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Sixth meeting

The Hague, 7-19 April 2002

Item 12 of the provisional agenda*

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

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 was established by decision IV/9 of the Conference of the Parties to the Convention. It held its first meeting in Seville, Spain, from 27 to 31 March 2000. In paragraph 9 of its decision V/16, the Conference of the Parties extended the mandate of the Ad Hoc Open-ended Inter-Sessional Working Group to review progress in the implementation of the priority tasks of its programme of work according to reports provided by the Executive Secretary and the Parties to the meeting of the Working Group, and requested it to report to the Conference of the Parties at its sixth meeting.

2. Accordingly, the second meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions was held in Montreal from 4 to 8 February 2002 at the headquarters of the International Civil Aviation Organization (ICAO).

B. Attendance

3. The meeting was attended by representatives of the following Parties to the Convention and Governments: Argentina, Armenia, Bahamas, Belarus, Belgium, Benin, Bhutan, Bolivia, Brazil, Burkina Faso, Cambodia, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic Republic of Congo, Denmark, Djibouti, Dominican Republic, Ecuador, El Salvador, Ethiopia, European Community, Fiji, France, Germany, Grenada, Guinea, Haiti, India, Indonesia, Iran (Islamic Republic of), Italy, Jamaica, Jordan, Kenya, Kiribati, Lao People's Democratic Republic, Latvia, Liberia, Lithuania, Maldives, Mauritania, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Niger, Norway, Palau, Peru, Philippines, Poland,

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Rwanda, Saint Kitts and Nevis, Saint Lucia, Senegal, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Tajikistan, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, Viet Nam, Yugoslavia.

4. The following indigenous people and local community organizations were also represented: African Indigenous Women Organization, Amisknaabek In Support of Indigenous International, Asamblea Nacional Indígena Plural por la Autonomía, Asia Indigenous Peoples Pact, Asociación ANDES, Asociación Ixacavaa de Desarrollo e Información Indígena, Associates in Support of Indigenous Medicines International, Conseil Tribal Mamuitun, Consejo de Todas las Tierras, Consejo Estatal de Médicos Indígenas Tradicionales de Oaxaca, Coordinación Mapuche de Neuquen, Coordinadora Líderes Indígenas Bajo Chaco, Cree Regional Authority, Fundación para la Promoción del Conocimiento Indígena, Indigenous Forum, Indigenous Peoples' Biodiversity Information Network (IBIN), Indigenous Peoples' Secretariat (Canada) on the Convention on Biological Diversity, Instituto Nacional Indigenista, Instituto para el Resurgimiento Ancestral Indígena Salvadoreño, Instituto Quichua de Biotecnología Sacha Supai, Interior Alliance of Indigenous Nations, Interior Alliance of Indigenous Nations in British Columbia, Interlake Reserves Tribal Council, Kahnawake Environment Office, Kanehsatake, Kanienkehaka Onkwawenina Raotitiohkwa, Khoisan Consultative National Council in South Africa, Metis National Council, Mohawk Nation, Movimiento Acción y Resistencia M. A. R, Nepal Federation of Nationalities, Netherlands Center for Indigenous People (NCIV), Pauktuutit Inuit Women's Association, Peguis First Nation, Puente de Mujeres Mayas y no Mayas para el Desarrollo Humano, Russian Association of Indigenous Peoples of the North (RAIPON), Saami Council, ST'AT 'IMC Nation, Taller de Historia Oral Andina, Traditional Indigenous Healers, Tulalip Tribes, Union of Ontario Indians, Waskaganish First Nation, WATU Acción Indígena.

5. Representatives from the following United Nations Secretariat units and specialized agencies also attended: Food and Agriculture Organization of the United Nations (FAO), GEF Unit of the United Nations Environment Programme (UNEP/GEF), Global Environment Facility (GEF), United Nations Conference on Trade and Development (UNCTAD), United Nations Convention to Combat Desertification (UNCCD), United Nations Development Programme (UNDP), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Environment Programme (UNEP), World Bank, and the World Intellectual Property Organization (WIPO).

6. The following other organizations were also represented: Aboriginal Healing Foundation, Action Group on Erosion, Tech and Concentration, ALMACIGA, Asociación Napguana, Association Québécoise pour l'Evaluation d'Impacts, Center for International Environmental Law, Centro Amazónico de Antropología y Aplicación Práctica, COBASE, Comisión de Juristas Indígenas en República Argentina, Concordia University, Griffith University, Hydro-Québec, INFOE - Institute for Ecology and Action – Anthropology, Institut National de la Recherche Scientifique (INRS), International Development Research Institute (IDRC), International Institute for Environment and Development (IIED), International Marine Life Alliance, International Support Centre for Sustainable Tourism, International Work Group for Indigenous Affairs, Japan Biodiversity Association, Legwork Environmental Inc., McGill University, Millennium Assessment, Mouvement Vert, National Aboriginal Health Organization, Observatoire de l'Ecopolitique Internationale, Quaker UN Office, QIAP, Rethinking Tourism Project, Safari Club International Foundation, Skwel'wek'Welt Protection Center, Tebtebba Foundation, Unisfera International Centre, Universidad Autónoma de Yucatán, Université du Québec à Montréal (UQAM), University of Georgia, University of Saskatchewan, World Conservation Union (IUCN), World Wide Fund for Nature (WWF) International, York University.

ITEM 1. OPENING OF THE MEETING

7. The meeting was opened at 10:45 a.m. on Monday, 4 February 2002, with a ceremony of prayer led by a representative of the Mohawk community.

8. A minute of silence was observed in memory of those who had recently died, including Rodney Bobiwash, Chuse Gines and Darrell Posey, who had contributed so much to the work of the Convention to protect biodiversity.

9. Opening statements were made by Mr. Reuben Olembo (Kenya), on behalf of the President of the Conference of the Parties to the Convention; Mr. Hamdallah Zedan, Executive Secretary of the Convention on Biological Diversity; and Mr. Paul Chabeda, Division of Environmental Conventions, United Nations Environment Programme (UNEP), speaking on behalf of Mr. Klaus Töpfer, Executive Director of UNEP.

10. In his statement, Mr. Olembo welcomed participants and said that the implementation of Article 8(j) was one of the major challenges raised by the Convention on Biological Diversity. The success of the meeting would be a crucial indication of the Convention's effectiveness as a vehicle to protect, maintain and promote traditional knowledge. Draft guidelines for the conduct of cultural, environmental and social impact assessments would protect indigenous lands from environmentally unsound or socially and culturally inappropriate activities. The assessment of existing instruments on the use of traditional knowledge and the protection of cultural and intellectual property would address the issue of control over customary resources, and the control and sharing of the benefits arising from such use. The development of effective participatory mechanisms would ensure the full participation of indigenous and local communities in the preparation of national biodiversity strategies and action plans, and in national decision-making relevant to the conservation and sustainable use of biological diversity. Successful, practical conclusions on those issues would represent a significant achievement in the protection and promotion of the interests of indigenous and local communities as key stakeholders in the conservation and sustainable use of biological diversity.

11. Mr. Zedan welcomed participants and expressed his gratitude to the Governments of Canada and Spain for providing the financial support that had enabled broad participation. The active participation of indigenous and local communities at each stage of the process of implementing Article 8(j) and related provisions had been and would continue to be critical. The Convention recognized and accepted that local and indigenous communities were central to its fundamental objectives, and played a vital role in environmental management and development as a result of their knowledge and traditional practices. The meeting's timing in relation to the sixth meeting of the Conference of the Parties and the World Summit on Sustainable Development provided an opportunity to send a strong message on how the implementation of Article 8(j) could contribute not only to the implementation of the Convention but also to the achievement of sustainable development. It also represented a chance to show the world that the Convention on Biological Diversity provided an effective forum for ensuring respect for, preservation and maintenance of traditional knowledge, innovations and practices, and the promotion of their wider application. The Secretariat had prepared an overview of progress on priority tasks since the fifth meeting of the Conference of the Parties, as well as a report on the integration of relevant tasks of the programme of work into the thematic programmes of the Convention and an information document on their integration into programmes on cross-cutting issues. In conclusion, he drew attention to the draft Strategic Plan, contained in the report of the Open-ended Inter-Sessional Meeting on the Strategic Plan, National Reports and Implementation of the Convention, which was also available at the meeting. Views on how it reflected the aims of the programme of work on Article 8(j) and the aspirations of the indigenous and local communities would be particularly welcome.

12. Mr. Chabeda highlighted the significance of the meeting's outcome, saying that virtually all of the substantive articles of the Convention, as well as all the thematic and cross-cutting issues, were related

to Article 8(j) in one way or another. Developments of critical importance to the issues covered by Article 8(j) and related provisions had taken place in various international forums since the previous meeting of the Working Group. It was therefore incumbent upon the Working Group to address the apparent contradictions and elucidate the strengths and synergies of the relevant multilateral environmental agreements for the effective implementation of the obligations and spirit of Article 8(j) and related provisions. Only then would the crucial role of indigenous and local communities be more fully recognized, respected, rewarded and brought to bear worldwide, in the day-to-day practices and efforts toward effective conservation of biological diversity. It was similarly imperative to incorporate the traditional knowledge, innovations and practices of indigenous and local communities in the ecosystem approach and the strategic plan to be adopted under the Convention on Biological Diversity. UNEP would contribute to capacity-building for appropriate approaches to ensure the fair and equitable sharing of benefits from the utilization of genetic resources by the owners and providers of those resources. That would need to be balanced, however, with an effective, sustainable strategy for poverty alleviation, protection of human health and protection of the environment.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Officers

13. The Bureau of the fifth meeting of the Conference of the Parties served as the Bureau of the Working Group for the meeting. Mr. Reuben Olembo (Kenya) acted as the Chair of the Working Group, on behalf of the President of the fifth meeting of the Conference of the Parties, and was succeeded in the chair by Ms. Elaine Fisher (Jamaica). In the absence of Mr. Esko Jaakkola (Finland), current Rapporteur in the Bureau of the Conference of the Parties, the Working Group agreed that Ms. Barbara Di Giovanni (Italy) should serve as Rapporteur for the plenary sessions of the meeting.

2.2. Adoption of the agenda

14. At the opening session of the meeting, the Working Group adopted the following agenda on the basis of the provisional agenda that had been circulated as document UNEP/CBD/WG8J/2/1:

1. Opening of the meeting.
2. Organizational matters:
 - 2.1 Officers;
 - 2.2 Adoption of the agenda;
 - 2.3 Organization of work.
3. Reports:
 - 3.1. Report on progress in the integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the thematic programmes of the Convention on Biological Diversity;
 - 3.2. Review of progress in the implementation of the priority tasks of the programme of work on Article 8(j) and related provisions.
4. Outline of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities.
5. Draft guidelines or recommendations for the conduct of cultural, environmental and

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social impact assessments regarding developments proposed to take place on sacred sites and on lands and waters occupied or used by indigenous and local communities.

6. Participatory mechanisms for indigenous and local communities.
7. Assessment of the effectiveness of existing subnational, national and international instruments, particularly intellectual-property-rights instruments, that may have implications for the protection of the knowledge, innovations and practices of indigenous and local communities.
8. Other matters.
9. Adoption of the report.
10. Closure of the meeting.

2.3. Organization of work

15. At the 1st plenary session of the meeting, on 4 February 2002, the Working Group approved the organization of work for the meeting on the basis of the proposal contained in annex I to the annotated provisional agenda (UNEP/CBD/WG8J/2/1/Add.1). Accordingly, the Working Group agreed to establish two sessional sub-working groups: Sub-Working Group I, under the chairmanship of Mr. John Herity (Canada) to consider agenda items 4 (Outline of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities) and 5 (Draft guidelines or recommendations for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on sacred sites and on lands and waters occupied or used by indigenous and local communities) and Sub-Working Group II, under the chairmanship of Mr. Linus Spencer Thomas (Grenada), to take up items 6 (Participatory mechanisms for indigenous and local communities) and 7 (Assessment of the effectiveness of existing subnational, national and international instruments, particularly intellectual-property-rights instruments, that may have implications for the protection of the knowledge, innovations and practices of indigenous and local communities).

16. Following a proposal that, in view of their importance, agenda items 5 and 7 should be discussed in the same sub-working group, the Working Group agreed that those items would not be taken up at the same time by the sub-working groups to which they had been allocated.

17. It was further agreed that the Group of Friends of the Bureau should be composed of the following six participants nominated by indigenous and local community organizations attending the meeting: Ms. Joji Carino (Tebtebba Foundation), Ms. Esther Camac (Asociación Ixacavaa de Desarrollo e Información Indígena), Mr. Nilo Cayequero (Consejo de Todas las Tierras), Ms. Myrle Traverse (Interlake Reserves Tribal Council), Mr. Earl Stevenson (Peguis First Nation) and Ms. Lucy Mullenkei (African Indigenous Women Organization). Mr. Stevenson and Ms. Mullenkei would act as co-chairs of sub-working groups I and II, respectively.

2.4. Statements and general comments

18. Following the adoption of the agenda and the organization of work, the Working Group heard a statement from Mr. Fred Fortier (Shuswap Nation) on behalf of the Seventh International Indigenous Forum on Biodiversity and Mr. Veit Koester (Denmark), who reported on the informal consultation on genetic use restriction technologies, held in Montreal on 3 February 2002.

19. Mr. Fortier reaffirmed the fundamental right of indigenous peoples to protect their traditional knowledge, to ensure continued control and access to their traditional lands, waters and territories, and to exercise and maintain their collective rights to practise and preserve their knowledge and maintain their

spiritual obligations. He noted with regret that the right to put indigenous knowledge into practice was often suppressed and underlined the need for clear and binding frameworks to support, strengthen and prioritize the protection of traditional knowledge. The full and effective participation of indigenous peoples, especially women, in the conservation of biological diversity should also be a priority. Finally, he said that the Forum had elaborated a number of specific recommendations on substantive issues for submission to the sub-working groups.

20. Mr. Veit Koester (Denmark) said that the informal consultation had been held in response to paragraph 29 of decision V/5 of the fifth meeting of the Conference of the Parties, which required the Executive Secretary to discuss the potential impacts of the application of genetic use restriction technologies (GURTs) with organizations with relevant expertise and representatives of indigenous and local communities. The meeting, which had brought together representatives of governments, international organizations, indigenous and local communities, and non-governmental organizations, had been extremely constructive and had resulted in the identification of a set of potential impacts of GURTs on indigenous and local communities. The meeting had also agreed by consensus on a series of recommendations that the Executive Secretary might wish to take into account in the report he had been requested to prepare for the sixth meeting of the Conference of the Parties.

21. At the invitation of the chairperson, the following organizations reported on their activities relevant to the work of the Working Group: World Intellectual Property Organization (WIPO), United Nations Conference on Trade and Development (UNCTAD), Food and Agriculture Organization of the United Nations (FAO), and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

22. The representative of the WIPO outlined the work programme of WIPO on traditional knowledge over the period 1998-2002. He said that, in the period 2000-2001, the work had moved into a phase of addressing conceptual problems and testing practical solutions for the protection of traditional knowledge. The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, established in 2000, was a forum for discussions among the member States of WIPO on three primary themes, namely intellectual property issues in the context of: access to genetic resources and benefit-sharing; protection of traditional knowledge, whether or not associated with those resources; and the protection of expressions of folklore. Having reviewed the work of the Committee at its first two sessions, he said that WIPO would appreciate the contribution of the Working Group to the preparation of inventories of traditional knowledge-related periodicals, gazettes and newsletters and of existing databases of disclosed traditional knowledge, which the Committee was expected to discuss at its third session. With regard to the participation as observers in the work of the Committee, he said that, for member States to make a decision on accreditation, organizations seeking ad hoc observer status should provide WIPO with a brief description of the organization, particularly how its work related to intellectual property protection. Requests for accreditation had to be sent by 15 March in order to be considered at the third session of the Committee, to be held from 13 to 21 June 2002.

23. The representative of UNCTAD said that her organization's work on the protection of traditional knowledge had begun in February 2000 at the tenth UNCTAD conference. The emphasis was on exchanging national experiences on policies and measures to protect traditional knowledge in a broad sense and on identifying policies to harness traditional knowledge for trade and development. Since that time, there had been a number of activities. A capacity-building project on harnessing traditional knowledge for development and trade was under development. Traditional knowledge had been given special attention in ongoing trade, environment and development capacity-building projects. It was planned to include capacity-building on traditional knowledge as part of the UNCTAD work on post-Doha capacity-building. The Minister of Commerce of India had invited UNCTAD to cooperate in the organization of a seminar on traditional knowledge, to be held in New Delhi from 3 to 5 April 2002. Participants would: examine ways to harness traditional knowledge for trade and development, with a focus on issues related to the commercialization of traditional practices; exchange national experiences on

the protection of traditional knowledge; and discuss the international dimensions of the protection of traditional knowledge. UNCTAD would welcome the participation of the Convention on Biological Diversity, WIPO, the World Trade Organization (WTO) and the World Health Organization (WHO) in the meeting, and expected that the results would feed into the intergovernmental processes under the Convention on Biological Diversity, WIPO and WTO. A parallel civil society meeting was also envisaged. Finally, he said that UNCTAD offered its full support to the work of the Working Group.

24. The representative of FAO said that the philosophy behind Article 8(j) was central to the work of his organization. Indeed, local communities, including farmers, were key stakeholders in all FAO policies, programmes and activities. A recent example of the prominent role of local communities in the organization's strategies was the adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture by the FAO Conference in November 2001. The Treaty was the first legal instrument to provide for Farmers' Rights at the global level and sought to ensure the conservation and sustainable management of plant genetic resources for food and agriculture, as well as the equitable sharing of benefits arising from their use, in harmony with the Convention on Biological Diversity. The Treaty would succeed the International Undertaking on Plant Genetic Resources. He then summarized the main features of the Treaty, including its recognition of the enormous contribution made by local and indigenous communities, particularly farmers, to the conservation and development of plant genetic resources, and the provision made in the Treaty for the realization of Farmers' Rights. Pending the entry into force of the Treaty, the FAO Commission on Genetic Resources for Food and Agriculture would act as its Interim Committee and would oversee the various tasks to be undertaken for the future implementation of the Treaty, including the preparation of a draft standard agreement for facilitated access, with proposed terms for commercial benefit-sharing, and the establishment of cooperation with relevant treaty bodies and international organizations, including the Conference of the Parties to the Convention on Biological Diversity.

25. The representative of UNESCO drew the meeting's attention to the recent launching of a cross-cutting UNESCO initiative on "Local and Indigenous Knowledge Systems in a Global Society" (LINKS), which was included in UNESCO's programme for 2002-03 and its medium-term strategy for 2002-07. The project built upon early work on traditional knowledge in the 1970s and 1980s and the recent outcomes of the World Conference on Science, held in Budapest in 1999. It brought together all five UNESCO programme sectors, thereby underlining the importance of a holistic approach to understanding, recognizing and preserving local and indigenous knowledge. Key issues to be addressed and objectives included the development of synergies and linkages between indigenous knowledge and scientific knowledge for the purposes of biodiversity conservation and management. Special attention would be paid to enhancing efforts to sustain indigenous knowledge as a living and dynamic resource within indigenous communities, with particular attention being paid to indigenous and local knowledge transmission, and the strengthening of dialogue between elders and youth. The opportunities and threats posed by formal educational processes and the innovative potential offered by new information and communication technologies would be examined in that context. He concluded by mentioning that UNESCO had also recently approved a Declaration on Cultural Diversity at its General Conference held in Paris in November 2001, which included an action plan that made a specific reference to supporting traditional knowledge, in particular that of indigenous peoples.

26. Also at the 1st meeting, general statements were made by Spain (on behalf of the European Community and its member States), India, Togo (on behalf of the African Group), Brazil, and Fiji (on behalf of Pacific island countries).

27. Speaking on behalf of the European Community and its member States, the representative of Spain congratulated the Working Group on the progress made on the programme of work's priority tasks. Loss of biological diversity would hopefully be slowed by the resulting greater respect and protection for indigenous and local communities' traditional knowledge linked to the conservation and sustainable use of biological diversity. Consensus on how to proceed with a composite report on the status and trends

regarding the knowledge, innovations and practices of indigenous and local communities would provide an essential basis for the adoption of administrative, policy or economic measures. Guidelines for the conduct of environmental and social impact assessments regarding developments proposed to take place on sacred sites and on lands and waters occupied or used by indigenous and local communities should be linked to the Convention's work on issues such as the Bonn Guidelines for Access to Genetic Resources and Benefit-Sharing, the guidelines on invasive species and ongoing work on environmental impact assessments. Broad consensus and application of the precautionary principle would be required to achieve an end result that would make indigenous and local communities less vulnerable and facilitate their continued sustainable conservation and use of biodiversity. Participatory mechanisms for indigenous and local communities were considered key to the implementation of Article 8(j) and should be considered in conjunction with the issue of dissemination of information on traditional knowledge through the clearing-house mechanism. When examining the effectiveness of existing instruments with implications for the protection of knowledge, innovations and practices of indigenous and local communities, it was useful to keep in mind existing recommendations on the issues of intellectual property rights, and access to genetic resources and benefit-sharing.

28. The representative of India stressed that the traditional knowledge associated with biological resources was an intangible component of the resource itself. Moreover, it had the potential of yielding commercial benefits, which must accrue to its creators and holders. That raised complex issues and the protection of knowledge, innovations and practices associated with biological resources did not appear to meet the conditions required for the grant of patents or other rights under current intellectual property regimes. The development of an appropriate form of protection was therefore of the utmost importance.

29. The representative of Togo, speaking on behalf of the African Group, regretted that few international or national legal texts provided the right conditions for the secure and effective protection of traditional knowledge. The Convention on Biological Diversity, however, gave the possibility of establishing such conditions so every effort had to be made during the meeting to achieve an outcome that would allow the Parties to take the necessary decisions for the effective implementation of Article 8(j). The priorities should be to carry out assessments of the impact and effectiveness of the current national and international instruments, especially those concerning intellectual property rights, and to ensure the participation of indigenous and local communities.

30. The representative of Brazil said that since the Working Group's first meeting Brazil had adopted a number of new measures for the implementation of Article 8(j) and he drew attention to the need for binding agreements between the holders of traditional knowledge and those wishing to utilize it, respecting the intellectual property rights associated with such knowledge, subject to the approval of national competent authorities and according to the national legislation of the country of origin of that knowledge.

31. The representative of Fiji, speaking on behalf of the Pacific island countries, underlined the need for technical assistance to enable developing countries to be in a position to fulfil their reporting obligations and to build their capacity to protect their traditional knowledge.

ITEM 3. REPORTS

3.1. Report on progress in the integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the thematic programmes of the Convention on Biological Diversity

32. The Working Group took up agenda item 3.1 at the 2nd plenary session of the meeting, on 4 February 2002. In considering this item, the Working Group had before it a progress report prepared by the Executive Secretary on the integration of relevant tasks of the programme of work for the implementation of Article 8(j) in the thematic programmes of the Convention (UNEP/CBD/WG8J/2/2).

It also had before it, as information documents, a progress report by the Executive Secretary on the integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the cross-cutting areas of the Convention on Biological Diversity, which is being circulated as an information document (UNEP/CBD/WG8J/2/INF/2) and a note by the Executive Secretary transmitting the draft Guidelines for Activities Related to Sustainable Tourism Development in Vulnerable Terrestrial, Marine and Coastal and Mountain Ecosystems, developed by the Workshop on Biological Diversity and Tourism, held in Santo Domingo, Dominican Republic, from 4 to 7 June 2001 (UNEP/CBD/WG8J/2/INF/3).

33. Introducing the item, the Secretariat cited some examples of how Article 8(j) considerations were being incorporated in the implementation of thematic programmes. With respect to forest biological diversity, many elements of the expanded work programme included Article 8(j) considerations. Regarding the work programme on marine and coastal biodiversity, one of its basic principles was the involvement of relevant stakeholders, including indigenous and local communities. The objective of programme element 3 of the work programme on agriculture biodiversity was to strengthen the capacities of farmers and indigenous and local communities to manage agricultural biodiversity in a sustainable manner and to increase their benefits. Work on GURTs also continued under that programme. The progress report prepared by the Executive Secretary contained a set of recommendations on those issues for the Working Group's consideration.

34. Turning to cross-cutting issues, the Secretariat drew attention to the draft guidelines on sustainable tourism development, which included a number of provisions calling for the full participation of indigenous and local communities at all stages of the tourism development process. The guidelines could thus be seen as complementary to those on cultural, social and environmental impact assessment for development on sacred sites, which were before the Working Group. As far as access and benefit-sharing were concerned, the Ad Hoc Working Group on Access and Benefit-Sharing had adopted draft guidelines for submission to the sixth meeting of the Conference of the Parties that included provisions aimed at ensuring the protection of traditional knowledge in accordance with domestic laws and relevant international instruments. The Ad Hoc Working Group also recommended the development of an action plan on capacity-building.

35. During the ensuing discussion, statements, including amendments to the suggested recommendations in the progress report of the Executive Secretary, were made by the representatives of: Argentina, Colombia, Ecuador, New Zealand and Spain (on behalf of the European Community and its member States).

36. At the 4th plenary session of the meeting, on 8 February 2002, the Working Group took up a draft recommendation submitted by the Chair under this item (UNEP/CBD/WG8J/2/L.2). Introducing the draft recommendation, the Secretariat said that text was based on the suggested recommendation in the note by the Executive Secretary and included the proposals made during the discussion under the item at the 2nd plenary session of the meeting.

37. The Working Group adopted draft recommendation UNEP/CBD/WG8J/2/L.2 for transmittal to the Conference of the Parties at its sixth meeting as recommendation 2/1. The text of the recommendation as adopted is contained in the annex to the present report.

3.2. Review of progress in the implementation of the priority tasks of the programme of work on Article 8(j) and related provisions

38. The Working Group took up agenda item 3.2 at the 2nd plenary session of the meeting, on 4 February 2002. In considering the item, the Working Group had before it a note by the Executive Secretary containing a report of the review of progress of the implementation of the priority tasks of the programme of work on the implementation of Article 8(j) and related provisions (UNEP/CBD/WG8J/2/3).

39. Introducing this item, the Secretariat explained that the report was largely based on information submitted by Parties in their national reports, which showed that a number of measures and activities relevant to the programme of work on article 8(j) had already been under way before the programme of work had been endorsed by the Conference of the Parties. It was evident from the reports that progress had been made in the implementation of the priority tasks. For example, with regard to tasks 1, 2 and 4, many Parties had taken initiatives which, in some cases, had been incorporated in legislation governing access and benefit-sharing, as well as other measures such as the establishment of registers of traditional knowledge. Concerning task 8, the Executive Secretary had appointed Mr. Marcos Silva, Head of the Clearing-House Mechanism Unit, to act as the focal point within the Unit for indigenous communities. The Secretariat was also exploring informally with indigenous and local communities how best to meet their needs in terms of communication. In the case of task 9, several countries had indicated that they had established their own policies or guidelines that made it mandatory to involve indigenous communities in the impact assessment process. Finally, a number of developing countries and countries with economies in transition had indicated that they required assistance with capacity-building.

40. There was no discussion under this agenda item at the 2nd plenary session.

41. At the 4th plenary session of the meeting, on 8 February 2002, the Working Group took up a draft recommendation submitted by the Chair under this item (UNEP/CBD/WG8J/2/L.3). Introducing the draft recommendation, the Secretariat said that, as no comments had been made in the plenary discussion on the suggested recommendation contained in the note by the Executive Secretary, the text had been reproduced without change as draft recommendation UNEP/CBD/WG8J/2/L.3.

42. The Working Group adopted draft recommendation UNEP/CBD/WG8J/2/L.3 for transmittal to the Conference of the Parties at its sixth meeting as recommendation 2/2. The text of the recommendation as adopted is contained in the annex to the present report.

ITEM 4. OUTLINE OF THE COMPOSITE REPORT ON THE STATUS AND TRENDS REGARDING THE KNOWLEDGE, INNOVATIONS AND PRACTICES OF INDIGENOUS AND LOCAL COMMUNITIES

43. As decided by the Working Group at its 1st plenary session, agenda item 4 was considered in Sub-Working Group I. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on a proposed outline, plan and timetable for the preparation of a composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities (UNEP/CBD/WG8J/2/5).

44. At the 3rd plenary session of the meeting, on 6 February 2002, the Working Group heard progress reports under this item from Mr. John Herity and Mr. Earl Stevenson, Co-Chairs of Sub-Working Group I, who drew attention to the constructive spirit that had prevailed in the Sub-Working Group. Document UNEP/CBD/WG8J/2/5 had been revised in order to facilitate discussion, focusing on priority areas, and discussions would continue on the basis of the text prepared by the Co-Chairs.

45. At the 4th plenary session of the meeting on 8 February 2002, Mr. John Herity (Canada), Co-Chair of Sub-Working Group I, also speaking on behalf of Mr. Earl Stevenson (Peguis First Nation), the other Co-Chair, presented a draft recommendation that had been approved by the Sub-Working Group under this item (UNEP/CBD/WG8J/2/L.4). He drew the attention of the Working Group to an addition that should be included in the final sentence of section 1 of chapter I of the annex. The text comprised draft recommendations for submission to the Conference of the Parties and a draft outline of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles, and the plan and timetable for its preparation. It had been agreed by the Sub-Working Group by consensus and focused on the immediate priorities for the first phase.

46. Following a discussion in which a number of amendments were introduced to the text, the Working Group adopted draft recommendation UNEP/CBD/WG8J/2/L.4 for transmittal to the Conference of the Parties at its sixth meeting as recommendation 2/3. The text of the recommendation as adopted is contained in the annex to the present report.

ITEM 5. DRAFT GUIDELINES OR RECOMMENDATIONS FOR THE CONDUCT OF CULTURAL, ENVIRONMENTAL, AND SOCIAL IMPACT ASSESSMENTS REGARDING DEVELOPMENTS PROPOSED TO TAKE PLACE ON SACRED SITES AND ON LANDS AND WATERS OCCUPIED OR USED BY INDIGENOUS AND LOCAL COMMUNITIES

47. As decided by the Working Group at the 1st plenary session of the meeting, agenda item 5 was considered in Sub-Working Group I. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on draft guidelines or recommendations for the conduct of cultural, environmental and social impact assessments regarding any development proposed to take place on sacred sites and on lands or waters occupied or used by indigenous and local communities (UNEP/CBD/WG8J/2/6), together with an explanatory note to the draft guidelines (UNEP/CBD/WG8J/2/6/Add.1) containing background information.

48. At the 3rd plenary session of the meeting, on 6 February 2002, the Working Group heard progress reports under this item from Mr. John Herity and Mr. Earl Stevenson, Co-Chairs of Sub-Working Group I. Following discussion in the Sub-Working Group, a text setting out the draft principles for the conduct of assessments had been prepared by the Co-Chairs for consideration by an open-ended contact group. It was expected that a revised text would emerge from the contact group and be discussed in the Sub-Working Group as a whole before transmission to the plenary session. At its meeting the following day, the Sub-Working Group would also take up the draft recommendations under this agenda item.

49. At the 4th plenary session of the meeting, on 8 February 2002, Mr. John Herity (Canada), Co-Chair of Sub-Working Group I, also speaking on behalf of Mr. Earl Stevenson (Peguis First Nation), his Co-Chair, introduced a draft recommendation that had been approved by the Sub-Working Group under this agenda item (UNEP/CBD/WG8J/2/L.5). He said that, in the time available, the Sub-Working Group had considered that the best approach would be to refine the elements given in the note by the Executive Secretary (UNEP/CBD/WG8J/2/6 and Add.1) for incorporation in detailed recommendations for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities. The Sub-Working Group had set up a contact group, chaired by the representative of Sweden, which had done valuable work in preparing a text for the Sub-Working Group. Some words remained in square brackets, however, and the sixth meeting of the Conference of the Parties would have to take a decision thereon.

50. Following a discussion in which a number of amendments and corrections were introduced to the text, the Working Group adopted draft recommendation UNEP/CBD/WG8J/2/L.5 for transmittal to the Conference of the Parties at its sixth meeting as recommendation 2/4. The text of the recommendation as adopted is contained in the annex to the present report.

51. During the discussion, the representative of Canada made a statement regarding the text in square brackets in paragraph 16. He emphasized that the goal was to integrate the concerns of indigenous peoples into the environmental impact assessment process. Decisions on assessments, however, lay with the legally-constituted government body responsible and, under the Canadian federal system, it might be the government at the national, provincial or municipal levels, or the government of indigenous groups, or possibly some combination thereof. The approach to prior informed consent taken in the paragraph raised significant policy issues for Canada and was moreover incompatible with Canadian law and practice. Accordingly, Canada was not in a position to support that part of the text.

52. A representative of the International Indigenous Forum, in response, expressed concern at the previous speaker's statement. If domestic laws related to free, prior informed consent had to be taken into account, as the Canadian delegation insisted, it would not be possible to obtain a proper compilation of domestic laws related to free, prior informed consent that had international application. The text was aimed at ensuring respect for the consent of indigenous peoples when conducting impact assessments. Parties that did not yet have provisions for such consent should make efforts to develop them. He concluded by stressing that there was an urgent need to develop a definition and concept of free, prior informed consent that was inclusive and harmonious for both access to biological resources and traditional knowledge.

ITEM 6. PARTICIPATORY MECHANISMS FOR INDIGENOUS AND LOCAL COMMUNITIES

53. As decided by the Working Group at its 1st plenary session, agenda item 6 was considered in Sub-Working Group II. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on participatory mechanisms for indigenous and local communities (UNEP/CBD/WG8J/2/4).

54. At the 3rd plenary session of the meeting, on 6 February 2002, the Working Group heard progress reports under this item from Mr. Linus Spencer Thomas and Ms. Lucy Mullenkei, Co-Chairs of Sub-Working Group II, who paid tribute to the hard work carried out by the members of the Sub-Working Group and the Secretariat. On the basis of discussions that had taken place during the four meetings of the Sub-Working Group, the Co-Chairs had prepared draft recommendations for transmission to the plenary session following finalization in the Sub-Working Group.

55. At the 4th plenary session of the meeting on 8 February 2002, the Co-Chairs of Sub-Working Group II, Mr. Linus Spencer Thomas (Granada) and Ms. Luci Mullenkei (African Indigenous Women Organization) presented a draft recommendation that had been approved by the Sub-Working Group under this item (UNEP/CBD/WG8J/2/L.6).

56. The Working Group adopted draft recommendation UNEP/CBD/WG8J/2/L.6 for transmittal to the sixth meeting of the Conference of the Parties as recommendation 2/5. The text of the recommendation as adopted is contained in the annex to the present report.

ITEM 7. ASSESSMENT OF THE EFFECTIVENESS OF EXISTING SUBNATIONAL, NATIONAL AND INTERNATIONAL INSTRUMENTS, PARTICULARLY INTELLECTUAL PROPERTY RIGHTS INSTRUMENTS, THAT MAY HAVE IMPLICATIONS ON THE PROTECTION OF THE KNOWLEDGE, INNOVATIONS AND PRACTICES OF INDIGENOUS AND LOCAL COMMUNITIES

57. As decided by the Working Group at its 1st plenary session, agenda item 7 was considered in Sub-Working Group II. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on assessment of the effectiveness of existing subnational, national and international instruments, particularly intellectual property rights instruments, that may have implications on the protection of the knowledge, innovations and practices of indigenous and local communities (UNEP/CBD/WG8J/2/7).

58. At the 3rd plenary session of the meeting, on 6 February 2002, the Working Group heard progress reports under this item from Mr. Linus Spencer Thomas and Ms. Lucy Mullenkei, Co-Chairs of Sub-Working Group II. On the basis of discussions that had taken place during the four meetings of the Sub-Working Group, the Co-Chairs had prepared draft recommendations for transmission to the plenary session following finalization in the Sub-Working Group.

59. At the 4th plenary session of the meeting on 8 February 2002, the Co-Chairs of Sub-Working Group II, Mr. Linus Spencer Thomas (Grenada) and Ms. Luci Mulenkei (African Indigenous Women Organization) presented a text that had been approved by the Sub-Working Group under this item (UNEP/CBD/WG8J/2/L.7). The text comprised draft recommendations for submission to the Conference of the Parties and had been agreed by the Sub-Working Group by consensus.

60. Following a discussion in which a number of amendments were introduced to the text, the Working Group adopted draft recommendation UNEP/CBD/WG8J/2/L.7 for transmittal to the Conference of the Parties at its sixth meeting as recommendation 2/6. The text of the recommendation as adopted is contained in the annex to the present report.

61. During the discussion on the draft recommendation, the representative of Canada stated for the record that Parties needed to appreciate that there were significant concerns on the part of many indigenous and local communities with respect to unauthorized access and use of traditional knowledge, including through the establishment of databases of traditional knowledge, and the need for control of traditional knowledge to remain at the community level. It was also necessary to emphasize the urgency for Parties, Governments and international organizations to facilitate the full and effective participation of indigenous and local communities in the implementation of the Convention and in particular national and international policy processes potentially leading to the development of new legal regimes. He expressed the hope that, for the sixth meeting of the Conference of the Parties, Parties would endeavour to consult effectively with indigenous people living in their territories on the decisions of the current meeting in advance of the sixth meeting of the Conference of the Parties and that Parties would include more indigenous people on their delegations and help facilitate the participation of indigenous people in the International Indigenous Forum on Biodiversity.

62. The representative of Spain, speaking on behalf of the European Community and its member States wished to record explicit support for the statement made by the representative of Canada with regard to the need to appreciate the significant concerns about unauthorized access to and use of traditional knowledge and the need to emphasize the urgency of facilitating full participation of indigenous and local communities in the implementation of the Convention.

ITEM 8. OTHER MATTERS

Statement by a representative of the Sami Parliament

63. At the 3rd plenary session, at the invitation of the Chair, a representative of the Sami Parliament addressed the meeting on the occasion of the national day of the Sami people. She explained that the Sami people lived in Finland, Norway, Sweden and the Russian Federation and that national Sami Parliaments existed in Finland, Norway and Sweden. In conclusion, she conveyed greetings to the peoples of New Zealand on the occasion of the 162nd anniversary of the signature of the Waitangi Treaty.

Closing statement by the International Indigenous Forum on Biodiversity

64. At the 4th (closing) session of the meeting, on 8 February 2002, Mr. Fred Fortier (Shuswap Nation) made a statement on behalf of the Seventh International Indigenous Forum on Biodiversity. He said that the level of participation in the Ad Hoc Working Group could serve as a model in other relevant forums where indigenous peoples issues were addressed. Nevertheless, certain issues that were critical to strengthening the role of indigenous peoples in conserving biological diversity had still not been fully incorporated, including fundamental and outstanding issues such as self-determination; the ownership, control and management of ancestral lands, waters, territories and resources; the exercise of customary laws; self-representation through indigenous peoples' own institutions; free prior informed consent of indigenous peoples; and full control of access to traditional knowledge and resources. Other relevant issues of concern included the inapplicability of the existing intellectual property rights systems to

adequately protect traditional knowledge; indigenous peoples' control and management of registers of traditional knowledge or databases; the lack of accountability of western regimes; the continued North-South imbalance; the participation of women in the management and control of their traditional knowledge as it related to biodiversity and sustainable development; the relationship between the Ad Hoc Working Groups on Access and Benefit-Sharing and on Article 8(j) and Related Provisions; and recognition of the linkage between access and benefit-sharing and traditional knowledge. In conclusion, he reminded Parties and Governments that they must address indigenous peoples' rights globally in consultation with the indigenous peoples themselves.

Statement by Canada on the Equator Initiative

65. At the 4th (closing) session of the meeting, on 8 February 2002, the representative of Canada called for submissions to the Equator Initiative, a project sponsored by the Government of Canada, the United Nations Development Programme, the International Development Research Council and the International Trust for the Environment. The Initiative, which was in direct harmony with the efforts of the Working Group, consisted in awarding US\$ 30,000 to five success stories involving indigenous and rural communities, particularly in tropical areas, which were examples of sustainable community livelihoods using biodiversity resources. The awards would be granted at the World Summit on Sustainable Development.

Statement by the representative of the Netherlands, host of the sixth meeting of the Conference of the Parties

66. The representative of the Netherlands invited Parties and representatives of the Indigenous Forum to the sixth meeting of the Conference of the Parties in The Hague in April, where he hoped that the Working Group's efforts at the current meeting would prove fruitful.

ITEM 9. ADOPTION OF THE REPORT

67. The present report was adopted at the 4th plenary session of the meeting, on 8 February 2002, on the basis of the draft report that had been circulated as document UNEP/CBD/WG8J/2/L.1.

ITEM 10. CLOSURE OF THE MEETING

68. Following closing statements by the Executive Secretary, the Chair, representatives of regional groups and a member of the Asociación de Desarrollo Indígena "Cabecar", Costa Rica, the Chair declared the second meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity closed at 2.20 p.m. on Friday, 8 February 2002.

Annex

**RECOMMENDATIONS ADOPTED BY THE AD HOC OPEN-ENDED INTER-SESSIONAL
WORKING GROUP ON ARTICLE 8(j) AND RELATED PROVISIONS OF THE
CONVENTION ON BIOLOGICAL DIVERSITY AT ITS SECOND MEETING**

<i>Recommendation</i>	<i>Page</i>
2/1. Report on progress in the integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the thematic programmes of the Convention on Biological Diversity	16
2/2. Review of progress in the implementation of the priority tasks of the programme of work on Article 8(j) and related provisions	18
2/3. Outline of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biodiversity	19
2/4. Draft recommendations for the conduct of cultural, environmental and social impact assessment regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities	30
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2/1. Report on progress in the integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the thematic programmes of the Convention on 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 sixth meeting:

(a) *Welcomes* the adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture by the thirty-first session of the Conference of the Food and Agriculture Organization of the United Nations, *urges* Parties to the Convention on Biological Diversity to sign and ratify it, and *requests* the Executive Secretary of the Convention to examine, in collaboration with the Food and Agriculture Organization of the United Nations, the implications of the International Treaty on the issues under Article 8(j) and related provisions;

(b) *Notes* the progress made in the integration of the relevant tasks of the programme of work in the thematic programmes of the Convention and *emphasizes* to Parties the need for further action on:

- (i) With regard to forest biological diversity, the development of methodologies to advance the integration of traditional forest-related knowledge into sustainable forest management, promotion of activities to assemble management experiences and scientific, indigenous and local information at the national and local levels, and dissemination of research results and syntheses of reports on relevant scientific and traditional knowledge on key forest biological issues;
- (ii) With regard to marine and coastal biological diversity, the provision of information regarding approaches to the management of marine and coastal living resources in relation to those used by indigenous and local communities;
- (iii) With regard to inland water ecosystems, the implementation of the guidelines for establishing and strengthening local communities' and indigenous peoples' participation in the management of wetlands, adopted by the Conference of the Parties to the Ramsar Convention, through its resolution VII.8;
- (iv) With regard to agricultural biological diversity, the need to support local dryland and sub-humid ecosystems, and capacity-building to promote farming practices and information exchange to assist farmers and indigenous and local communities to transform unsustainable agricultural practices to sustainable ones and to increase productivity;
- (v) The need to make available financial resources for the training of governmental decision-makers with respect to cross-cutting issues for the recuperation of degraded ecosystems, including multiple use practices, and to support educational institutions that will support such activities as provided for in paragraph 5 of decision III/14;

(c) *Urges* Parties, where they have not already done so, to include information in their national reports on each of the thematic programmes dealt with under the Convention on Biological Diversity, on:

- (i) The status and trends in relation to traditional knowledge, innovations and practices of indigenous and local communities;

- (ii) Measures taken to enhance the participation of indigenous and local communities, particularly that of women from such communities, and their relevant organizations in the implementation of national work programmes in each of the thematic areas; and
 - (iii) Capacity-building measures taken to facilitate the involvement of indigenous and local communities and the application of the knowledge they hold, with their prior informed consent, in the management, conservation and sustainable use of biological diversity in each of the thematic areas at national, subnational and local levels;
- (d) *Requests* the Executive Secretary to prepare a progress report on the integration of the relevant tasks of the programme of work on Article 8(j) into each of the thematic areas, taking into account the above information, for the consideration of the Ad Hoc Working Group on Article 8(j) and Related Provisions at its third meeting;
- (e) *Reminds* Parties of the need for further action in relation to the potential impacts of genetic use restriction technologies on the indigenous and local communities and on Farmer's Rights, according to the studies and reports elaborated by different relevant organizations, the consultations held by the Executive Secretary, and other appropriate analysis and information sources.

2/2. *Review of progress in the implementation of the priority tasks of the programme of work on Article 8(j) and related provisions*

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 sixth meeting:

(a) *Recalls* paragraph 6 of decision V/19, in which it is recommended that Parties prepare their national reports through a consultative process involving all relevant stakeholders, as appropriate, or by drawing upon information developed through other consultative processes, and requests Parties to ensure that indigenous and local communities are included in the consultative process, particularly in relation to the preparation of those sections of the national report dealing with Article 8(j) and related provisions and the programme of work;

(b) *Requests* the Executive Secretary to prepare a report on progress on the implementation of the programme of work on Article 8(j) and related provisions based on information submitted in national reports, and other relevant information, for the next meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions.

2/3. Outline of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biodiversity

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

Recalling decision V/16 by which the Conference of the Parties adopted a programme of work on the implementation of Article 8(j) and related provisions of the Convention on Biological Diversity,

Further recalling task 5, element 2, of the work programme (Status and trends in relation to Article 8(j) and related provisions), to be undertaken in the first phase of the programme of work,

Also recalling the general principles on the implementation of Article 8(j),

Recommends that the Conference of the Parties:

(a) *Adopts* the (draft) outline of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity as a basis for proceeding with the first phase of information gathering and reporting;

(b) *Requests* the Executive Secretary to undertake the first phase of the composite report, based upon elements 1 and 2 in the annex, and to submit the first phase report to the next meeting of the Ad Hoc Open-Ended Inter-Sessional Working Group on Article 8(j) and Related Provisions. This will include recommendations for the subsequent phases and, as necessary, revision of the (draft) outline;

(c) *Further requests* the Executive Secretary to use the information contained in the report to support further advancement of the programme of work on Article 8(j) and related provisions of the Convention on Biological Diversity;

(d) *Also requests* the Executive Secretary to ensure the full and effective participation of indigenous and local communities in the completion of the report, through, *inter alia*, the organization of regional workshops and *encourages* Parties and Governments to hold national workshops. The outcome of the workshops will be submitted to the Secretariat as a contribution to the composite report.

Annex

**DRAFT OUTLINE OF THE COMPOSITE REPORT ON THE STATUS AND TRENDS
REGARDING THE KNOWLEDGE, INNOVATIONS AND PRACTICES
OF INDIGENOUS AND LOCAL COMMUNITIES RELEVANT TO THE
CONSERVATION AND SUSTAINABLE USE OF BIODIVERSITY,
AND THE PLAN AND TIMETABLE FOR ITS PREPARATION**

I. (DRAFT) OUTLINE OF THE COMPOSITE REPORT

1. The following is an indicative list of possible topics and sub-topics that could be addressed in the composite report.

A. Phase I

1. *The state of the retention of traditional biodiversity-related knowledge*

2. The state of retention of traditional knowledge varies considerably from country to country and within countries; in relation to global food and medicinal security; and across and within major ecosystem categories. In many indigenous and local communities, some traditional practices relevant to the conservation and sustainable use of biological resources have ceased as a result of such factors as loss of land, disappearance of subsistence species from local ecosystems, and national programmes for modernization and resettlement. However, the knowledge of those practices still remains, making their reintroduction, in relevant circumstances, a practical option for the purposes of indigenous and local communities. In this section, it is proposed, under the following headings, to assess the state of retention of traditional knowledge in relation to three important biological diversity sectors (food, medicine, and conservation and sustainable use of flora and fauna) and in relation to the major ecosystem categories, and also assess the feasibility of taking measures to conserve and protect threatened traditional knowledge and practices associated with the conservation and sustainable use of biological diversity.

- 1.1 Status of traditional knowledge of plant genetic resources for food and agriculture (PGRFA)
- 1.2 Status of traditional knowledge of animals and microorganisms for food and other purposes
- 1.3 Status of traditional medicinal knowledge
- 1.4 Status of traditional knowledge systems concerning the following ecosystem categories:
 - 1.4.1 Forests
 - 1.4.2 Dryland and steppes ecosystems
 - 1.4.3 Marine and coastal ecosystems
 - 1.4.4 Island ecosystems
 - 1.4.5 Mountain and valley ecosystems
 - 1.4.6 Inland waters
 - 1.4.7 Arctic ecosystems

- 1.5 Knowledge versus practice: state of retention of traditional knowledge concerning practices relevant to the customary management, conservation and sustainable use of biological diversity that are no longer maintained or are at risk of disappearing
- 1.6 Assessing the feasibility of using existing traditional knowledge to maintain customary practices relevant for the management, conservation and sustainable use of biological diversity

3. The research should be conducted in a fashion that is not intrusive, gives effect to the need to respect, preserve and maintain traditional knowledge, innovations and practices, and respects the capacity of indigenous and local communities to protect traditional knowledge.

2. Identification and assessment of measures and initiatives to protect, promote and facilitate the use of traditional knowledge

4. National reports to date have revealed a range of measures that have been taken in various countries at national and local levels to stem the loss of traditional knowledge. Such measures include legislation governing access to genetic resources that also requires the free prior informed consent of affected indigenous and local communities; recognition of customary systems of land tenure; establishment of traditional knowledge registers; introduction of *sui generis* laws to protect traditional knowledge; language programmes to recover and/or maintain local languages; constitutional recognition of the rights of indigenous and local communities, with empowerment at the local level to enact various laws that can be used to protect the interests of the community; wider application of traditional knowledge, with the consent and involvement of its holders, in a range of biodiversity conservation and sustainable use measures; repatriation from museums and other holding institutions of important objects and associated information to communities of origin, researchers to return knowledge and information of indigenous peoples to the respective groups; and the establishment of codes of ethics, to be determined by indigenous peoples, to guide conduct of researchers. While measures differ from country to country and among communities, a mix of appropriate initiatives is emerging that can facilitate the revival and maintenance of traditional knowledge and cultural practices relevant to the conservation and sustainable use of biological diversity. It is proposed that these initiatives be assessed under the following headings:

- 2.1 Regional and national land use practices
- 2.2 Incentive measures
- 2.3 Capacity-building measures
- 2.4 Repatriation of objects and associated information to communities of origin
- 2.5 Strategic planning for conservation and sustainable use of biological diversity within the context of community development planning
- 2.6 Legislative (including policy and administrative) measures

B. Subsequent phases

3. The relationship between biological, cultural and linguistic diversity

5. A number of studies have highlighted the fact that many of the centres of highest biological diversity are also places of high cultural and linguistic diversity, and have demonstrated that the relationship between biological, cultural and linguistic diversity is mutually dependent in many of these regions. A decrease in the diversity of any of these components could lead to a loss of traditional knowledge and therefore diminish humanity's capacity to conserve and sustainably use many of the

Earth's vital ecosystems. It is proposed that the issues raised with respect to the continued maintenance and application of traditional knowledge, innovations and practices by virtue of the nature of the relationship between biological, cultural and linguistic diversity be addressed under the following headings:

- 3.1 Diversity: the key to a sustainable future
- 3.2 Loss of local languages as a factor in the loss of traditional knowledge
- 3.3 Loss of biological diversity as a factor in the loss of traditional knowledge
- 3.4 Cessation of cultural practices relevant to the conservation and sustainable use of biological diversity as a factor in the loss of traditional knowledge
- 3.5 Impoverishment
- 3.6 Migration
- 3.7 Reduction in numbers of indigenous peoples
- 3.8 Loss of ancestral lands and territories

4. *Identification of national processes that may threaten the maintenance, preservation and application of traditional knowledge*

6. Many of the processes that may continue to threaten the maintenance and survival of traditional knowledge have their roots in the histories of many countries, for example, in the processes of colonization involving conflict, introduced diseases, dispossession of territories, resettlement, forced assimilation, and marginalization of indigenous and local communities. Some studies have indicated that national development programmes and policies, modernization of agricultural production and other natural resource-based industries, education and training programmes, and employment strategies often do not take into sufficient account the needs of indigenous and local communities. Similarly, there has been a lack of effective indigenous and local community involvement in the design of the necessary policies and programmes to enable such communities to protect their traditional knowledge or to capitalize on their innovative capacities for the conservation and sustainable use of biological diversity within the national and global economies. It is proposed that these issues could be addressed as follows:

- 4.1 Demographic factors
- 4.2 National development policies/programmes
- 4.3 Education, training and employment policies/programmes
- 4.4 National programmes for modernization through the development, transfer and adoption of new technologies
- 4.5 Identification of activities, actions, policies and legislative and administrative procedures that may discourage the respect for, preservation and maintenance of traditional biodiversity-related knowledge

5. *Identification of processes at the local community level that may threaten the maintenance, preservation and application of traditional knowledge*

7. A number of factors that may threaten the maintenance of traditional knowledge also occur at the local community level, by disrupting the processes of intergenerational transmission of languages, cultural traditions and skills. The significance of these factors will vary from country to country, but they generally include changes to patterns of settlement; the movement of young people to cities for employment, education and lifestyle opportunities; introduction of new technologies, foods and medicines, making people less reliant on traditional ways; low levels of life expectancy brought about by changes in lifestyle and new epidemics such as HIV-AIDS; and a host of new cultural influences disseminated through modern media. Many indigenous and local communities, while having a solid natural resource base and the traditional knowledge to conserve and use it sustainably, nevertheless, may not have sufficient capacity to be able to develop these assets for the benefit of their communities in today's economy. In some instances, this situation has encouraged the development of these assets by outside interests to the detriment of the communities and has resulted in their further marginalization. These issues would be explored under the following headings:

- 5.1 Territorial factors and factors affecting communal lands
- 5.2 Cultural factors
- 5.3 Economic factors (including the relationship between poverty and ecosystem stress)
- 5.4 Social factors (including demographic, gender and familial factors)
- 5.5 Constraints on the exercise of customary laws relevant to the management, conservation and sustainable use of biological diversity
- 5.6 Lack of capacity to manage contemporary threats to biological diversity resulting from development, over-use and socio-economic pressures generated outside the community
- 5.7 The impact of HIV-AIDS on the maintenance of traditional knowledge systems
- 5.8. Impact of organized religions on traditional knowledge and practices

6. *Trends regarding the recognition and implementation of Article 8(j) and related provisions*

8. While measures taken in support of Article 8(j) and related provisions both internationally and nationally are relatively recent, it may be possible to discern trends in terms of which measures are proving more effective, how they are being monitored, and what improvements can be made. Many indigenous and local communities have also taken their own initiatives to preserve, protect and promote the use of their traditional knowledge. It is proposed that these trends be analysed according to the following headings:

- 6.1 International trends
 - 6.1.1 Intergovernmental agencies and processes
 - 6.1.2 Non-governmental organizations
- 6.2 The role of the World Bank and the regional development banks
- 6.3 National trends

- 6.4 Trends at the local level
- 6.5 Private sector trends
- 6.6 Articulation and application of traditional knowledge (including indigenous knowledge) and contemporary scientific management practices for the conservation and sustainable use of biological diversity
- 6.7. Implications of globalization

7. *Conclusions: lessons learned and identification of best practices for the maintenance, preservation and application of traditional knowledge*

9. The report would include conclusions based on the findings emerging from the consideration of the previous topics and sub-topics.

C. *Plan for the preparation of the report*

10. The objective is to produce the first phase of a composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biological diversity for the consideration of the third meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on the Implementation of Article 8(j) and Related Provisions so that the Working Group can make recommendations for the consideration of the Conference of the Parties at its seventh meeting.

11. Accordingly, the following stages are proposed for the preparation of the first phase of the report:

(a) *Stage 1:* Selection and appointment of a consultant to prepare the report; the consultant should be engaged as soon as possible after the sixth meeting of the Conference of the Parties;

(b) *Stage 2:* Based on the decision of the Conference of the Parties at its sixth meeting regarding the outline of the report, address the elements of the report. This stage will entail literature surveys, extraction and analysis of information, and preparation of a written report for each of the elements (chapters) identified in the outline. Research and the writing up of the chapters should be completed within 12 months of starting (i.e., September 2003);

(c) *Stage 3:* The separate chapters of the report are to be edited, and the introduction and concluding chapters, the executive summary and recommendations are to be prepared by the consultant. The executive summary and recommendations should be prepared in a format suitable for presentation to the Ad Hoc Working Group on Article 8(j) and Related Provisions for consideration at its third meeting. This stage should be completed by 31 December 2003, with the distribution of the executive summary and recommendations to Parties, indigenous and local communities, and relevant organizations;

(d) *Stage 4:* Review of the report by the Ad Hoc Working Group on Article 8(j) and Related Provisions at its third meeting. It is assumed that the third meeting would take place in February or March 2004 to enable sufficient time for the preparation and presentation of the report;

(e) *Stage 5:* Consideration of the report by the Conference of the Parties at its seventh meeting, taking into account recommendations from the third meeting of the Ad Hoc Working Group on Article 8(j) and Related Provisions.

C. D. Overview of timetable for preparation of the first phase of the composite report

<i>Stage</i>	<i>Task</i>	<i>Responsibility</i>	<i>Duration</i>	<i>Deadline</i>	<i>Meeting</i>
Stage 1	Appointment of consultant to prepare report	Executive Secretary		30 September 2002	
Stage 2	Compile the chapters of the first phase of the report	Consultant	12 months	30 September 2003	
Stage 3	Complete the first phase of the report and distribute to Parties, etc.	Consultant and Executive Secretary	3 months	31 December 2003	
Stage 4	Review of the first phase of the report	Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions			Third meeting of the Working Group
Stage 5	Consideration of the first phase of the report and recommendations	Conference of the Parties			Seventh meeting of the Conference of the Parties

II. CONSIDERATIONS REGARDING THE SIZE AND SCOPE OF THE REPORT

12. An accurate and comprehensive assessment of the status and trends with regard to the state of traditional knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity is essential to the formulation of policies, plans and strategies at international, regional, national and local levels.

13. One of the most important considerations concerning the composite report is its scope and size as this will have a direct bearing on the amount of time and resources needed to complete the task. Two factors that have a significant bearing on the elements to be addressed in the report are:

(a) The size and diversity of the global population that make up the world's indigenous and local communities embodying traditional lifestyles; and

(b) The fact that, because of a multitude of factors operating at international, national and local levels, traditional knowledge relevant to the conservation and sustainable use of biological diversity is being lost at an appalling rate—a trend that must be prevented and arrested.

14. To date, no definition of what or who constitutes an indigenous or local community embodying a traditional lifestyle has been advanced for the purposes of the Convention, although matters of definition will be addressed as part of task 12 of the programme of work. A possible working definition and use of terms for the purpose of this report must respect the diversity, in all aspects, of indigenous and local communities.

15. A number of recent studies have shown a direct correlation between biological, cultural and linguistic diversity. The implication being that a loss of cultural diversity will also have a direct impact on biological diversity. According to estimates by the United Nations Educational, Scientific and Cultural Organization (UNESCO), indigenous people comprise between 70 and 80 per cent of the world's estimated 6,000 cultures and speak most of the estimated 6,700 languages in the world today. Most of the world's linguistic diversity is carried by very small communities of indigenous and minority people. Nearly 2,500 languages are in danger of immediate extinction; and an even higher number are losing the ecological contexts that keep them as vibrant languages, resulting in mass extinction of cultural and linguistic diversity and incalculable consequences for the conservation and sustainable use of many of the world's ecosystems.

16. Given the large body of traditional knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity maintained by indigenous and local communities, and the diverse threats to its maintenance and preservation, it is suggested that the composite report present a thorough and comprehensive analysis as the necessary basis for informed decision-making, policy formulation and implementation, and strategic planning for the conservation and sustainable use of world biological diversity by the Conference of the Parties, Parties and Governments, intergovernmental agencies, regional economic integration organizations, indigenous and local communities, and relevant scientific and non-governmental organizations. However, in presenting such an analysis, it is noted that the possible impacts of intellectual property protection systems on the protection, preservation, maintenance and application of traditional knowledge, innovations and practices have been the subject of a number of analyses.^{1/} An ongoing assessment of the mechanisms for the protection of traditional knowledge has been carried out by the World Intellectual Property Organization (WIPO), in collaboration with the Convention on Biological Diversity, therefore the impact of intellectual property systems on the protection of traditional knowledge is not further considered in the present report.

17. Indigenous and local communities, as holders of traditional knowledge, will be the primary beneficiaries of the report, as it will identify and assess measures and initiatives to protect, promote and facilitate the use of traditional knowledge.

III. OUTLINE OF COMPOSITE REPORT: RATIONALE

18. The traditional biodiversity-related knowledge of indigenous and local communities and the languages that sustain it are being lost at an accelerating rate. Many communities fear that much of this precious knowledge will be lost with the passing of the current generation of Elders. The erosion of this knowledge creates an irrevocable loss to our storehouse of knowledge of the Earth's biological diversity, its conservation, management and sustainable use, and represents a grave threat to world food and medicinal security and indigenous and local community livelihoods. It is imperative that positive measures to counteract them should be put in place and pursued.

19. It is proposed that the composite report would be compiled in the sequence of priorities determined by the Parties and set out in the annex, with a strong emphasis on item 2 of phase I. It would describe the current situation of the respect for, preservation and maintenance of traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity at the global level, and identify what is required to ensure their continued maintenance and application, thereby laying the foundation for some form of global plan of action to reverse the loss of this vast body of knowledge essential to the maintenance of much of the planet's biological diversity.

^{1/} See, for example, the report of the Executive Secretary on progress in the integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the thematic programmes of the Convention on Biological Diversity (UNEP/CBD/WG8J/1/2) and *Intellectual Property Needs and Expectations of Traditional Knowledge Holders: World Intellectual Property Organization Report on Fact-Finding Missions on Intellectual Property and Traditional Knowledge (1998-1999)* (WIPO, 2001, Geneva).

20. It is also anticipated that, for the purposes of the Convention, the report will provide baseline data and information - both quantitative and qualitative - by which future trends in the maintenance, preservation and application of traditional biodiversity-related knowledge, innovations and practices might be monitored and assessed.

21. To the extent feasible, the composite report will be geographically balanced, and will take into consideration regional initiatives as a basis for a global analysis, which will also include information from international sources.

IV. SOURCES AND AVAILABILITY OF INFORMATION

22. The priority elements should be compiled from existing published reports and any supplementary information provided by Parties, Governments, organizations representing indigenous and local communities, and it would be based on information already available released in the public domain. The consultant shall observe the applicable national legislation when accessing and using these sources of information.

National reports

23. National reports and other relevant information submitted by Parties will ensure comprehensive coverage of the status and trends relating to traditional knowledge, innovations and practices in terms of its state of preservation; recognition and incorporation within national biological diversity programmes and strategies; and national measures being undertaken to enhance and secure respect, preservation and maintenance of traditional knowledge.

Agency reports

24. Consistent with the ways and means for undertaking the programme of work identified in section IV of the annex to decision V/16, the Executive Secretary is to consult with and invite relevant international organizations to contribute to the undertaking of task 5, also with a view to avoiding duplication and to encourage synergies. Accordingly, information relevant to task 5 is to be sought from international agencies such as the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO), the Food and Agriculture Organization of the United Nations (FAO), the World Health Organization (WHO), the Office of the United Nations High Commissioner for Human Rights (UNHCHR), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Labour Organization (ILO), the United Nations Conference on Trade and Development (UNCTAD), the World Bank, and the United Nations Development Programme (UNDP), and from the secretariats of environment-related conventions such as the Convention to Combat Desertification, the Ramsar Convention on Wetlands, the Convention on Migratory Species, the United Nations Convention on the Law of the Sea, the Convention on International Trade in Endangered Species, the World Heritage Convention, and the United Nations Framework Convention on Climate Change.

25. In recent years, many United Nations agencies such as UNEP, FAO, UNHCHR, WIPO, ILO, UNCTAD, UNESCO and WHO, and intergovernmental agencies and processes have undertaken surveys and studies, and compiled reports concerning issues relevant to task 5. As examples of these reports, the following can be cited:

(a) Food and Agriculture Organization of the United Nations, *The State of the World's Plant Genetic Resources for Food and Agriculture*. (FAO, Rome, 1998);

(b) Oloka-Onyango J and Udagama D, *The realization of Economic, Social and Cultural Rights: Globalization and its Impact on the Full Enjoyment of Human Rights: Preliminary Report*. (Commission on Human Rights, Geneva, document E/CN.4/Sub.2/2000/13, 15 June 2000);

(c) Posey DA (ed), *Cultural and Spiritual Values of Biodiversity: A Complementary Contribution to the Global Biodiversity Assessment*. (Intermediate Technology Publications, London and United Nations Environment Programme, Nairobi, 1999);

(d) World Intellectual Property Organization, *Intellectual Property Needs and Expectations of Traditional Knowledge Holders: World Intellectual Property Organization Report on Fact-finding Missions on Intellectual Property and Traditional Knowledge (1998-1999)*. (WIPO, Geneva, 2001).

Indigenous and local community analysis and information

26. Indigenous and local community organizations are well suited to provide relevant assessments of the host of issues that affect the respect, preservation, maintenance and application of their traditional knowledge, innovations and practices. The scope of the work should reflect reasons for traditional knowledge loss and the loss of traditional practices and innovations. On a regional basis, the efforts of indigenous and local communities should be resourced to address this problem. The global diversity of indigenous and local communities must be recognized and taken into account, respecting prevailing traditional practices, with the help of the International Indigenous Forum on Biodiversity.

27. In many countries, peak organizations representing indigenous and local communities have undertaken relevant studies, and proposed policy initiatives and strategies for incorporation into national biological diversity action plans. Many indigenous and local communities also have major responsibilities with government agencies for the management of protected areas under joint or cooperative arrangements. In addition, there is also a wealth of anthropological studies and assessments of the issues confronting indigenous and local communities as they seek to maintain their cultural identities in an increasingly globalized society.

Reports by non-governmental organizations

28. As with international agencies, a number of non-governmental organizations such as the World-Wide Fund for Nature (WWF), Terralingua, the African Centre for Technology Studies (ACTS), the Rural Advancement Foundation International (RAFI), Cultural Survival, International Work Group for Indigenous Affairs and the Third World Network, have also published important studies, reports and other information relevant to task 5. One such example is the recent study published by the WWF and Terralingua:

Oviedo G, Maffi L and Larsen PB, *Indigenous and Traditional Peoples of the World and Ecoregion Conservation: An Integrated Approach to Conserving the World's Biological and Cultural Diversity*. (WWF International and Terralingua, Gland, Switzerland, 2000).

V. WAYS AND MEANS FOR THE PREPARATION OF THE COMPOSITE REPORT

Option for the preparation of the composite report

29. With regard to the compilation of the composite report, and in light of the comments made in section II above regarding its possible size and scope, the Working Group on Article 8(j) recommends the following option for the preparation of the report.

30. A consultant team be employed by the Secretariat, for a period of 12 to 15 months, to prepare a report of some 100-120 pages, including the executive summary (10-15 pages for the benefit of policy makers) and recommendations for distribution to Parties and Governments, relevant intergovernmental agencies, indigenous and local communities and relevant organizations for their consideration prior to the third meeting of the Working Group on Article 8(j).

31. Terms of reference for consultant team selection should include background, qualifications, experience, including regional experience, direct knowledge of indigenous cultures, understanding and involvement with indigenous and local communities. An advisory group/steering committee, in which indigenous and local populations will be represented, should assist the work of the consultant and provide a liaison with regional groups and local communities.

32. The review of the report should include the full and effective participation of indigenous and local communities, while being mindful to avoid intrusiveness. The report would make particular use of national reports, case studies, other data submitted to the Executive Secretary in response to various decisions of the Conference of the Parties, and other relevant published information (see section IV above). Work would essentially entail desktop analysis of this information. The report should be focused, thoroughly researched and scientifically rigorous. It would also include up-to-date information provided by Parties and indigenous and local community organizations. In this context, a mechanism for full participation that respects the needs of indigenous communities should be enabled. The report must be approved by the Conference of the Parties prior to its formal dissemination in final form.

33. In preparing the report, the communities' established codes of ethics guidelines, which entail permission and/or consent of indigenous and local communities to enter the communities and conduct the research, will be respected and followed.

VI. SOURCES OF FUNDING

34. Consistent with the ways and means for undertaking the programme of work identified in section IV of the annex to decision V/16, Parties, Governments, and international, regional and national organizations should provide appropriate financial support, including to indigenous and local communities, for the development of this report.

2/4. Draft recommendations for the conduct of cultural, environmental and social impact assessment regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities

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

Taking into account, inter alia, the information provided in the note by the Executive Secretary on impact assessment and minimizing adverse impacts: implementation of Article 14, prepared for the fourth meeting of the Conference of the Parties (UNEP/CBD/COP/4/20); the synthesis of reports and case studies relating to environmental impact assessment prepared for the fourth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) (UNEP/CBD/SBSTTA/4/10); and the compilation and overview of existing instruments and guidelines, codes of ethics and other activities relevant to the programme of work for the implementation of Article 8(j) and related provisions prepared for the current meeting of the Working Group on Article 8(j) (UNEP/CBD/WG8J/2/INF/1), as well as documents and relevant information provided by Parties, indigenous and local community organizations and other relevant bodies,

Having also considered the environmental assessment sourcebook updates provided by the Environment Department of the World Bank, as well as operational directive 4.20 on indigenous peoples; the Draft Principles and Guidelines for the Protection of the Heritage of Indigenous People (revised text) of the Sub-Commission on the Promotion and Protection of Human Rights of the United Nations Commission on Human Rights (E/CN.4/Sub.2/2000/26); and *Integrating Indigenous Knowledge in Project Planning and Implementation*, prepared by Alan Emery for the International Labour Organization, the World Bank, the Canadian International Development Agency and KIVU Nature Inc. (2000),

Acknowledging the ongoing work on environmental impact assessment and strategic environmental assessment undertaken by the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) in accordance with paragraph 4 of decision V/18 and *noting* that the Conference of the Parties has requested Subsidiary Body to further develop guidelines for incorporating biodiversity-related issues into environmental assessment legislation and/or processes and in strategic environmental assessment, in collaboration with the scientific community, the private sector, indigenous and local communities, non-governmental organizations and relevant organizations at the international, regional, subregional and national levels, as well as Parties, and further elaborate the application of the precautionary approach and the ecosystem approach, taking into account needs for capacity-building, with a view to completion by the sixth meeting of the Conference of the Parties”,

Recommends that the Conference of the Parties at its sixth meeting:

(a) *Adopts*, pursuant to Article 8(j) and Article 14 of the Convention on Biological Diversity and decision V/16 of the Conference of the Parties, the (draft) recommendations for the conduct of cultural, environmental, and social impact assessments regarding development proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities contained in the annex to the present recommendation;

(b) *Requests* the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions, at its third meeting, to carry out further work on guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities. Such work, with the aim of strengthening the social and cultural aspects, should

complement and be in conjunction with the “guidelines for incorporating biodiversity-related issues into environmental assessment legislation and/or processes and in strategic environmental assessment”, recommended by the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) at its seventh meeting for adoption by the Conference of the Parties at its sixth meeting and address institutional and procedural considerations ;

(c) *Also requests* the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions to submit the outcome of its work from its third meeting for consideration at the seventh meeting of the Conference of the Parties;

(d) *Invites* Parties and Governments to pay due regard to these recommendations until the complete set of guidelines for impact assessment is finalized;

(e) *Requests* Parties and Governments to undertake education and awareness-raising and develop communication strategies that allows indigenous and local communities, relevant government departments and agencies, private sector developers, potential stakeholders in development projects, and the public at large to be made aware of these recommendations, for incorporation, as appropriate, into policies and processes for the assessment of proposed developments;

(f) *Invites* those secretariats of intergovernmental agreements, agencies, organizations and processes whose mandates and activities involve potential significant impacts on biological diversity, or who are in the process of developing guidelines or policies regarding such impacts, to take into consideration the recommendations contained in the annex to the present recommendation;

(g) *Further invites* international funding and development agencies that provide funding and other forms of assistance to Governments, developing countries, in particular least developed countries and small island developing States, to facilitate the incorporation of the recommendations into policies and processes for the assessment of proposed developments;

(h) *Also invites* international funding and development agencies and relevant non-governmental organizations, where requested, and in accordance with their mandates and responsibilities, to consider providing assistance to indigenous and local communities for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on territories, lands and waters traditionally occupied or used by them, and which take into account the recommendations in the annex to the present recommendation.

Annex

DRAFT RECOMMENDATIONS FOR THE CONDUCT OF CULTURAL, ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS REGARDING DEVELOPMENTS PROPOSED TO TAKE PLACE ON, OR WHICH ARE LIKELY TO IMPACT ON, SACRED SITES AND ON LANDS AND WATERS TRADITIONALLY OCCUPIED OR USED BY INDIGENOUS AND LOCAL COMMUNITIES

1. The purpose of these (draft) recommendations is to help facilitate:

(a) Appropriate participation and involvement of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biodiversity (hereinafter referred to as “indigenous and local communities”);

(b) Taking into account the cultural, environmental and social concerns and interests of indigenous and local communities;

(c) The inclusion of traditional knowledge, innovations and practices, including technologies and customary methods of indigenous and local communities as part of environmental, social and cultural impact assessment processes.

2. These recommendations are voluntary and intended to serve as guidance for Parties and Governments, according to their national legislation, in the development of their impact assessment regimes.

I. RECOMMENDATIONS FOR THE INTEGRATION OF CULTURAL, ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS AS A SINGLE PROCESS

3. The recommendations allow for the consideration of the integration of cultural, environmental, social impact assessments as a single process. Accordingly, the conduct of impact assessments should meet the requirements of the Convention on Biological Diversity as defined in its Articles 14 and 8(j), and take into account the general principles guiding the programme of work on Article 8(j) and related provisions.

A. Cultural impact assessments

4. Through the cultural impact assessment process, issues that are of particular cultural concern should be identified, such as beliefs and religions, customary practices, forms of social organization, systems of natural resources use, including patterns of land use, places of cultural significance, sacred sites and ritual ceremonies, languages, customary law systems, political structures, roles and customs.

5. There is a need to respect both the custodians and holders of traditional knowledge and the knowledge itself.

6. Possible impacts on all aspects of culture, as indicated in paragraph 4 above, including sacred sites should therefore be taken into consideration while developing cultural impact assessments.

B. Environmental impact assessments

7. In order to effectively undertake an environmental impact assessment for a proposed development, the analysis should include areas of significant conservation value, environmental constraints, geographical aspects and potential synergistic impacts.

8. The direct and indirect impacts of the development proposal on local biological diversity at ecosystem, species and genetic levels should be assessed, and particularly in terms of those components of biological diversity that the relevant community and its members rely upon for their subsistence, livelihood, and other needs.

9. Development proposals should be rigorously assessed for their potential to introduce alien invasive species into local ecosystems.

10. With respect to living modified organisms, due regard should be paid to Article 8(g) of the Convention on Biological Diversity and other relevant international agreements [issued relating to safety in biotechnology].

C. Social impact assessments

11. In order to effectively undertake a social impact assessment for a proposed development, analysis should be carried out with respect to demographic factors, housing and accommodation, employment, infrastructures and services, income and asset distribution, traditional systems of production as well as educational needs, technical skills and financial implications.

12. Proposed developments should be evaluated in relation to tangible benefits to such communities, such as job creation, viable revenue from the levying of appropriate fees, access to markets and diversification of income-generating (economic) opportunities for small and medium-sized enterprises.

13. Developments involving changes to traditional practices for food production, or involving the introduction of commercial cultivation and harvesting of a particular wild species should have those changes and introductions assessed.

14. In social impact assessments, social development indicators consistent with the views of indigenous and local communities should be developed and should give consideration to gender, generational considerations, health, safety, food and livelihood security aspects and the possible effects on social cohesion and mobilization.

II. GENERAL PROVISIONS

15. Indigenous and local communities should be fully and effectively involved in the assessment process. The traditional biodiversity-related knowledge of involved indigenous and local communities should be applied along with modern scientific assessment methodologies and procedures. Consultation should allow for sufficient time and should take place in the appropriate language and in a culturally appropriate manner.

[16. The assessment processes should consider the inclusion of provisions regarding free, prior informed consent of indigenous and local communities.]

17. The vital role that women play, in particular indigenous women, in the conservation and sustainable use of biological diversity and the need for the full and effective participation of women in policy-making and implementation for biological diversity conservation should be fully taken into consideration, in accordance with the Convention.

18. Recognition should be given to the resource and capacity building needs of indigenous and local communities and assistance should be provided, to the extent possible, to facilitate their full and effective participation in impact assessment procedures, including the provision of resources (technical, educational and other needs).

19. All human rights, including social and cultural rights, and any rights related to the environment, must be respected.
20. Pursuant to national legislation, the customary laws and intellectual property rights of indigenous and local communities, with respect to their traditional biodiversity-related knowledge, innovations and practices shall be respected in all circumstances related to the proposed development.
21. In the absence of any legal mechanisms for the protection of traditional knowledge, innovations and practices, indigenous and local communities should, if desired, define their own protocols for access to and use of traditional knowledge in impact assessment procedures, and Governments will assist and participate in such initiatives if required by and according to their national legislation.
22. Consistent with the ecosystem approach, proponents of development proposals should recognize the importance of understanding and applying the values and knowledge, where relevant, of use of biological diversity held by indigenous and local communities and their application for sustainable development.
23. In the context of impact assessments, and particularly with respect to mitigation and threat-abatement measures associated with the development, where there is a threat of significant reduction or loss of biodiversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat.
24. In order to manage any disputes that may arise in relation to a development proposal and in the ensuing impact assessment processes, dispute-resolution means or mechanisms should be available or be established.

2/5. Participatory mechanisms for indigenous and local communities

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

Recalling decision V/16, by which the Conference of the Parties endorsed the programme of work as contained in the annex to the decision regarding the implementation of Article 8(j) and related provisions of the Convention,

Recalling also element 1 of the programme of work on participatory mechanisms for indigenous and local communities,

Recalling paragraph 12 (d) of decision V/16, by which the Conference of the Parties urged Parties and Governments and, as appropriate, international organizations to strengthen and build capacity for communication among indigenous and local communities, and between indigenous and local communities and Governments, at local, national, regional and international levels,

Recalling principle 10 of the Rio Declaration on Environment and Development, which states, *inter alia*, that environmental issues are best handled with the participation of all concerned citizens, at the relevant level,

Recognizing the need to further explore ways and means to enhance the full and effective participation of indigenous and local communities in the Convention process,

Recommends that the Conference of the Parties:

(a) *Invites* Parties, Governments and relevant international, non-governmental and indigenous and local community organizations, to submit to the Executive Secretary information on their national experiences, case-studies, best practices, and lessons learned concerning participatory mechanisms for indigenous and local communities in matters related to the objectives of Article 8(j) and related provisions of the Convention;

(b) *Requests* the Executive Secretary to prepare a synthesis report based on the information referred to in paragraph (a) above, and, taking into account that conditions may vary from country to country, *invites* Parties and Governments to use the report as a basis for the establishment and/or strengthening of mechanisms at the national and local levels aimed at promoting full and effective participation of indigenous and local communities in the decision-making process regarding the preservation, maintenance and utilization of traditional knowledge relevant for the conservation and sustainable use of biological diversity;

(c) *Requests* the Executive Secretary to explore and, as appropriate, secure potential sources of funding to facilitate the full and effective participation of indigenous and local communities of all geographical regions in meetings organized within the framework of the Convention and to report thereon to the Conference of the Parties;

(d) *Urges* Parties and Governments to strengthen their efforts to support capacity-building aimed at the full and effective participation of indigenous and local communities in decision-making processes regarding the preservation, maintenance and utilization of traditional knowledge relevant for the conservation and sustainable use of biological diversity at all levels (local, national, regional and international); and, where indigenous and local communities and Parties and Governments deem appropriate, promote their participation in the management of biological diversity; and encourage the

capacity-building efforts of indigenous and local communities in getting access to existing protections in national and international laws regarding the preservation, maintenance and utilization of their traditional knowledge;

(e) *Also urges* Parties and Governments and, as appropriate, international organizations to encourage and support the development of communication mechanisms, such as the Indigenous Biodiversity Information Network, among indigenous and local communities in response to their need for better understanding of the objectives and provisions of the Convention on Biological Diversity and for supporting discussions on guidelines, priorities, time-lines and the implementation of the thematic programmes of the Convention;

(f) *Requests* the Executive Secretary to consult with the secretariats of relevant environmental conventions and programmes, such as the United Nations Convention to Combat Desertification, the United Nations Framework Convention on Climate Change, the Convention on Wetlands of International Importance especially as Waterfowl Habitat, the Convention on the Conservation on Migratory Species of Wild Animals, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and to explore the possibility of cooperating in order to facilitate collaboration among the different conventions with regard to the participation and involvement of indigenous and local communities in discussions related to the maintenance and application of traditional knowledge relevant for the conservation and sustainable use of biological diversity;

(g) *Also requests* the Executive Secretary to communicate with the Permanent Forum on Indigenous Issues, established as a subsidiary organ of the United Nations Economic and Social Council, and other relevant bodies such as the World Intellectual Property Organization, the United Nations Conference on Trade and Development and the United Nations Educational, Scientific and Cultural Organization, in order to explore possibilities of coordination and collaboration on matters of mutual concern;

(h) *Urges* Parties and Governments to develop, implement and evaluate, in cooperation with indigenous and local communities, strategies aimed at promoting awareness and enhancing access by indigenous and local communities to information on issues relating to Article 8(j) and related provisions of the Convention;

(i) *Requests* the Executive Secretary to establish a technical expert group to develop the roles and responsibilities of the thematic focal point within the clearing-house mechanism of the Convention on issues related to Article 8(j) and related provisions, in accordance with task 8 of the programme of work adopted by the Conference of the Parties in its decision V/16;

(j) *Further requests* funding agencies, in particular the Global Environment Facility, to provide information on activities and processes, including information on the criteria for eligibility and access to project funding, and make such information easily accessible to Parties, Governments and indigenous and local communities (for example, through electronic, print/broadcast, popular publications, and other means);

(k) *Invites* the Global Environment Facility to give preference in funding to projects that clearly contain elements of participation of indigenous and local communities, where appropriate, and to continue to apply the Global Environment Facility's policy on public involvement to support the full and effective participation of indigenous and local communities.

2/6. Assessment of the effectiveness of existing subnational, national and international instruments, particularly intellectual property rights instruments, that may have implications for the protection of the knowledge, innovations and practices of indigenous and local communities

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

Recalling decision V/16 by which the Conference of the Parties adopted a programme of work on the implementation of Article 8(j) and related provisions of the Convention,

Recalling further task 11 of the programme of work in which the Conference of the Parties mandated the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity to assess existing subnational, as appropriate, national and international instruments, particularly intellectual property rights instruments, that may have implications for the protection of the knowledge, innovations and practices of indigenous and local communities with a view to identifying synergies between these instruments and the objectives of Article 8(j),

Recognizing that the Convention on Biological Diversity is the primary international instrument with the mandate to address issues regarding the respect, preservation and maintenance of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity,

Also recognizing that indigenous and local communities have their own systems for the protection and transmission of traditional knowledge as part of their customary law, which can contribute to the protection as well as the conservation and sustainable use of biological diversity,

Further recognizing the need for strengthening national laws, policies and other measures and the need for synergies with measures at the international level for the protection of traditional knowledge, innovations and practices of indigenous and local communities,

Recognizing also that the African Model Legislation for the Recognition and Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources drafted by the Scientific, Technical, and Research Commission of the Organization of African Unity is relevant for the implementation of Article 8 (j),

Noting with appreciation ongoing work within the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization and its work programme,

Recognizing that the work programme of the Working Group and ongoing work in the World Intellectual Property Organization regarding intellectual property rights as they relate to the protection of traditional knowledge, innovations and practices are mutually supportive,

Noting that other relevant international and intergovernmental bodies, such as the United Nations Conference on Trade and Development, the United Nations Environment Programme, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Trade Organization are also discussing related matters in their work programmes,

Noting also ongoing work on the role of intellectual property rights in the implementation of access and benefit-sharing arrangements within the framework of the Ad Hoc Open-ended Working Group on Access to Genetic Resources and Benefit-Sharing,

Noting further the nature, collective or otherwise, of traditional knowledge, related ethical, cultural and heritage considerations, and the possible inadequacy of conventional intellectual property rights systems to address these characteristics,

Recommends that the Conference of the Parties:

1. *Notes with appreciation* the work of the Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization, and that of the Permanent Forum on Indigenous Issues established by the Economic and Social Council, the Working Group on Indigenous Populations of the United Nations Commission on Human Rights, the United Nations Development Programme, the United Nations Environment Programme, the United Nations Educational, Scientific and Cultural Organization, the United Nations Conference on Trade and Development, and the World Health Organization, and *encourages* further collaboration among them and with the Convention on Biological Diversity;

2. *Notes* the ongoing review process of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights, particularly with respect to Article 27.3 (b) of the Agreement;

3. *Invites* the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization to continue its efforts to promote the more effective participation of indigenous and local communities in its work and *invites* the Intergovernmental Committee to examine and consider mechanisms to protect traditional knowledge, such as the disclosure of the origin of relevant traditional knowledge in applications for intellectual property rights;

4. *Invites* the Scientific, Technical, and Research Commission of the Organization of African Unity to continue its work and *requests* the Executive Secretary to encourage and assist the African Union to facilitate implementation of the African Model Legislation for the Recognition and Protection of the Rights of Local Communities, Farmers and Breeders for the Regulation of Access to Biological Resources;

5. *Also invites* Parties and Governments, with the participation of indigenous and local communities representatives, to develop and implement strategies to protect traditional knowledge, innovations and practices based on a combination of appropriate approaches, with full respect for customary laws and practices, including the use of existing intellectual property mechanisms, *sui generis* measures, the use of contractual arrangements, registers of traditional knowledge, and guidelines and codes of practice, with the support of relevant intergovernmental organizations such as the Working Group on Indigenous Populations of the United Nations Commission on Human Rights, the Permanent Forum on Indigenous Issues established by the Economic and Social Council, the World Health Organization, the World Intellectual Property Organization, the United Nations Educational, Scientific and Cultural Organization, and the United Nations Conference on Trade and Development;

6. *Requests* the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity to address the issue of *sui generis* systems for the protection of traditional knowledge, focusing in particular on the following issues:

(a) Clarification of relevant terminology;

- (b) Compiling and assessing existing indigenous, local, national and regional *sui generis* systems;
- (c) Making available this compilation and assessment through the clearing-house mechanism of the Convention;
- (d) Studying existing systems for handling and managing innovations at the local level and their relation to existing national and international systems of intellectual property rights, with a view to ensure their complementarity;
- (e) Assessing the need for further work on such systems at the local, national, regional and international levels;
- (f) Identifying the main elements to be taken into consideration in the development of *sui generis* systems,

taking into account the work carried out by the Intergovernmental Committee Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore with a view to promote mutual supportiveness, and existing regional, sub-regional, national and local initiatives;

7. *Also requests* the Executive Secretary to continue to compile information provided by Parties and Governments relating to existing national legislation and other measures for the protection of traditional knowledge, innovations and practices;

8. *Invites* the World Trade Organization and the World Intellectual Property Organization to make available to the Executive Secretary information referred to in paragraph 7 above provided through their respective notification systems;

9. *Requests* the Executive Secretary to make the information referred to in paragraphs 7 and 8 above available through, *inter alia*, the clearing-house mechanism, with a view to enabling Parties and Governments to monitor the implementation of Article 8(j) and to identify best practices;

10. *Invites* the World Intellectual Property Organization to forward to the Executive Secretary all documents considered to be relevant with respect to advances made by the Intergovernmental Committee so that they be included in documentation for meetings of the Working Group on Article 8(j);

11. *Encourages* Parties and Governments, where they have not already done so, to take measures to establish or improve operational links between their national governmental intellectual-property bodies, national focal points of the Convention on Biological Diversity, and the indigenous and local communities and their organizations in order to better coordinate and institute measures to protect their traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity, particularly with regard to traditional knowledge documentation initiatives and community-based registries of traditional knowledge;

12. *Also encourages* Parties and Governments, with the assistance of international development agencies and other relevant organizations, as appropriate, and with the participation, involvement and consent of the concerned indigenous and local communities, to undertake pilot projects in order to evaluate the effectiveness of existing intellectual property rights regimes, contractual methods and new systems being developed as a means of protection of traditional knowledge;

13. *Invites* Parties and Governments, with the participation of indigenous and local communities, upon their request, to examine the feasibility of establishing their respective national and community registries or databases of traditional knowledge, innovations and practices relevant to the

conservation and sustainable use of biological diversity, taking into consideration customary laws and practices, and subject to national legislation. In examining the feasibility of establishing such databases or registries, Parties and Governments, if required, with the technical assistance of the World Intellectual Property Organization, when requested, should consider issues relating to:

- (a) Protocols for lodging, accessing and retrieving information and data;
- (b) Location and administrative arrangements;
- (c) Modalities and terms for access to information stored in the registry/database;
- (d) Methods for classification and standardization of data;
- (e) Security and confidentiality requirements and methods regarding information stored in the registry/database;
- (f) The legal status of information stored in the registry/database;

14. *Also invites* Parties, Governments, the Global Environment Facility, international development agencies, and other relevant international organizations and institutions to provide technical and financial assistance to developing country Parties, in particular the least developed and Small Island Developing States among them, and countries with economies in transition, and to indigenous and local communities for the enhancement of national capacities for the establishment and maintenance of registries or databases of traditional knowledge at national and subnational levels, and for building the capacity of indigenous and local communities to develop strategies and systems for the protection of traditional knowledge;

15. *Further invites* Parties and Governments, indigenous and local communities and relevant organizations to exchange national experiences among countries where progress has been made in incorporating elements of customary law relevant for the protection of traditional knowledge, innovations and practices of indigenous and local communities in national legislation;

16. *Also invites* Parties and Governments, indigenous and local community organizations and other relevant organizations to submit case studies and other relevant information for the Executive Secretary to compile and disseminate through the clearing-house mechanism concerning:

- (a) Information regarding the nature, diversity and status under national laws of customary laws of indigenous and local communities, collected with their full and effective participation;
- (b) The development of strategies by indigenous and local communities to protect their traditional knowledge, innovations and practices, emphasizing the approaches used, the method of implementation and problems encountered;
- (c) The establishment of operational links between national intellectual-property authorities and indigenous and local communities to facilitate the protection of their traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity;
- (d) Experiences in the implementation of regionally harmonized *sui generis* systems; and
- (e) The activities and conduct of researchers and academic institutions pertinent to the protection and promotion of traditional knowledge, innovations and practices;

17. *Requests* the Executive Secretary to disseminate the case-studies and information referred to in paragraph 16 above through the clearing-house mechanism and other relevant means;

18. *Invites* Parties and Governments to encourage the disclosure of the origin of relevant traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity in applications for intellectual property rights where an invention concerns or makes use of such knowledge in its development;

19. *Urges* Parties and Governments to consider taking into account the relevant provisions of the Convention on Biological Diversity with respect to prior informed consent and mutually agreed terms in applications for intellectual property rights;

20. *Invites* Parties and Governments, with the assistance of the World Intellectual Property Organization, to take into account traditional knowledge in the examination of novelty and inventive step in patent applications;

21. *Also invites* Parties, Governments and relevant international organizations to consider the feasibility of establishing appropriate dispute-settlement or arbitration procedures and mechanisms, including the possible application of Article 27 of the Convention on Biological Diversity, to address cases of intellectual property rights relating to traditional knowledge, innovations and practices.
