAPER ON KNOWLEDGE INNOVATIONS AND PRACTICES OF
INDIGENOUS AND LOCAL COMMUNITIES**

Note by the Chairman of Working Group 2 of the
second meeting of the Subsidiary Body on Scientific,
Technical and Technological Advice

I. BACKGROUND

1. The Subsidiary Body on Scientific Technical and Technological Advice (SBSTTA) to the Convention on Biological Diversity (CBD), at its second session held in Montreal, Canada, on 2-6 September, 1996, approved the following recommendation II/4 on agenda item 3.6 "Knowledge, Innovations and Practices of Indigenous and Local Communities":

"The SBSTTA,

1. Recognizes the importance of addressing the issue of knowledge, innovations and practices of indigenous and local communities, and its importance for the implementation of the Convention on Biological Diversity.
2. Encourages the Chairman of Working Group 2 to prepare a paper reflecting the diverse views and suggestions discussed during the second meeting of the SBSTTA in time for the next meeting of the Conference of the Parties.

3. Encourages the production and distribution, by the groups representing local and indigenous communities participating in the meeting of the SBSTTA, of information on their views and recommendations on the implementation on Article 8 (j).
4. Recommends that the Conference of the Parties request specific advice from the SBSTTA on any technical and scientific issues relating to the implementation of Article 8(j).
5. Urges that the indigenous knowledge post within the Secretariat be filled as soon as possible."

This recommendation is the result of the discussions in Working Group 2 (WG2) which considered the above agenda item.

2. In its deliberation, the Group had before it a note by the Secretariat, document UNEP/CBD/SBSTTA/2/7, entitled "Knowledge, Innovations and Practices of Indigenous and Local Communities" and an information paper from the Secretariat, document UNEP/CBD/SBSTTA/2/Inf.3, entitled "Knowledge, Innovations and Practices of Indigenous and Local Communities and Forest and Biological Diversity" (containing in Annex 1 as sources of information a useful and relatively complete list of references).
3. In the introduction to the discussion, the representative of the Secretariat pointed out that document UNEP/CBD/SBSTTA/2/7 updated a previous note prepared by the Interim Secretariat for the second session of the Intergovernmental Committee on the Convention on Biological Diversity, UNEP/CBD/IC/2/14, entitled "Farmers' Rights and Rights of Similar Groups - The Rights of Indigenous and Local Communities Embodying Traditional Lifestyles: Experience and Potential for Implementation of Article 8 (j) of the Convention on Biological Diversity".
4. The note before the Group recalled the recommendations of the Open-ended Intergovernmental Meeting of Scientific Experts on Biological Diversity, held in Mexico City in April 1994, and analysed the threefold provisions of Article 8 (j). The note also recalled that Annexes II, III and V of the report of the Mexico meeting (UNEP/CBD/IC/2/11) contain lists of technologies that could be usefully analysed by the SBSTTA as far as their relation to contribution of the implementation of parts of the Convention is concerned.
5. During the discussion of this item in WG2, statements were made by representatives of several countries.
6. Additionally, in accordance with the wish expressed by many delegations, statements were also made by a representative of the Inuvialuit Game Council, by representatives of indigenous peoples' organizations (Four Directions Council, Indigenous Peoples' Biodiversity Network, International Alliance of Indigenous-Tribal Peoples of the Tropical Forests), and by a representative of an NGO active in the field of scientific-cultural studies on indigenous knowledge (COBASE, speaking on behalf of the International Scientific Committee on Diversity).
7. The representatives of these non-governmental organizations all: emphasized the role of indigenous peoples in sustainable development, especially as traditional custodians of biological diversity; requested that emphasis be shifted from "extraction" of traditional knowledge to respecting, preserving and maintaining such

knowledge; and called for a recognition of the collective rights of indigenous peoples within their territories, and participatory approaches to the development of projects.

8. A roundtable on "Indigenous Knowledge and Biodiversity Conservation: Challenges under the Convention on Biological Diversity" was also organized *a latere*, on 3 September, 1996, by the Indigenous Peoples' Biodiversity Network and the Indigenous Peoples' Caucus; and was attended by the majority of delegations who participated in WG2.

9. The discussions in WG2 and in the closing plenary session of the SBSTTA revealed that, as far as this important and sensitive item is concerned, consensus could be reached only on the points listed in recommendation II/4.

10. However, all delegations underlined that the discussion had been rich and indicative of the ongoing lively debate at an international level, and that therefore, some record should be kept of such a discussion and made available to the Conferences of the Parties (COP).

11. Accordingly, paragraph 2 of recommendation II/4 was approved, encouraging the Chairman of WG2 to prepare, in time for the third meeting of the COP in Buenos Aires, an information paper reflecting, in the form of a minute, the diverse views and suggestions mentioned above. Paragraph 3 of the recommendation was approved in the same spirit.

II. SUMMARY OF THE DISCUSSIONS

12. The Group attempted to examine the issues in the context of Article 8(j), namely:

- (i) respect, preserve and maintain the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.
- (ii) promote the wider application of such knowledge, innovations and practices with the approval and involvement of the stakeholders;
- (iii) encourage the equitable sharing of the benefits arising from the use of such knowledge, innovations and practices.

13. During the debate the need for elaboration of basic terms, such as those appearing in Article 8(j) and in related articles of the Convention, and for the verification of these terms against the terminology used by various stakeholders, became apparent. Such terms include, *inter alia*: indigenous communities, local communities, farmers, indigenous knowledge, innovations and practices; traditional knowledge and/versus modern science.

14. The fact that the need for elaboration and verification of terms was recognized does not imply that agreement emerged on the definitions.

15. In particular, the question of traditional knowledge and/versus modern science was considered particularly delicate. A full range of opinions was expressed: from that which considers traditional knowledge as a part of, or even ancillary to, the whole body of knowledge represented by modern science; to that which

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considers traditional knowledge to represent the only "true" science in respect to "conventional" science. As a consequence, the use of the terms "traditional science" and "ethnoscience" were also proposed by some representatives of Governments and of NGOs.

16. Most Parties agreed that traditional knowledge should be recognized as having a status equal in respect to modern science.

17. It is worthwhile to recall that UNCED Agenda 21 acknowledged that: "indigenous people have developed over many generations a holistic traditional scientific knowledge of their lands, natural resources and environment..." and that States are requested : "to involve indigenous people and their communities at the national and local levels in resource management and conservation strategies".

18. The majority of representatives attending WG2 agreed that, to implement Article 8(j), governments and other stakeholders should anyhow recognize the legitimacy, integrity and value of knowledge, innovations and practices of indigenous and local communities; and that case studies carried out from Parties (and eventually NGOs) on the interaction between traditional knowledge and modern science should be the object of information and consideration.

19. The need for the knowledge, innovations and practices of indigenous and local communities to be documented and examined (provided the communities agree), and thereafter the need for the dissemination of more information on this subject, also in order to promote a better understanding and public awareness of indigenous and local cultures, was the object of convergence in WG2; such a need is reflected in recommendation II/4 and in Article 8(j) itself.

20. It was widely recognized that the Clearing-House Mechanism (CHM) could make a valuable contribution in disseminating this kind of information.

21. The majority of Parties also indicated that here is a need to develop capacity building programmes for indigenous and local communities in order to enable them to participate adequately in the implementation of the Convention.

22. This capacity building should also favor the interaction between traditional knowledge and modern science.

23. Such a development of capacity building implies some form of specific support at a local and regional level, even if duplication of activities in respect to other work related to the implementation of the CBD should be avoided.

24. The need for global or regional indigenous networks, and improved communications between the indigenous peoples at the various levels (intra- and inter-tribal, national, regional and worldwide - some interventions stressing one or another of these levels), through a variety of mechanisms, was noted by some representatives.

25. Several representatives suggested that reference to the knowledge and resources of indigenous and local communities at the national level could be integrated into Parties' national reports, possibly together with information on measures taken to implement Article 8(j) and related provisions in the Convention.

26. The exchange of such national experiences via national reports could make an important contribution to the implementation of Article 8(j) and of the CBD in general.
27. The occurrence of links between the item concerning knowledge, innovations and practices of indigenous and local communities, and issues such as intellectual property rights, access legislation, human rights and other legal issues, was widely recognized.
28. Some interventions underlined that it could be worth investigating whether there is a need to adapt existing intellectual property rights or to develop sui generis regimes in order to adequately protect and promote the knowledge, innovations and practices of indigenous and local communities and the fair and equitable sharing of benefits; the discussion evidenced that the area covered by these issues is clearly an area of current controversy.
29. Some representatives expressed doubts that, being these issues of a political nature, should be considered by SBSTTA. Clarification from the COP is clearly needed in this regard, as indicated indirectly in point 4 of recommendation II/4.
30. Several representatives suggested the potential usefulness of codes of ethics and/or codes of conduct on access to the knowledge, innovations and practices of indigenous and local communities, especially when the access to genetic resources is involved; some representatives indicated also the need of guidelines to be compiled for the development of national measures on access to the knowledge and genetic resources of indigenous and local communities.
31. Once again, this area, covering or linked to issues such as prior informed consent, control over land and resources, respect for local cultures, protection of heritage, control of the use of knowledge, access to benefits and the transfer of technology, resulted an area of current controversy.
32. This problematic area could be extended to include participatory planning and management process, private agreements, market and non-market mechanisms, monetary and non-monetary; and is related to technology transfer, and training and capacity building.
33. Some suggested that the SBSTTA could develop a study, in time for its meeting in 1997, on possible indicative codes of ethics/conduct and/or guidelines for the implementation of Article 8(j); others underlined the need of a more precise request from the COP.
34. An extremely lively discussion took place on the possibility that some kind of body could carry-out propedeutic, follow-up, or anyhow intersession work on the knowledge, innovations and practices of indigenous and local communities. The suggestions included:
- (i) an expert group;
 - (ii) an ad hoc technical panel of experts;
 - (iii) a working group of limited membership and duration;
 - (iv) an open-ended ad hoc working group covering Articles 8j, 10(c), 17(2) and 18(4); and
 - (v) an open-ended ad hoc working group with the status of that for Biosafety.

A number of suggestions were put forward for possible terms of reference for the various bodies and

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processes proposed; the financial implications of these initiatives were quoted by some delegations.

35. Some representatives suggested, as an intelocutory measure, the inclusion of indigenous representatives on national delegations; such an inclusion, already applied by some countries, could be recommended by the SBSTTA or COP.

36. The latter two suggestions, (iv) and (v), were justified by the proponents on the basis of the need to facilitate the integration of the perspectives of local and indigenous communities into the entire agenda of the Convention and all its articles.

37. Even more, the question itself of the "representativeness" of the indigenous peoples and their organizations was put on the floor by some governmental delegations and NGOs.

38. There was clearly a wide range of views, going from: (a) a sort of advisory committee of indigenous peoples' representatives; to (b) "autonomous delegations" of indigenous pepoples.

39. It could be worthwhile to discuss, in the future, as separate proposals the figures of "advisors" and "representatives" of indigenous peoples.

40. The question of the "representativeness" of the indigenous people has been already tackled in other fora; in particular: in the Vienna Declaration and Program of Action, the World Conference on Human Rights recommended that the establishment of a permanent forum for indigenous people in the United Nations system be considered; and the steering committee of the UNDP-supported "Indigenous Knowledge Program" is constituted entirely by indigenous members.

42. It should be obvious that both the availability and the respect, preservation and maintainance of indigenous knowledge are essential for a full implementation of parts of the CBD, and that therefore indigenous peoples' representatives have to be integrated in the works of the Convention; but it seems that the question of their "representativeness" is a more general problem of the United Nations system and should be answered in a variety of fora.

43. It was noted that future work on this subject should be carried out in coordination with related work in fora such as the FAO, IPF, WIPO, ILO Convention 169 (Convention Concerning Indigenous and Tribal People in Independent Countries), the UN Working Group on Indigenous Populations, the UN Commission on Human Rights, the World Bank, and multilateral development banks.

44. It was suggested that COP should consider whether guidance to the GEF to support activities on knowledge, innovations and practices of indigenous and local communities is necessary.

45. In general, more precise guidance from the COP to the SBSTTA concerning the questions on the knowledge, innovations and practice of indigenous and local communities was considered necessary for further work of the SBSTTA.

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