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Ninth meeting

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Item 2.1 of the provisional agenda\*

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

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## 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 on Biological Diversity. It held its first meeting in Seville, Spain, from 27 to 31 March 2000. In paragraph 9 of decision V/16, the Conference of the Parties adopted the work programme on Article 8(j) and related provisions and extended the mandate of the Working Group to review progress in the implementation of the priority tasks of the programme of work and requested it to report to the Conference of the Parties. The second and third meetings of the Working Group on Article 8(j) took place in Montreal from 4 to 8 February 2002, and from 8 to 12 December 2003, respectively. The fourth meeting was held from 23 to 27 January 2006, in Granada, Spain, at the kind invitation of the Government of the Kingdom of Spain, back to back with the fourth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing.

2. At its eighth meeting, held in Curitiba, Brazil, in March 2006, the Conference of the Parties decided, in decision VIII/5 A, that the fifth meeting of the Working Group should be organized prior to the ninth meeting of the Conference of the Parties in order to ensure further advancement of the implementation of the programme of work on Article 8(j) and related provisions. Accordingly, the fifth meeting of the Working Group on Article 8(j) was held at the headquarters of the International Civil Aviation Organization (ICAO) in Montreal from 15 to 19 October, back to back with the fifth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing.

### B. *Attendance*

3. The meeting was attended by representatives of the following Parties and other Governments: Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Democratic Republic of the Congo, Denmark, Dominica, Ecuador, Ethiopia, European Community, Finland, France, Germany, Ghana, Grenada, Guinea, Guinea-Bissau, Haiti, India, Italy, Kenya, Lesotho, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mexico, Micronesia (Federated States of), Morocco, Namibia, Nauru, Nepal, New Zealand, Niger, Nigeria, Norway, Pakistan, Peru, Philippines, Portugal, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Slovenia, Solomon Islands, South Africa, Spain, Suriname, Sweden, Switzerland, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tuvalu, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Yemen, Zambia.

4. Observers from the following United Nations bodies, specialized agencies and other bodies also attended: Global Environment Facility (GEF), United Nations Environment Programme (UNEP), United Nations University (UNU), World Intellectual Property Organization (WIPO).

5. The following organizations were also represented by observers: African Union; ALMACIGA; Andean First nations Council; Asia Indigenous Peoples Pact; Asociacion Ak'Tenamit; Asociacion de la Juventud Indigena Argentina; Asociación Ixacavaa De Desarrollo e Información Indígena; Baikal Buryat Center for Indigenous Cultures; Center For International Environmental Law; Center for International Sustainable Development Law; Center of Excellence in Biodiversity Law; Centre d'accompagnement des autochtones pygmées et minoritaires vulnérables; Centre for Economic and Social Aspects of Genomics; Centre for Organisation, Research & Education; Centre international des droits de la personne et du développement démocratique; Centro de acción Legal-Ambiental y Social de Guatemala; Centro de Cooperación al Indígena; Centro de Estudios Multidisciplinarios Aymara; Confederación Indígena

Tayrona; Consejo Autonomo Aymara; Consejo de Todas las Tierras; Conservation International; Cooperativa Ecologica das Mulheres Extrativistas do Marajo; Cree Regional Authority; Creator's Right Alliance; Dena Kayeh Institute; ECOROPA; Emerging Indigenous Leaders Institute; ETC Group; Federacion de comunidades Nativas Fronterizas del Putumayo; Fundación para la Promoción del Conocimiento Indígena; Fundacion Tinku; Forest Peoples Programme; Global Forest Coalition; Global Forest Coalition; Grand Council of the Crees (Eeyou Istchee); Haudenosaunee Mohawk Nation Office; Hawaii Institute for Human Rights; INBRAPI; Indigenous Information Network; Indigenous Peoples Council on Biocolonialism; Indigenous Peoples of Africa Co-ordinating Committee; Indigenous World Association of Hawaii; Inter Mountain Peoples Education and Culture in Thailand Association; International Alliance of Indigenous and Tribal Peoples of the Tropical Forests; International Indian Treaty Council; Irish Centre for Human Rights/National University of Ireland; IUCN Environmental Law Centre; IUCN - The World Conservation Union; J. Craig Venter Institute; Japan Bioindustry Association; Kahnawake Environment Office; Karen Environmental and Social Action Network; Kummara Association; Leiden University; McGill University; McGill University - Macdonald Campus; National Aboriginal Health Organization; Native Women's Association of Canada; Natural Justice (Lawyers for Communities and the Environment); Nepal Indigenous Nationalities Preservation Association; Nepal Indigenous Nationalities Preservation Association; Nepal Magar Sangha Association; Netherlands Center for Indigenous Peoples; New South Wales Aboriginal Land Council; Organizacion Dad Nakue Dupbir; Organizacion Shuar; Pacific Indigenous Peoples Environment Coalition; Quaker International Affairs Programme; Regional Network for Indigenous Peoples in Southeast Asia; Research and Action in Natural Wealth Administration; Russian Association of Indigenous Peoples of the North (RAIPON); Saami Council; Sierra Club of Canada; Tebtebba Foundation; The Eastern Door; The Institute of Cultural Affairs; Tinhinan; Tulalip Tribes; UNI PROBA; University of Leiden; University of Rome - La Sapienza; West Africa Coalition for Indigenous Peoples' Rights (WACIPR).

#### **ITEM 1.            OPENING OF THE MEETING**

6.        The meeting was opened at 10:15 on Monday, 15 October 2007, with a ceremony of prayer led by a representative of the Mohawk community.

7.        Opening statements were made by Mr. Fernando Coimbra (Brazil), Chair of the Meeting, speaking in his capacity as representative of the President of the Conference of Parties of the Convention on Biological Diversity, and Mr. Ahmed Djoghlaif, Executive Secretary of the Convention on Biological Diversity.

8.        Mr. Coimbra welcomed participants and thanked the leaders of the Mohawk community for their very inspirational ceremonial opening and prayer. In addition, he expressed appreciation to the Secretariat of the Convention on Biological Diversity for its extensive inter-sessional activities on issues related to the Working Group's mandate.

9.        He drew attention to the many linkages between traditional knowledge and the objectives of the Convention. As an example of the good work accomplished thus far towards the implementation of those objectives, he cited the Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessments regarding Developments Proposed to Take Place on, or which were Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities. He also paid tribute to the strong and effective participation of indigenous and local communities in the meetings of the Working Group.

10.      He remarked that many challenges lay ahead, however. The meeting would provide an opportunity to take stock of progress made and to make concrete recommendations to the Conference of the Parties on such issues as the elements of a code of ethical conduct to ensure respect for traditional knowledge and culture and the development of *sui generis* systems for the protection of traditional knowledge. The Working Group had also been invited to collaborate in the fulfilment of the mandate of

the Working Group on Access and Benefit-sharing by providing its views on the elaboration of an international regime on access and benefit-sharing as it related to traditional knowledge.

11. Mr. Djoghlaif expressed his deep gratitude to the representatives of the Mohawk community for sharing with the meeting the rich cultural heritage and wisdom of that community. Drawing attention to the threats represented by climate change and the extinction of biodiversity, he said that, like the nations of the Haudenosaunee or Iroquois Confederacy, all human communities must come together, as a united family, to make decisions by consensus for the good of all and for the protection of life on Earth.

12. He thanked the Government of Spain for its generous financial support for the convening of the present, as well as the Government of Norway for its generous financial support for the celebration of International Day for Biological Diversity on 22 May 2007, including the organization, in collaboration with the United Nations Educational, Scientific and Cultural Organization (UNESCO), of an exhibition on the human face of climate change. He also welcomed the decision of the United Nations Permanent Forum on Indigenous Issues to devote its next meeting to the issue of climate change.

13. He noted that indigenous and local communities were not simply the passive victims of climate change but also valuable partners in the global efforts to address the issue. For that reason, the Working Group on Article 8 (j) had been encouraged to provide input regarding the traditional knowledge-related elements of an international regime on access and benefit-sharing. In that context, he noted that the Co-Chairs of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing would be reporting on the progress achieved at their meeting the previous week. He also drew attention to the report of the International Indigenous and Local Community Consultation on that topic (UNEP/CBD/WG8J/5/INF/13), and thanked the Government of Spain for its financial support for the convening of that consultation, in collaboration with the Government of the Philippines and the Tebtebba Foundation. Lastly, he noted the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, and said that there was no greater service that the Working Group could render to its friends and partners in the indigenous communities than fulfilling the mandate assigned to it.

14. The President, speaking on behalf of the Bureau, expressed its appreciation to the Executive Secretary and his team for their tireless efforts in the service of the Convention and for mobilizing extrabudgetary financial resources for activities in support of the Working Group's mandate.

## **ITEM 2. ORGANIZATIONAL MATTERS**

### ***2.1. Officers***

15. In keeping with established practice, the Bureau of the Conference of the Parties acted as the Bureau of the Working Group.

16. On the proposal of the Conference of the Parties, Mr. Deon Stewart (Bahamas) was elected by acclamation to chair Working Group I and Mrs. Nicola Breier (Germany) to chair Working Group II.

17. On the proposal of the Bureau, Ms Mary Fosi (Cameroon) served as Rapporteur.

### ***2.2. Adoption of the agenda***

18. At its 1st plenary session, on 15 October 2007, the Working Group adopted the following agenda, on the basis of the provisional agenda (UNEP/CBD/WG8J/5/1).

1. Opening of the meeting.
2. Organizational matters:

- (a) Officers;
  - (b) Adoption of the agenda;
  - (c) Organization of work.
3. Progress reports on the programme of work for Article 8(j) and related provisions:
    - (a) Implementation of the programme of work on Article 8(j) and related provisions;
    - (b) Integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the thematic areas of the Convention on Biological Diversity.
  4. 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.
  5. Plan of action for the retention of traditional knowledge.
  6. International regime on access and benefit-sharing.
  7. Mechanisms to promote the effective participation of indigenous and local communities in matters related to the objectives of Article 8(j) and related provisions of the Convention on Biological Diversity.
  8. Development of elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices.
  9. Elements of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities.
  10. Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices.
  11. Recommendations of the United Nations Permanent Forum on Indigenous Issues.
  12. Other matters.
  13. Adoption of the report.
  14. Closure of the meeting.

### **2.3 Organization of work**

19. At its 1st plenary session, on 15 October 2007, the Working Group approved the organization of work for the meeting on the basis of the proposal contained in annex II to the revised annotations to the provisional agenda (UNEP/CBD/WG8J/5/1/Add.1/Rev.1). Accordingly, the Working Group agreed to establish two sessional sub-working groups: Sub-Working Group I, chaired by Mr. Deon Stewart (Bahamas), to consider agenda items 4 (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), 5 (Plan of action for the retention of traditional knowledge) and 6 (International regime on access and benefit-sharing); and Sub-Working Group II, chaired by Mrs. Nicola Breier (Germany), to take up items 7 (Mechanisms to promote the effective participation of indigenous and local communities in matters related to the objectives of Article 8(j) and related provisions of the

Convention on Biological Diversity), 8 (Development of elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices, 9 (Elements of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities) and 10 (Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices). Agenda items 3 (Progress reports on the programme of work for Article 8(j) and related provisions) and 10 (Recommendations of the United Nations Permanent Forum on Indigenous Issues) would be considered in plenary session.

20. It was agreed that the Group of Friends of the Bureau should be composed of the following participants nominated by the International Indigenous Forum on Biodiversity: Mr. Estebancio Castro Diaz (International Indigenous Forum on Biodiversity), Mr. James La Mouche (The Cree of Northern Quebec), Ms. Jannie Lasimbang (Asia Indigenous Peoples Pact), Ms. Lucy Mullenkei (Global Forest Coalition), Ms. Malia Nobrega (Indigenous World Association of Hawaii), Ms. Gunn-Britt Retter (Saami Council) and Mr. Mikhail Todyshev (Russian Association of Indigenous Peoples of the North). It was further agreed that Mr. Estebancio Castro Diaz (International Indigenous Forum on Biodiversity) would act as Co-Chair of Sub-Working Group I and Ms. Gunn-Britt Retter (Saami Council) would serve as Co-Chair of Sub-Working Group II.

21. The representative of Mexico, expressing her delegation's support for the participation of indigenous and local communities as Friends of the Bureau and in advising on the work of the Working Group, said that under the Convention it was only for Parties (States and regional economic integration organizations) to perform the duties of co-chairing. She said that an active member of her delegation was a representative of Mexico's 62 indigenous peoples.

22. The Chair said that the point raised by the representative of Mexico would be taken up by the Bureau at its next meeting.

23. The representative of Malawi (on behalf of the African Group) said that the Group attached great importance to Article 8(j) and related provisions, which provided a good platform for the positive contribution of indigenous and local communities to the effective conservation and sustainable use of biological diversity at the local level. Africa was looking forward to engaging in constructive negotiations and dialogue, and would be doing so in a conciliatory spirit; it expected others to do likewise when difficult issues were being discussed. The participation of representatives of indigenous and local communities would be critical to the success of the meeting. He thanked donors for having contributed to participation in the meeting by African delegations.

24. At the 2nd plenary session of the Working Group, on 15 October 2007, the representative of Argentina asked for clarification on collaboration by the Executive Secretary with the United Nations Permanent Forum on Indigenous Issues.

25. In response to the concerns expressed by Mexico (see para. 21 above), the Executive Secretary recalled that the Working Group was a subsidiary body of the Conference of Parties and that the rules of procedure of the Conference of the Parties applied, *mutatis mutandis*, to the Working Group as for other subsidiary bodies, including the rules relating to the conduct of business and officers. Thus, it was for officially recognized representatives of Parties to conduct the business of the meetings. He also noted that, in a spirit of partnership, it had been the practice of the Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity, since its first meeting, to include representative of indigenous peoples and local communities as Friends of the Chair and of the Bureau and co-chairs of the sub-working groups. That informal arrangement had been agreed with the clear understanding that it should not constitute a departure from the relevant articles of the rules of procedure relating to the conduct of business. It had proved to be a strong political message to the indigenous and local communities. In response to the request for clarification by Argentina (see para. 24 above), he explained

that the Secretariat of the Convention on Biological Diversity collaborated with the Secretariat of the United Nations Permanent Forum on Indigenous Issues with respect to its mandate on biodiversity.

26. At its 3rd plenary session, on 17 October 2007, the Working Group heard reports from the Co-Chairs of Sub-Working Groups I and II on the progress being made in the two Sub-Working Groups.

27. Statements were made by the representatives of Malawi (on behalf of the African Group) and New Zealand.

#### **2.4 Work of the sessional sub-working groups**

28. As decided by the Working Group at its 1st plenary session, Sub-Working Group I met under the co-chairmanship of Mr. Deon Stewart (Bahamas) and Mr. Estebancio Castro Diaz (International Indigenous Forum on Biodiversity) to consider agenda items 4 (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), 5 (Plan of action for the retention of traditional knowledge) and 6 (International regime on access and benefit-sharing).

29. The report of Sub-Working Group I was taken up by the Working Group at the 4th plenary session, on 19 October 2007, and is incorporated into the present report under the relevant agenda items.

30. As decided by the Working Group at its 1st plenary session, Sub-Working Group II, co-chaired by Ms. Nicola Breier (Germany) and Ms. Gunn-Britt Retter (Saami Council), considered items 7 (Mechanisms to promote the effective participation of indigenous and local communities in matters related to the objectives of Article 8(j) and related provisions of the Convention on Biological Diversity), 8 (Development of elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices), 9 (Elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities) and 10 (Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices).

31. The report of Sub-Working Group II was taken up by the Working Group at the 4th plenary session, on 19 October 2007, and is incorporated into the present report under the relevant agenda items.

#### **2.5 Statements and general comments**

32. The representative of Portugal (on behalf of the European Community and its member States) said that the European Union reaffirmed the significance of the fundamental heritage of indigenous and local communities and the role they played in the conservation and sustainable use of biological diversity; it also reaffirmed the need for the effective protection of traditional knowledge, innovations and practices as an indispensable tool in the conservation and sustainable use of biological diversity, and to ensure the fair and equitable sharing of benefits arising from the use of such knowledge, with the involvement and approval of its holders. The Union reiterated its request that the Working Group take up the issue of the impacts of biomass production and consumption on indigenous and local communities, and would be raising it for consideration under agenda item 4. It emphasized the importance of collaboration between the Working Group and the Working Group on Access and Benefit-sharing in elaborating and negotiating an international regime on the latter issue. A list should be drawn up of issues where work on the international regime on access and benefit-sharing could benefit from targeted technical reflections by experts of indigenous and local communities, which would broaden and deepen the quality of the discussion and of any decisions.

33. The representative of Canada, thanking the representatives of the Mohawk community for welcoming the meeting on to their traditional territories, said that it would provide an important opportunity to take stock and identify initiatives and activities to which the Working Group could best

contribute. The Working Group would be most successful if it was able to agree on a focused set of priorities. There was now an opportunity to let other United Nations bodies, such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Intellectual Property Organization (WIPO), lead in areas where they had specific competence and capacities, and to cooperate with them on specific items of relevance to the Convention. The Working Group's priorities should relate directly to the three priorities of the Convention itself: conservation, sustainable use and fair and equitable sharing of benefits. In that regard it would be important to consider how the Working Group could best support and contribute to the elaboration and negotiation of an international regime on access and benefit-sharing, particularly with respect to issues related to "associated traditional knowledge". The work of the Group should also focus on matters that were practical and had the greatest impact at the level of indigenous and local communities.

34. The representative of Colombia said that, according to the Inter-American Development Bank, her country held pride of place for its legislation recognizing the collective rights of indigenous peoples. Some 3.4 per cent of Colombians identified themselves as members of indigenous communities, and their traditional lands were recognized and guaranteed; in them they had their own systems of political, social and legal organization. Colombia had been prominent in its implementation of the prior consultation provisions of ILO Convention No. 169 concerning indigenous and tribal peoples in independent countries, undertaking since 2003 more than seventy prior consultation processes in respect of projects for prospecting for and extracting natural resources, and other development projects, in indigenous territories.

35. The representative of the International Indigenous Forum on Biodiversity referred to the existence of universal human rights standards for the collective rights of indigenous peoples, as adopted in the United Nations Declaration on the Rights of Indigenous Peoples. That declaration needed to be used as a standard in any potential international regime on access and benefit-sharing, which had to recognize and protect indigenous peoples' rights. Its substantive articles also had to address such issues as free prior informed consent, indigenous rights to lands, self-determination and indigenous customary laws. She also said that the code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities (UNEP/CBD/WG8J/5/7) needed to ensure the rights of indigenous peoples and that traditional knowledge and associated genetic resources would not be misappropriated. She requested that the term "indigenous peoples" be used in place of "indigenous communities" and noted with concern the reservation expressed by Mexico with regard to the participation of indigenous peoples as co-chairs of the sub-working groups. That was a matter of established practice and to change it would be regressive and would also undermine the commitment of Parties to promote the full and effective participation of indigenous peoples. She thanked the Executive Secretary and the Parties for facilitating the participation of indigenous peoples and said that the Voluntary Fund had helped in that regard. She expressed the hope that donors and non-governmental organizations would continue to provide such support.

36. The representative of the Indigenous Youth Caucus (on behalf of indigenous youth from Russia, North America, Latin America, Asia, the Arctic, Pacific and Africa) stressed that indigenous youth were the future holders of traditional knowledge and called for the full and effective participation of indigenous youth in all discussions and decision-making processes concerning indigenous peoples' rights. He noted with concern the increasing mortality and suicide rate among indigenous youth. He also encouraged potential donors and the international community to continue to support increased participation of indigenous youth in all the processes of the Convention on Biological Diversity. He supported the implementation of paragraphs (c), (e) and (f) of section C of the draft recommendations of the Capacity-building Workshop on Networking and Information Exchange for National Focal Points and Indigenous and Local Communities in the Latin America and Caribbean Region (UNEP/CBD/WG8J/5/5).

37. The representative of Yemen (on behalf of the Asia and Pacific region) said that the inter-sessional meetings, and the 9th meeting of the Conference of the Parties, would have major implications for the conservation of biological resources for the planet. He said that Yemen was part of a dry and arid

region of the world and climate change represented a major challenge for the region. Traditional knowledge was therefore important for the sustainable use of biological diversity, as was technology transfer and capacity-building. He welcomed the participation of indigenous peoples and local communities and acknowledged the generous assistance provided by donors, that had made it possible for the participation of representatives from the Asia and Pacific regions. He hoped that the donors would continue that support.

38. The representative of Nigeria thanked the Executive Secretary for his dynamism and leadership. He also noted the importance of traditional knowledge in the life of most Africans and said that it was embedded in the religious and medical practices of Africa. An international regime on access and benefit-sharing had to come into effect to protect traditional knowledge and he noted that the decisions taken at the present meeting would have an impact on the work of the World Intellectual Property Organization (WIPO), which was awaiting the outcome of the present meeting.

39. The representative of South Africa said that South Africa attached great importance to the role of indigenous knowledge and practices in contributing to the conservation and sustainable use of biological diversity, to sustainable development and to achieving the 2010 target for reducing significant loss of biological diversity. South Africa had legislation in place in a number of areas, including land restitution, biological diversity, forestry, agriculture and health, to ensure the respect, preservation and maintenance of the knowledge, innovations and practices of indigenous and local communities. South Africa had also put in place an indigenous knowledge systems policy that recognized the principle that indigenous peoples and local communities had to be treated fairly and be adequately compensated for research activities and outcomes involving their knowledge. That policy also recognized the pivotal role women played as important users of natural resources and repositories of indigenous knowledge.

40. The representative of the Philippines hailed the adoption of the United Nations Declaration on the Rights of Indigenous Peoples and said that the Philippines had similar legislation in place, the Indigenous Peoples Rights Act (1997). However, problems had been encountered when implementing that Act, particularly with respect to certificates of ancestral domain titles and related issues of ancestral domains and lands. The Philippines had learned from that experience and hoped that the rest of the international community would be willing to find means to address the long-standing demands of indigenous communities for recognition of their basic human rights. She also said, with respect to the protection of traditional knowledge, that the Philippines was working towards mainstreaming traditional protection in conservation and sustainable development.

41. The representative of the International Forum of Local Communities said that there was a need to identify effective means to preserve traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity. However the rights of local communities over their knowledge were not protected by the current international instruments, especially with respect to intellectual property. It was therefore important to establish a *sui generis* regime for the protection of traditional knowledge. It was also necessary to protect the rights of communities to their knowledge through national legislation and through the principle of prior informed consent. It was necessary to create mechanisms for the effective participation of local communities in addressing threats such as climate change, which was an issue of special importance to vulnerable local communities.

42. The representative of the Indigenous Women's Biodiversity Network recalled decisions V/16 and VI/10 of the Conference of the Parties, which had recognized the fundamental role played by women in the conservation and sustainable use of biological diversity. She said that women were the guardians and transmitters of traditional knowledge from generation to generation, and she demanded the full and effective participation of women in all the processes related to their rights to knowledge, innovations and practices, in particular article 22 of the United Nations Declaration on the Rights of Indigenous Peoples. She affirmed that their knowledge systems were not subject to the public domain and a definition of traditional knowledge had to respect the juridical system of indigenous peoples. The elaboration of a *sui*

*generis* regime for the protection of traditional knowledge had to guarantee the respect and conservation of traditional knowledge, innovations and practices in a culturally appropriate way. She supported the statement of the International Indigenous Forum on Biodiversity with respect to the need for indigenous peoples and local communities to be represented as co-chairs of the sub-working groups.

43. The representative of Australia stated that the Convention provided a framework of general obligations within which Parties implemented their own policies and practices. Accordingly, Australia had been working hard to preserve, respect and maintain traditional knowledge relevant to the conservation and sustainable use of biological diversity. Neither the implementation of Article 8(j) nor cooperation with indigenous communities was an abstract matter for Australia; they raised real and immediate issues for the management of Australia's environment and affected the lives of both indigenous and non-indigenous Australians. He was, nevertheless, concerned that there appeared to be too many processes taking place under Article 8(j) and that the volume of work was too great. The Working Group should consider how to move forward in a holistic manner and review carefully what activities or new tasks should be started. Regarding the United Nations Declaration on the Rights of Indigenous Peoples, he said that Australia had been an active and engaged participant in negotiations on a Declaration since the outset. It wanted a meaningful text, capable of practical implementation and consistent interpretation by States. Inasmuch as the draft text did not meet those criteria, Australia could not support it. The explanation of Australia's vote, delivered before the Declaration was adopted, referred to six key concerns with the text: the Declaration inappropriately placed indigenous customary law above national law; the language on self-determination in the Declaration could be misconstrued as conferring a right of secession upon indigenous communities; the lands and resources provisions might require recognition of indigenous rights to lands currently lawfully owned by other citizens; an unqualified right of free, prior and informed consent for indigenous communities on matters affecting them implied that they might exercise a right of veto over national laws and administrative measures; and, lastly, Australia would not provide *sui generis* intellectual property rights for indigenous communities, as envisaged in the Declaration. The Declaration was aspirational but not legally binding, did not reflect international law and could not be cited as customary international law. Australia could not accept the Declaration as a basis for the elaboration of other international instruments, whether binding or non-binding, and accordingly would participate in the Working Group on the basis of that position.

44. The representative of Costa Rica expressed support for the United Nations Declaration on the Rights of Indigenous Peoples and said that, along the same lines, draft legislation on indigenous autonomy was currently before the Costa Rican Congress. Moreover, as part of its commitments under the Convention on Biological Diversity, Costa Rica had set up a national authority directly responsible for implementing Article 8(j). It also had a *sui generis* system for the protection of traditional knowledge and had made progress towards an understanding on prior informed consent. The tasks inherent in Article 8(j) and the programme of work were complex, but Costa Rica had the political will to overcome the challenges.

45. The representative of the World Intellectual Property Organization (WIPO) expressed her Organization's willingness to provide practical support and information to both the Working Group and to other forums under the Convention. The WIPO global intellectual property issues programme had always endeavoured to support the activities and objectives of other sister organizations and processes within the United Nations family without intruding on their policy domains, and had recently responded to a series of invitations issued by the Conference of the Parties. With regard to the legal protection of traditional knowledge, she highlighted the key role played by the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). The Committee was developing draft provisions to govern the protection of traditional knowledge and was debating and analysing the ten major issues which policymakers had to address when designing and establishing such protection. WIPO had also developed a draft toolkit on traditional knowledge to support communities in safeguarding their interests. Customary law had repeatedly been highlighted as a matter of major concern to indigenous and local communities in the development and implementation of measures to preserve and

protect their traditional knowledge. WIPO was working actively towards respect and recognition of customary law and encouraged the submission of input to that process. Indigenous and local communities played an important role in the work of the Intergovernmental Committee, and interested community representatives were urged to consider joining the process by seeking accreditation. Over 200 organizations had already been accredited and had thus become eligible for financial support from the IGC Voluntary Fund.

### **ITEM 3.           PROGRESS REPORTS ON THE PROGRAMME OF WORK FOR ARTICLE 8(j) AND RELATED PROVISIONS**

46.     The Ad Hoc Open-ended Working Group took up agenda item 3 at the 1st plenary session of the meeting, on 15 October 2007. In considering the item, the Working Group had before it the reports on progress in the implementation of the programme of work on Article 8(j) and related provisions based on information provided in the national reports and on the integration of relevant tasks of the programme of work into the thematic programmes (UNEP/CBD/WG8J/5/2), as well as its addendum (UNEP/CBD/WG8J/5/2/Add.1), which contained an overview of the tasks of the first phase of the work programme and made some draft recommendations on future work for the consideration of the Working Group.

47.     Statements were made by the representatives of Argentina, Australia, Brazil, Canada, Colombia, Costa Rica, India, Malawi (on behalf of the African Group), Mexico, New Zealand, the Philippines, Portugal (on behalf of the European Community and its member States) and the United Republic of Tanzania.

48.     A statement was made by a representative of the International Indigenous Forum on Biodiversity.

49.     The representative of Canada also made a statement for the record in which he noted that the United Nations Declaration on the Rights of Indigenous Peoples was not a legally binding instrument and had no legal effect in Canada. Its provisions did not represent customary international law, and it could not be considered or used as a universal standard under the Convention. Canada would, however, continue to take effective action, at home and abroad, to promote and protect the rights of indigenous peoples based on its Constitution and its existing national and international human rights obligations and commitments. Such effective action would not, however, be undertaken on the basis of the provisions of the United Nations Declaration. Nevertheless, Canada remained strongly committed to Article 8(j) of the Convention.

50.     At its 3rd plenary session, on 17 October 2007, the Chair introduced a draft recommendation for consideration by the Working Group. After an exchange of views, the Chair said that he would prepare a revised text of the draft recommendation for consideration of the Working Group at a subsequent session.

51.     The Chair submitted to the 4th plenary session of the meeting, on 19 October 2007, a draft recommendation that took into account the discussion in an informal contact group set up by Sub-Working Group I, which had considered paragraphs (e) and (f).

#### ***Action by the Working Group***

52.     At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.5/Rev.1 and adopted it, as orally amended, as recommendation 5/1. The text of the recommendation, as adopted, is contained in the annex to the present report.

**ITEM 4. 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**

53. Agenda item 4 was taken up by Sub-Working Group I at its 1st meeting, on 15 October 2007. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on phase two 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 biological diversity (UNEP/CBD/WG8J/5/3), a report exploring the possibilities of developing technical guidelines for recording and documenting traditional knowledge (UNEP/CBD/WG8J/5/3/Add.2), an executive summary of phase two of the composite report (UNEP/CBD/WG8J/5/3, part I), a report on indigenous and local communities highly vulnerable to climate change in the Arctic, small island States and at high altitudes with a focus on causes and solutions (UNEP/CBD/WG8J/5/3, part II, for the executive summary, and UNEP/CBD/WG8J/5/INF/18 for the complete report), a report on possible measures to ensure respect for the rights of unprotected and voluntarily isolated communities (UNEP/CBD/WG8J/5/3, part III, for the executive summary, and UNEP/CBD/WG8J/5/INF.17 for the complete report). It also had before it, as information documents, revised versions of the regional reports (UNEP/CBD/WG8J/5/INF/3, 4, 5, 6, 7 and 8) as well as the report of the Advisory Group as an information document (UNEP/CBD/WG8J/5/INF/11).

54. In introducing the agenda item, the Co-Chair said that, in accordance with paragraph 3 of decision VIII/5 B, the Executive Secretary had reviewed phase two of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities, thus completing five years of work. He said that the Sub-Working Group might wish to take note of the report of the revised phase two of the composite report and, in particular, of the identification of national processes that might threaten the maintenance of traditional knowledge, innovations and practices and the processes at the local community level that might threaten the maintenance, preservation and application of traditional knowledge, innovations and practices. He suggested that the Sub-Working Group commence its deliberations by considering the further development of phase two of the composite report – the regional reports (UNEP/CBD/WG8J/5/3, part I) and the considerations for developing technical guidelines for recording and documenting traditional knowledge and the potential threat of such documentation (UNEP/CBD/WG8J/5/3/Add.2).

55. Statements, including proposals, were made by the representatives of Argentina, Australia, Brazil, Canada, Cameroon, India, New Zealand, Norway, Portugal (on behalf of the European Community and its member States), Thailand and Uganda (on behalf of the African Group).

56. Statements, including proposals, were also made by the representatives of the International Indigenous Forum on Biodiversity, the Latin American Indigenous Peoples Caucus, the Regional Indigenous Forum on Biodiversity for Indigenous and Local Communities of Latin America and the Indigenous Women's Biodiversity Network .

57. At its 2nd meeting, on 16 October 2007, the Sub-Working Group continued its discussion of the further development of phase two of the composite report - the regional reports (UNEP/CBD/WG8J/5/3, part I) and the considerations for developing technical guidelines for recording and documenting traditional knowledge and the potential threat of such documentation (UNEP/CBD/WG8J/5/3/Add.2).

58. Statements, including proposals, were made by the representatives of China, Colombia, Côte d'Ivoire, Ethiopia, Grenada, Mexico, Nigeria, and the Philippines.

59. A statement was also made by the representative of the Fisch Indigenous Peoples and the Shuar Nation Corporation.

60. At its 2nd meeting, on 16 October 2007, the Sub-Working Group also took up consideration of the issues of indigenous and local communities highly vulnerable to climate change

(UNEP/CBD/WG8J/5/3, part II) and possible measures to ensure respect for the rights of unprotected and voluntarily isolated communities (UNEP/CBD/WG8J/5/3, part III).

61. Statements, including proposals, were made by the representatives of Bangladesh, Brazil, Burkina Faso, Burundi, Ethiopia, Mexico, Norway, Nigeria, Pakistan, the Philippines, Portugal (on behalf of the European Community and its member States), Thailand, Timor-Leste, Tuvalu and Zambia.

62. Statements, including proposals, were also made by the representatives of the Foundation for the Protection of Indigenous Knowledge; the Indigenous Information Network and the African Indigenous Women's Organization; the Nepal Federation of Indigenous Nationalities; the Peruvian Amazon Indigenous and Local Communities; the Quechua Nation of Ecuador (also on behalf of the Latin American Indigenous Peoples Caucus and the International Indigenous Forum on Biodiversity); and the Tulalip Tribes of Washington.

63. The representative of Pakistan asked that its position be reflected in the record, that climate change was having a direct effect on biodiversity and was adversely affecting local ecosystems.

64. At its 6th meeting, on 18 October 2007, Sub-Working Group I took up a draft recommendation submitted by the Co-Chairs on 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. After an exchange of views, the Co-Chair, asked for written proposals on elements of the draft recommendation.

65. The Sub-Working Group continued its discussion of the text of the draft recommendation at its 7th meeting, on 18 October 2007.

66. After an exchange of views, the Co-Chair undertook to provide a revised version of the draft recommendation for consideration by the Sub-Working Group at a subsequent meeting.

67. At its 8th meeting, on 19 October 2007, the Sub-Working Group discussed the revised version of the draft recommendation submitted by the Co-Chairs (UNEP/CBD/WG8J/5/L.6).

68. After an exchange of views, the Sub-Working Group agreed to transmit the draft recommendation, as orally amended, to the plenary as draft decision UNEP/CBD/WG8J/5/L.6/Rev.1.

#### ***Action by the Working Group***

69. At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.6 and adopted it as recommendation 5/2. The text of the recommendation, as adopted, is contained in the annex to the present report.

### **ITEM 5. PLAN OF ACTION FOR THE RETENTION OF TRADITIONAL KNOWLEDGE**

70. Agenda item 5 was taken up by Sub-Working Group I at its 2nd meeting, on 16 October 2007. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on a plan of action for the retention of traditional knowledge (UNEP/CBD/WG8J/5/3/Add.1), and as an information document, a report on research on and implementation of mechanisms and measures to address the underlying causes of the decline of traditional knowledge, innovations and practices (UNEP/CBD/WG8J/5/INF/9).

71. Introducing the item, the Co-Chair said that the action plan aimed to identify actors and timeframes, taking into account ongoing work under the Convention and relevant organizations, to facilitate synergy between existing initiatives aimed at halting the loss of and encouraging the retention and use of traditional knowledge. Section B of the plan of action dealing with indicators would be addressed under agenda item 10. The Working Group might wish to take note of the report on measures and mechanisms and make recommendations, as appropriate, regarding further work based on the executive summary.

72. Statements, including proposals, were made by the representatives of Brazil, Canada, Ethiopia, New Zealand, Nigeria, Portugal (on behalf of the European Community and its member States), Thailand, South Africa and Uganda (on behalf of the African Group).

73. Statements, including proposals, were also made by the representatives of the Fisch Indigenous Peoples and the Shuar Nation Corporation, the International Indigenous Forum on Biodiversity and the Latin American Indigenous Caucus.

74. At its 3rd meeting, on 16 October 2007, the Sub-Working Group continued its discussion of the agenda item.

75. Statements, including proposals, were made by the representatives of Argentina, Burkina Faso, China and Mexico.

76. Statements, including proposals, were also made by the representatives of the International Indigenous Forum on Biodiversity and the Indigenous Youth of Argentina.

77. At its 6th meeting, on 18 October 2007, Sub-Working Group I took up a draft recommendation submitted by the Co-Chairs on a plan of action for the retention of traditional knowledge. After an exchange of views, the Co-Chair, said that he would prepare a revised text for the consideration of the Sub-Working Group at a subsequent meeting.

78. At its 8th meeting, on 19 October 2007, the Sub-Working Group took up a draft recommendation prepared by the Co-Chairs (UNEP/CBD/WG8J/5/L.7).

79. After an exchange of views, the Sub-Working Group agreed to transmit the draft recommendation, as orally amended, to the plenary as draft decision UNEP/CBD/WG8J/5/L.7/Rev.1.

#### ***Action by the Working Group***

80. At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.7/Rev.1 and adopted it as recommendation 5/3. The text of the recommendation was adopted, as orally amended, and is contained in the annex to the present report.

### **ITEM 6. INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING**

81. Agenda item 6 was taken up by Sub-Working Group I at its 3rd meeting, on 16 October 2007. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on an international regime on access and benefit-sharing: Collaboration with the Ad Hoc Open-ended Working Group on Access and Benefit-sharing and participation of indigenous and local communities (UNEP/CBD/WG8J/5/4). It also had before it, as information documents, the report of the International Expert Group Meeting on the Convention on Biological Diversity's International Regime on Access and Benefit-sharing and Indigenous Peoples' Human Rights (UNEP/CBD/WG8J/5/INF/10), the report of the international indigenous and local community expert consultation on access to genetic resources and associated traditional knowledge, and the development of an international regime (UNEP/CBD/WG8J/5/INF/13) and the report of the fifth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing (UNEP/CBD/WG-ABS/5/8). In considering the item, the Sub-Working Group also had before it a note by the Executive Secretary on the revised draft of the elements of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities (UNEP/CBD/WG8J/5/7) as a possible contribution to the discussions on access and benefit-sharing.

82. In introducing the agenda item, the Co-Chair said that, in its decision VII/19 D, the Conference of the Parties had given a mandate to the Ad Hoc Open-ended Working Group on Access and Benefit-sharing, in collaboration with the Ad Hoc Inter-Sessional Working Group on Article 8(j) and Related Provisions, to elaborate and negotiate an international regime on access to genetic resources and benefit-sharing. Decision VIII/5 C of the Conference of the Parties had also requested the collaboration and contribution of the Working Group on Article 8(j) to the fulfilment of the mandate of the Working Group

on Access and Benefit-sharing by providing views on the elaboration and negotiation of an international regime on access and benefit-sharing relevant to traditional knowledge, innovations and practices associated with genetic resources and to the fair and equitable sharing of benefits arising from their utilization. He said that, in light of that, the Working Group on Article 8(j) might wish to provide views to the Ad Hoc Working Group on Access and Benefit-sharing on the international regime on access and benefit-sharing as it related to traditional knowledge and benefit-sharing.

83. Statements, including proposals, were made by the representatives of Argentina, Australia, Brazil, Cameroon, Canada, China, Ethiopia, India, Kenya, Lesotho, Malaysia, Mexico, New Zealand, Nigeria, the Philippines, Portugal (on behalf of the European Community and its member States), South Africa, Thailand, and Uganda (on behalf of the African Group).

84. Statements, including proposals, were also made by the representatives of the Asia Indigenous Peoples Caucus, the Fisch Indigenous Peoples and the Shuar Nation Corporation, the Indigenous Peoples Council on Biocolonialism, the Latin American Caucus of the International Indigenous Forum on Biodiversity, and the Tulalip Tribes of Washington.

85. The representative of Brazil stated for the record that the international regime must necessarily contemplate benefit-sharing related to the use of associated traditional knowledge. The use of such traditional knowledge should be based on prior informed consent and mutually agreed terms. *Sui generis* regimes should be developed by Parties and should complement the international regime. The proposed international regime must include compliance measures, including disclosure of legal provenance. Intellectual property rights applications whose subject matter concerned or made use of genetic resources derivatives and/or associated traditional knowledge shall disclose the country of origin or source of such genetic resources, derivatives and/or associated traditional knowledge, as well as evidence that provisions regarding prior informed consent and benefit-sharing had been complied with, in accordance with the national legislation of the country providing the resources. Lastly, the international regime should include provisions on capacity-building, including: (i) the building and enhancement of capacity in developing countries, least developed countries and small-island developing States, as well as countries with economies in transition, for the implementation of the international regime at national, regional and international levels; (ii) measures for effective technology transfer and cooperation so as to support the generation of social, economic and environmental benefits; and (iii) the building of human, institutional and scientific capacities including for putting in place legal mechanism, taking into account Articles 18, 19 and 20, paragraph 4, of the Convention. The process of selecting stakeholders to provide technical support needed to be inclusive and to commit Parties to the exercise, as had already occurred when Parties had expressed their commitment to negotiate the international regime in decision VIII/4. Brazil was not, therefore, in a position to support the proposal made on behalf of the European Community to set up an ad hoc technical experts group.

86. The representative of Portugal (on behalf of the European Community and its member States) requested that the following list of issues that could benefit from technical reflections by experts from indigenous and local communities be reflected in the record:

(a) Internationally recognized certificate of compliance: under what conditions could the scope of such a certificate also include traditional knowledge associated with genetic resources?

(b) Code of ethical conduct: how would the draft code contribute to the effective implementation of obligations under the Convention on Biological Diversity in respect of access and benefit-sharing?

(c) Traditional knowledge and research relating to access and benefit-sharing: how best to ensure that biodiversity-related research respected existing traditional knowledge?

(d) Traditional knowledge and prior informed consent: ways to incorporate traditional knowledge in decisions on prior informed consent, and how to ensure that national decisions on prior informed consent respected transboundary indigenous communities;

(e) Traditional knowledge and mutually agreed terms: options and examples for incorporating traditional knowledge in efforts to standardize choices when establishing mutually agreed terms;

(f) Traditional knowledge and capacity-building: identification of potential capacity-building implications of the proposed international regime on access and benefit-sharing.

87. The representative of Uganda (on behalf of the African Group) requested that the following position be reflected in the report:

(a) The international regime should ensure compliance with prior informed consent of indigenous and local communities before genetic resources and traditional knowledge held by such communities could be accessed. That included the right of such indigenous and local communities to deny their prior informed consent if they so wished;

(b) In the proposed regime, the elements regarding mandatory disclosure of origin of not only genetic resources but also origin of any associated traditional knowledge should be included and meticulously enforced in relation to applications for any form of intellectual property rights;

(c) The proposed internationally recognized certificate of origin/source of genetic resources should include any associated traditional knowledge (if applicable), clearly stating the nature of traditional knowledge, the owners of such knowledge and provisions on how and whether or not the user might transfer such knowledge to third parties and under what conditions. That was important as it was closely linked with benefit-sharing, in case any benefits were realized from access to and use of the genetic resources and associated traditional knowledge, their products and derivatives;

(d) The international regime should make provisions for users of genetic resources to respect customary laws, practices and norms of indigenous and local communities with regard to access to their genetic resources and associated traditional knowledge, innovations and practices;

(e) The international regime should ensure full participation of indigenous and local communities (including women, the young and the elderly) in the fair and equitable sharing of benefits arising from the use of genetic resources, their products and derivatives and any associated traditional knowledge, innovations and practices;

(f) The international regime should establish a code of conduct for prior informed consent and mutually agreed terms with regard to indigenous and local communities; and

(g) The international regime should include measures to ensure capacity-building for indigenous and local communities so that they could not only fully participate in giving away their genetic resources and traditional knowledge but also demand their fair share of benefits.

88. The representative of Australia said for the record that Australia believed that action on traditional knowledge and genetic resources should be an element of any international regime on access and benefit-sharing to be negotiated and completed by 2010. To date there had been little guidance developed in the Convention either on implementation of access and benefit-sharing on indigenous-owned lands or on benefit-sharing from traditional knowledge related to genetic resources. Several tasks in the Working Group's programme of work were potentially relevant, but none exactly fitted what should be done. Australia proposed that guidelines should be developed for national access and benefit-sharing as they related to traditional knowledge associated with genetic resources, and to genetic

resources on indigenous lands. They would constitute non-binding guidance for implementation at the national level. They would replace tasks 7, 10 and 12 but would not necessarily be the only element related to traditional knowledge and to genetic resources on indigenous lands. They would be negotiated in the Working Group and forwarded as recommendations to the Conference of the Parties. Australia hoped that its proposal would make a major contribution to improving national implementation and to establishing normative standards for national implementation of Article 8(j) and Article 15.

89. In response to a request from Portugal (on behalf of the European Community and its member States) for clarification as to how proposals would be submitted to the Working Group on Access and Benefit-sharing, a representative of the Secretariat recalled decision VIII/5 C of the Conference of the Parties, which requested “the collaboration and contribution of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions to the fulfilment of the mandate of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing by providing views on the elaboration and negotiation of an international regime on access and benefit-sharing relevant to traditional knowledge, innovations and practices associated with genetic resources and to the fair and equitable sharing of benefits arising from their utilization...”. It was up to the Working Group on Article 8(j) to determine how to provide those views. It might, for example, decide to forward recommendations to the Working Group on Access and Benefit-sharing to be considered at its next meeting.

90. The representative of the Asia Indigenous Peoples Caucus said for the record that it welcomed the report of the Meeting of the Group of Technical Experts on an Internationally Recognized Certificate of Origin/Source/Legal Provenance (UNEP/CBD/WG-ABS/5/7) as a useful contribution towards elaborating a central element within an international regime on access and benefit-sharing. Such a certificate, which was intended to cover all types of genetic resources, must necessarily include all genetic resources associated with traditional knowledge, because excluding those genetic resources from the certificate would significantly narrow its scope, and hence its effectiveness, in fulfilling its defined objectives. The issues surrounding an internationally recognized certificate of origin/compliance and, in particular, the issue of traditional knowledge associated with genetic resources needed further study and exploration. Such discussions should preferably be carried out jointly and through close collaboration between the Parties and representatives of indigenous and local communities, in order to identify all preferable options, at the 6th meeting of the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions, which was the body mandated to discuss substantive matters relating to traditional knowledge and to provide advice to the Conference of the Parties on such matters. Useful inter-sessional work could also be undertaken by the Secretariat of the Convention and by members of the International Indigenous Forum on Biodiversity, for example through regional workshops and an international expert seminar, in order to prepare substantive inputs for the next meeting of the Working Group on Article 8(j). Due attention must be given to ensuring broad and balanced indigenous and local community participation from all regions.

91. The representative of the Indigenous Peoples Council on Biocolonialism said for the record that without discussion of the process for a way forward the Working Group would be prevented from providing any useful or substantive views on the negotiation of an international regime on access and benefit-sharing. She also suggested that the Executive Secretary convene, in collaboration with the International Indigenous Forum on Biodiversity and other relevant indigenous peoples’ organizations, regional consultations in all the geo-cultural regions for the purpose of providing inputs to an international expert meeting of indigenous peoples that would develop recommendations on *sui generis* systems of protection of traditional knowledge, innovations and practices.

92. At its 4th meeting, on 17 October 2007, the Sub-Working Group continued its discussion of the agenda item.

93. A representative of the Secretariat introduced an informal text submitted by the Co-Chairs consisting of a compilation of the main proposals made thus far under agenda item 6. After a procedural discussion, in which the representatives of Argentina, Australia, Brazil, Burkina Faso, Canada, Malaysia (on behalf of the Like-minded Megadiverse Countries), the Philippines, Portugal (on behalf of the

European Community and its member States) and Uganda (on behalf of the African Group) took part, it was agreed that the compilation would be withdrawn and that delegations would provide electronic copies to the Secretariat of the exact wording of the proposals they had made from the floor. The Secretariat would then collate the proposals and make them available to delegations for their consideration.

94. Statements, including proposals, were made by the representatives of Argentina, Burundi, Canada, Chile (on behalf of the Latin American and Caribbean Group), Colombia, Malaysia (on behalf of the Like-minded Megadiverse Countries), and Portugal (on behalf of the European Community and its member States).

95. Statements were also made by the representatives of the International Forum of Local Communities and the International Indigenous Forum on Biodiversity.

96. The representative of Canada stated for the record that Canada believed that there was a need for guidance at the community level and therefore recommended drafting indigenous guidelines on access to genetic resources and the associated traditional knowledge. Like the Bonn Guidelines, they would comprise an important element of the overall international regime and would guide Governments and indigenous peoples in developing and drafting legislative, administrative or policy measures on access and benefit-sharing. The proposed guidelines would also provide direction on the responsibilities of users accessing traditional knowledge and related genetic resources. Their scope should include the traditional knowledge associated with genetic resources, as well as the genetic resources of indigenous and local communities. They should also include the objectives of indigenous and local communities, as well as make provision for national focal points, customary law and sacred sites. The community-level access-and-benefit-sharing process for traditional knowledge and genetic resources should also include the prior informed consent of indigenous and local communities, mutually agreed terms, benefit-sharing and other potential measures. Canada suggested that the Working Group begin to develop the terms of reference for an expert group to develop those guidelines so that the ninth meeting of the Conference of the Parties could finalize the terms of reference and assign budgetary resources.

97. At its 5th meeting, on 17 October 2007, the Sub-Working Group continued its discussion of the agenda item and considered a collation of proposals on the subject received by the Secretariat.

98. The representative of Uganda pointed out that the proposal of the African Group, which had been included in the original compilation, was not represented in the current collation. After a procedural discussion, in which the representatives of Argentina, Brazil, Cameroon, Canada, Nigeria, Portugal (on behalf of the European Community and its member States) and Uganda (on behalf of the African Group) took part, it was decided that, for the purposes of the discussion, the African Group's proposal as previously distributed should be considered part of the collation.

99. Statements, including proposals, were made by the representatives of Argentina, Australia, Brazil, Canada, Chile, Cameroon, Cuba, Portugal (on behalf of the European Community and its member States), Malaysia (on behalf of the Like-minded Megadiverse Countries and the Latin American and Caribbean Group), Mexico, New Zealand and Uganda (on behalf of the African Group).

100. A statement was also made by the North American Indigenous Caucus on behalf of the International Indigenous Forum on Biodiversity.

101. The representatives of Chile and Mexico expressed reservations on the inclusion of the disclosure of legal provenance as a possible compliance measure as that issue was still under discussion in their countries.

102. The representative of Argentina noted that legal provenance was not the only option and that for the moment Argentina's preferred option for such a compliance measure was that of geographical origin.

103. At its 7th meeting, on 18 October 2007, the Working Group continued its discussion of the collation of proposals received by the Secretariat, including the proposal made by Uganda on behalf of the African Group.

104. Following an exchange of views, in which representatives of Argentina, Australia, Brazil, Canada, Chile (on behalf of the Latin American and Caribbean Group), Malaysia (on behalf of the Like-minded Megadiverse Countries), New Zealand, Portugal (on behalf of the European Community and its member States) and Uganda (on behalf of the African Group) took part, the Co-Chair proposed that an open-ended contact group be formed. It was agreed that the contact group would be chaired by the representatives of Germany and Colombia and that it would use the collation and the African Group's proposal as a basis for discussion and report back to a subsequent meeting of the Sub-Working Group.

105. At its 8th meeting, on 19 October 2007, the representative of Germany, co-chair of the contact group, introduced an informal paper containing a draft recommendation prepared by the group. Following an exchange of views, the Sub-Working Group agreed to transmit the draft recommendation to the plenary as draft recommendation UNEP/CBD/WG8J/5/L.8.

#### *Action by the Working Group*

106. At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.8. After an exchange of views, the Chair said he took it that despite having made serious efforts and having contributed many positive ideas the Working Group was not in a position to transmit any views on the elaboration and negotiation of the international regime on access and benefit-sharing relevant to traditional knowledge, innovations and practices associated with genetic resources and to the fair and equitable sharing of benefits arising from their utilization to the sixth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing.

#### **ITEM 7. MECHANISMS TO PROMOTE THE EFFECTIVE PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES IN MATTERS RELATED TO THE OBJECTIVES OF ARTICLE 8(J) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY**

107. Agenda item 7 was taken up by Sub-Working Group II at its 1st meeting, on 15 October 2007. 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 in the work of the Convention (UNEP/CBD/WG8J/5/5) and the report of the capacity-building workshop on networking and information exchange for national focal points and indigenous and local communities in the Latin America and Caribbean region (UNEP/CBD/WG8J/5/INF/14).

108. Introducing the documents, the representative of the Secretariat indicated that the note by the Executive Secretary constituted a response to the requests to the Executive Secretary made by the 8th meeting of the Conference of the Parties in decision VIII/5 D, section II, paragraph 6. It contained draft recommendations on participatory mechanisms, as well as the draft recommendations emanating from the capacity-building workshop.

109. Following the introduction, statements were made by the representatives of Argentina, Brazil, Canada, Colombia, Guinea-Bissau, Haiti, Malawi (on behalf of the African Group), Mexico, New Zealand, Norway (on behalf of the Saami Parliament), Portugal (on behalf of the European Community and its member States), Senegal and Thailand.

110. Statements were also made by the representatives of the Canadian Indigenous Biodiversity Network, the Indigenous Peoples of Africa Co-ordinating Committee, the Indigenous Youth Caucus, the International Indigenous Forum on Biodiversity, Na Koa Ikaika o Ka Lahui Hawai'i, the Russian Association of Indigenous Peoples of the North, and the Tebtebba Foundation.

111. The Co-Chair said that she would prepare a draft recommendation for the consideration of the Sub-Working Group at a subsequent meeting.

112. At its 4th meeting, on 17 October 2007, the Sub-Working Group considered a draft recommendation, submitted by the Co-Chairs, on participatory mechanisms for indigenous and local communities in the Convention.

113. A representative of the Secretariat responded to a request for the budgetary implications of the translation into the six official languages of the United Nations of notifications and other information resources for indigenous and local communities, referred to in the draft recommendation.

114. The Sub-Working Group continued its discussion of the draft recommendation at its 5th meeting, on 17 October 2007.

115. After an exchange of views, the Co-Chair said that she would prepare a revised draft recommendation that would incorporate those views and submit it for the consideration of the Sub-Working Group at a subsequent meeting.

116. The Sub-Working Group considered the revised text of the draft recommendation at its 6th meeting, on 18 October 2007.

117. After an exchange of views, the Sub-Working Group agreed to transmit the draft recommendation, as amended orally, to the plenary as draft recommendation UNEP/CBD/WG8J/5/L.2.

#### ***Action by the Working Group***

118. At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.2 and adopted it as recommendation 5/4. The text of the recommendation was adopted, as orally amended, and is contained in the annex to the present report.

### **ITEM 8. DEVELOPMENT OF ELEMENTS OF *SUI GENERIS* SYSTEMS FOR THE PROTECTION OF TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES**

119. Agenda item 8 was taken up by Sub-Working Group II at its 2nd meeting, on 16 October 2007. In considering the item, the Sub-Working Group had before it an overview by the Executive Secretary of relevant material or materials regarding *sui generis* systems for the protection of traditional knowledge, innovations and practices (UNEP/CBD/WG8J/5/6) and a compilation of views, including definitions (UNEP/CBD/WG8J/5/INF/16).

120. Introducing the documents, the Co-Chair said that in decision VIII/5 E, paragraph 4, the Parties to the Convention had requested the Executive Secretary to continue gathering and analysing information, in consultation with Parties, Governments, indigenous and local communities, to develop further as a priority issue the possible elements listed in the annex to decision VII/16 H for consideration by the present meeting of the Working Group and had requested the Working Group to identify priority elements of *sui generis* systems. In paragraph 8 of the same decision, Parties, Governments, indigenous and local communities and non-governmental organizations had been invited to communicate to the Secretariat their views on definitions related to the decision. The Executive Secretary had provided an initial overview of relevant material or materials regarding *sui generis* systems for the protection of traditional knowledge, innovations and practices (UNEP/CBD/WG8J/5/6), together with an information document containing a compilation of views, including definitions (UNEP/CBD/WG8J/5/INF/16). The Working Group was invited to contribute to the further development of *sui generis* systems, taking into account the specific characteristics of the knowledge, innovations and practices of indigenous and local communities and bearing in mind that the issue of *sui generis* systems was related to the negotiation of an international regime on access and benefit-sharing. In particular, the Working Group was requested to identify priority elements of *sui generis* systems and to make recommendations on priority elements and definitions, as appropriate, to the 9th meeting of the Conference of the Parties. The document (UNEP/CBD/WG8J/5/6) contained draft recommendations to assist the Working Group with that task.

121. Following the introduction, statements were made by the representatives of Argentina, Australia, Brazil, Canada, Colombia, Costa Rica, Guinea, India, Kenya, Malawi (on behalf of the African Group), Malaysia, Mexico, New Zealand, the Philippines, Portugal (on behalf of the European Community and its member States), Thailand and the United Republic of Tanzania.

122. A statement was made by the representative of the World Intellectual Property Organization (WIPO).

123. Statements were also made by the representatives of the Canadian Indigenous Biodiversity Network, Organización Dad Nakue Dupir, the Indigenous Women's Biodiversity Network, the International Forum of Local Communities, the International Indigenous Forum on Biodiversity and Tinhinan.

124. At the conclusion of the discussion, the Chair said that there appeared to be general agreement that some form of guidelines was needed and that the process of developing them should be speeded up and prioritized. Views differed, however, as to the procedure to be followed. She therefore proposed establishing a group of friends of the Chair, composed of representatives of Argentina, Australia, Brazil, Canada, India, Malawi (on behalf of the African Group), Malaysia, New Zealand, Portugal (on behalf of the European Community and its member States), the Canadian Indigenous Biodiversity Network and the International Indigenous Forum on Biodiversity, to prepare proposals on how to move ahead with formulating the guidelines.

125. At the 3rd meeting of Sub-Working Group II, held on 16 October 2007, the Co-Chair reported on the outcome of the discussions by the Friends of the Chair. There had been general agreement that work on a *sui generis* system had to take into account the work being done on access and benefit-sharing, but that they were two different issues that should be discussed separately. There was opposition to the concept of an international system and some participants were not prepared to work on minimum standards of international protection. Other participants emphasized the importance of not losing what had already been achieved. It was generally felt that the best way forward at the present meeting would be to request the Co-Chairs to prepare a draft recommendation reflecting the elements already contained in decision VIII/5 E and taking into account the views expressed at the meeting.

126. The Sub-Working Group began its consideration of the draft recommendation submitted by the Co-Chairs at its 5th meeting, on 17 October 2007.

127. It resumed its consideration of the draft recommendation at its 6th meeting, on 18 October 2007, and, following an exchange of views, the Co-Chair asked the representatives of Argentina, Australia, Canada, Malawi (on behalf of the African Group), Malaysia, New Zealand and Portugal (on behalf of the European Community and its member States) to form a drafting group with a view to agreeing on the text of a revised draft recommendation to be submitted to the Sub-Working Group for consideration at a subsequent meeting.

128. The drafting group's text of a revised draft recommendation was submitted to the Sub-Working Group at its 7th meeting, on 18 October 2007.

129. Following an exchange of views, the Co-Chair said that she would prepare a further revised text of the draft recommendation.

130. At its 8th meeting, on 19 October 2007, the Sub-Working Group considered the text of a revised draft recommendation submitted by the Co-Chairs.

131. Following an exchange of views, the Sub-Working Group agreed to transmit the draft recommendation, as orally amended, to the plenary as draft recommendation UNEP/CBD/WG8J/5/L.9.

#### ***Action by the Working Group***

132. At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.9 and adopted it as recommendation 5/5. The text of the recommendation, as adopted, is contained in the annex to the present report.

**ITEM 9. ELEMENTS OF A CODE OF ETHICAL CONDUCT TO ENSURE RESPECT FOR THE CULTURAL AND INTELLECTUAL HERITAGE OF INDIGENOUS AND LOCAL COMMUNITIES**

133. Agenda item 9 was taken up by Sub-Working Group II at its 3rd meeting, on 16 October 2007. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on the revised draft of the elements of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities (UNEP/CBD/WG8J/5/7) and an information document containing a compilation of views, including those by independent experts of the United Nations Permanent Forum on Indigenous Issues (UNEP/CBD/WG8J/5/INF/15).

134. Introducing the item, the Co-Chair recalled that in decision VIII/5 F, paragraph 4, the Conference of the Parties had requested the Executive Secretary to compile views and comments on draft elements of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant to the conservation and sustainable use of biological diversity for the consideration of the present meeting. In paragraph 3 of the same decision, the Executive Secretary was requested to transmit the code to the Permanent Forum and to seek collaboration in its development. The draft elements of the code had been revised in the light of the views received from the Permanent Forum. In paragraph 5 of the decision, the Conference of the Parties requested the Working Group to develop further the draft elements of a code of ethical conduct and to submit them to the Conference of Parties at its 9th meeting for consideration and possible adoption.

135. After the Co-Chair had called for general comments on the draft elements of the code, statements were made by the representatives of Australia, Brazil, Canada, Malawi (on behalf of the African Group), Mexico, New Zealand, Norway, Portugal (on behalf of the European Community and its member States) and the United Republic of Tanzania.

136. A statement was also made by the representative of the Canadian Indigenous Biodiversity Network.

137. The Co-Chair then asked for specific amendments to the individual elements and statements were made by the representatives of Argentina, Brazil, Canada, Colombia, Malawi (on behalf of the African Group), New Zealand, Portugal (on behalf of the European Community and its member States), and the United Republic of Tanzania.

138. Statements were also made by the representatives of the Canadian Indigenous Biodiversity Network, the Indigenous Women's Biodiversity Network and Na Koa Ikaika o Ka Lahui Hawai'i.

139. The Co-Chair said that a new draft of the code would be prepared, with square brackets accommodating alternative proposals, for the consideration of the Sub-Working Group at a subsequent meeting. She then convened a meeting of friends of the Chair, comprising the representatives of Brazil, Canada, New Zealand, Portugal (on behalf of the European Community and its member States) and the Canadian Indigenous Biodiversity Network, to consider how to approach the question of scope.

140. At the Sub-Working Group's 4th meeting, on 17 October 2007, the Co-Chair reported on the outcome of the discussions on the question of scope. The friends of the Chair had tried to reconcile the extreme positions originally expressed by those wishing to expand the scope of the code and those seeking to reduce its scope. Although the discussion had been fruitful, differences remained. She therefore proposed to prepare an informal paper containing a compilation of the proposals made.

141. The Sub-Working Group began its consideration of the compilation of proposals at its 5th meeting, on 17 October 2007.

142. It resumed that consideration at its 6th meeting, on 18 October 2007, and after an exchange of views the Co-Chair set up a contact group, with the representative of Norway as facilitator, to reconcile the various points of view expressed.

143. At its 8th meeting, on 19 October 2007, the Sub-Working Group further discussed the compilation of proposals, as they had emerged from the contact group, in the form of draft elements of a code annexed to a draft recommendation. Following consideration of the draft elements, in which amendments were made, the representative of Portugal (on behalf of the European Community and its member States) expressed the view that their current status was not such that the draft elements could be regarded as ready for submission to the Conference of the Parties at its 9th meeting; they needed to be further refined. Accordingly, she proposed an amendment to the draft recommendation to the effect that the Conference of the Parties, at its 9th meeting, would be recommended to take note of the further revised elements, to request the submission of written comments in advance of the next meeting of the Working Group, and to request the Working Group to develop the draft elements further and submit them to the Conference of the Parties, at its 10th meeting, for its consideration and possible adoption.

144. After a further exchange of views, the Sub-Working Group agreed to transmit the draft recommendation, as orally amended, to the plenary as draft recommendation UNEP/CBD/WG8J/5/L.10.

#### *Action by the Working Group*

145. At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.10 and adopted it as recommendation 5/6. The text of the recommendation, as adopted, is contained in the annex to the present report.

### **ITEM 10. INDICATORS FOR ASSESSING PROGRESS TOWARDS THE 2010 BIODIVERSITY TARGET: STATUS OF TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES**

146. Agenda item 10 was taken up by Sub-Working Group II at its 4th meeting, on 17 October 2007. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on indicators for assessing progress towards the 2010 Biodiversity Target (UNEP/CBD/WG8J/5/8). It also had before it, as information documents, the report on the Latin American and Caribbean Consultation on Indicators Relevant for Indigenous and Local Communities and the Convention on Biodiversity (UNEP/CBD/WG8J/5/INF/1 and Add.1) and the report of the International Expert Meeting on Indicators Relevant for Indigenous and Local Communities and the Convention on Biological Diversity (UNEP/CBD/WG8J/5/INF/2).

147. Introducing the item, the Co-Chair said that in decision VIII/5 G the Conference of the Parties considered that a more structured technical process was required to guide further work on the further development of indicators and welcomed an initiative of the International Indigenous Forum on Biodiversity Working Group on Indicators to organize an international expert seminar on indicators relevant to indigenous and local communities. The expert seminar had been assisted by extensive regional consultations and in particular the report of the Latin American consultation, which was before the Sub-Working Group as an information document. The outcome of the international expert seminar was contained in the note by the Executive Secretary and the full report of the meeting could be found in the information document before the Sub-Working Group.

148. Following the introduction, statements were made by the representatives of Argentina, Australia, Brazil, Canada, Colombia, Kenya, Lesotho, Malawi (on behalf of the African Group), Mexico, New Zealand, Norway, Philippines, Portugal (on behalf of the European Community and its member States), Rwanda, Senegal, Thailand and the United Republic of Tanzania

149. Statements were also made by the representatives of the Asia Indigenous Peoples Pact, the Indigenous People's Caucus, the Indigenous Women's Biodiversity Network, the Indigenous Youth Caucus, the International Indigenous Forum on Biodiversity Working Group on Indicators and the Russian Association of Indigenous Peoples of the North.

150. Summarizing the discussion, the Co-Chair said that while there had been a general feeling that the international expert seminar on indicators relevant for indigenous peoples had yielded very valuable

results, some speakers had felt that more attention should be paid to what the Working Group was being invited to do by the Conference of the Parties in its decision VIII/5 G. Many had expressed the view that the number of proposed indicators was too large and should be reduced, and that it was important to gain experience in using existing indicators. She said that on the basis of the discussion she would prepare a draft recommendation for the consideration of the Sub-Working Group at a subsequent meeting.

151. At its 6th meeting, on 18 October 2007, the Sub-Working Group took up the draft recommendation submitted by the Co-Chairs.

152. At its 7th meeting, on 18 October 2007, following informal consultations, the Sub-Working Group agreed to transmit the draft recommendation, as orally amended by the Co-Chair, to the plenary as draft recommendation UNEP/CBD/WG8J/5/L.4.

#### ***Action by the Working Group***

153. At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.4 and adopted it as recommendation 5/7. The text of the recommendation, as adopted, is contained in the annex to the present report.

### **ITEM 11. RECOMMENDATIONS OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES**

154. The Working Group took up agenda item 11 at the 1st plenary session of the meeting on 15 October 2007. In considering the item, the Working Group had before it a note by the Executive Secretary on recommendations of the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity (UNEP/CBD/WG8J/4/9) and the report of the International Expert Group Meeting on the Convention on Biological Diversity's International Regime on Access and Benefit-Sharing and Indigenous Peoples' Human Rights, available as an information document (UNEP/CBD/WG8J/5/INF/10).

155. After the Chair had called for comments on the suggested recommendations, statements were made by Portugal (on behalf of the European Community and its member States) and Canada.

156. A statement was also made by the representative of the Global Forest Coalition.

157. At its 2nd plenary session, on 15 October 2007, the Working Group continued its consideration of agenda item 11.

158. Statements were made by the representatives of Argentina, Australia, Brazil, Burkina Faso, India, Mexico, New Zealand, the Philippines, Portugal (on behalf of the European Community and its member States) and Zambia.

159. A statement was also made by the representative of Na Koa Ikaika o ka Lahui Hawai'i.

160. At its 3rd plenary session, on 17 October 2007, the Chair introduced a draft recommendation for consideration by the Working Group. After an exchange of views, the Chair said that he would prepare a revised text of the draft recommendation for consideration by the Working Group at a subsequent session.

#### ***Action by the Working Group***

161. At the 4th plenary session of the meeting, on 19 October 2007, the Working Group took up draft recommendation UNEP/CBD/WG8J/5/L.3 and adopted it as recommendation 5/8. The text of the recommendation was adopted, as orally amended, and is contained in the annex to the present report.

**ITEM 12. OTHER MATTERS**

162. There was no discussion under this agenda item.

**ITEM 13. ADOPTION OF THE REPORT**

163. The present report was adopted at the 4th plenary session of the meeting, on 19 October 2007, on the basis of the draft report prepared by the Rapporteur (UNEP/CBD/WG8J/5/L.1) and the reports prepared by the Co-Chairs of the two Sub-Working Groups (UNEP/CBD/WG8J/5/L.1/Add.1 and (UNEP/CBD/WG8J/5/L.1/Add.2.

**ITEM 14. CLOSURE OF THE MEETING**

164. Following the customary exchange of courtesies, the Chair declared the 5th meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions closed at 8 p.m. on Friday, 19 October 2007.

*Annex*

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

*Montreal, 15-19 October 2007*

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**5/1. Progress report on the implementation of the programme of work on Article 8(j) and related provisions**

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

*The Conference of the Parties*

1. *Encourages* further progress in the integration of the objectives of Article 8(j) and related provisions, including Articles 10(c), 17, paragraph 2 and 18, paragraph 4, into the thematic programmes of the Convention and other important scientific and cross-sectional issues and notes the progress made in integrating Article 8(j) tasks as reflected through the national reports;

2. *Requests* the Executive Secretary to continue to report on progress in the implementation of Article 8(j) and related provisions based on information submitted in national reports and on the integration of the objectives of Article 8(j) and related provisions, including Article 10(c), into the thematic areas, for the sixth meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions;

3. *Requests* Parties, and especially Parties that have not yet submitted information regarding the implementation of the programme of work for Article 8(j) and related provisions, including information on national participation of indigenous and local communities to do so through, *inter alia*, the fourth national reports, where possible, and in time for the sixth meeting of the Working Group on Article 8(j) and *requests* the Executive Secretary to summarize and compile this information in a framework of best conservation and sustainable-use practices at the national, regional and community levels and make it available to the Working Group on Article 8(j) and Related Provisions at its sixth meeting;

4. *Requests* the Executive Secretary to continue to compile case-studies, analyse and report on work concerning related provisions, focusing on Article 10(c), and to provide advice to the Working Group at its sixth meeting on how this related provision may be further advanced and implemented as a priority;

[5. *Decides* that one meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions be organized prior to the tenth meeting of the Conference of the Parties, preferably back to back with a meeting of the Working Group on Access and Benefit-sharing to further advance the implementation of the work programme on Article 8(j) and related provisions;]

6. *Decides* to continue work on the tasks of the first phase of the programme of work that have not yet been completed or are ongoing, namely tasks 1, 2, and 4;

[7. *Decides* to [commence work on tasks 7, 10, and 12, taking into account the contributions already made to these tasks by the *sui generis* systems and the code of ethics and requests the Ad Hoc Working Group on Article 8(j) and Related Provisions to initiate work on those tasks at its sixth meeting] [and to commence work on guidelines on access to genetic resources and associated traditional knowledge and the fair and equitable sharing of the benefits arising out of their utilization];]

[8. *Decides* to initiate task 15 of the programme of work for Article 8(j) and related provisions, to develop guidelines that would facilitate repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity in order to facilitate the recovery of traditional knowledge of biological diversity;]

[9. *Invites* Parties, Governments and international organizations, indigenous and local communities and other stakeholders to provide to the Secretariat their views on tasks referred to in

paragraph 7 of the present decision, taking into consideration the ongoing work concerning *sui generis* systems and the code of ethical conduct and the relationship of all this work to the ongoing elaboration and negotiations of the international regime on access and benefit-sharing and *requests* the Executive Secretary to compile those views and submit them to the next meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions;]

10. *Requests* that the Ad Hoc Open-ended Working Group on Article 8(j) continue to collaborate and contribute to the fulfilment of the mandate of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing by providing views on the elaboration and negotiation of the international regime on access and benefit-sharing relevant to traditional knowledge, innovations and practices associated with genetic resources and to the fair and equitable sharing of benefits arising from their utilization.

**5/2. 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**

**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 biodiversity: (i) revised regional reports – identification of obstacles for traditional knowledge; (ii) indigenous and local communities highly vulnerable to climate change; (iii) protecting the rights of indigenous and local communities living in voluntary isolation**

*The Ad Hoc Working Group on Article 8(j) and Related Provisions recommends that the Conference of the Parties at its ninth meeting adopt a decision along the following lines:*

*The Conference of the Parties,*

*Recalling* the mandate of the Convention on Biological Diversity, while *being mindful* of the mandate of the United Nations Framework Convention on Climate Change,

*Recognizing* the need to respect, preserve and maintain the traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity and to promote their wider application with the approval and involvement of holders of such knowledge, innovations and practices and encourage equitable sharing of benefits arising from the utilization of such knowledge, innovations and practices,

*Concerned* by the impacts of climate change [and of the activities aimed at the mitigation and adaptation of the impacts of climate change] on indigenous and local communities and their knowledge innovations and practices relevant for the conservation and sustainable use of biological diversity,

*Mindful* of the cultural diversity of indigenous and local communities, including those in voluntary isolation, and the role played by their knowledge, innovations and practices in the conservation and sustainable use of biological diversity,

*Noting* the research made available by the Secretariat, concerning guidelines for documenting traditional knowledge; indigenous and local communities highly vulnerable to climate change; and protecting the rights of indigenous and local communities living in voluntary isolation,

1. *Takes note with appreciation* of the completion of phase two of the composite report concerning the identification of national processes that may threaten the maintenance, preservation and application of traditional knowledge and the identification of processes at the local-community level that may threaten the maintenance, preservation and application of traditional knowledge;

2. *Invites* Parties and Governments and relevant international organisations to assist indigenous and local communities to address the underlying and community-specific causes of the decline of traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity through capacity-building and practical measures to develop community action plans for its preservation, maintenance and respect;

3. *Notes with concern* the specific vulnerabilities of indigenous and local communities to the impacts of climate change and of activities aimed at the [mitigation and] adaptation of the impacts of climate change, including resulting accelerated threats to traditional knowledge;

4. *Notes* also the unique value of biodiversity related traditional knowledge, innovations and practices of indigenous and local communities, especially those of women, in contributing to the understanding and evaluation of impacts of climate change, including vulnerabilities and adaptation options and other forms of environmental degradation, and encourages Parties, Governments, and relevant international organizations, with the full and effective participation [and prior informed consent] of indigenous and local communities, to document, analyse and apply, as far as possible and where appropriate, and in accordance with Article 8(j) of the Convention, such knowledge in ways that complement science-based knowledge;

5. *Invites* the Conference of the Parties to the United Nations Framework Convention on Climate Change to take note of the implications of climate change on biodiversity related traditional knowledge, innovations and practices of indigenous and local communities;

6. *Encourages* Parties to the Convention to consider, as far as possible and as appropriate, introducing necessary measures, administrative as well as legislative, for ensuring the full and effective participation of indigenous and local communities in formulating, implementing and monitoring of activities aimed at [mitigation and] adaptation to the impacts of climate change where this could effect biological diversity and biodiversity related traditional knowledge, innovations and practices of indigenous and local communities;

7. *Further encourages* Parties to make such information available to the Executive Secretary for dissemination through the most appropriate mechanism for exchange of information and sharing of experiences and *requests* the Executive Secretary to explore the usefulness of the Convention's clearing-house mechanism and the Traditional Knowledge Information Portal in this respect, as well as opportunities for cooperation with the United Nations Framework Convention on Climate Change;

8. *Notes* the report on possible measures to ensure respect for the rights of unprotected and voluntarily isolated communities taking into account their traditional knowledge (UNEP/CBD/WG8J/5/INF/17);

9. *Invites* Parties to develop appropriate policies that ensure the respect for the rights of voluntarily isolated peoples living within the protected areas, reserves and parks, and proposed areas for protection, including their choice to live in isolation.

#### ***B. Considerations for guidelines for documenting traditional knowledge***

*The Working Group on Article 8(j) and Related Provisions recommends that the Conference of the Parties at its ninth meeting adopt a decision along the following lines:*

*The Conference of the Parties,*

*Recalling* decision VIII/5 B, paragraph 5, in which it requested the Working Group on Article 8(j) to explore the possibility of developing technical guidelines for recording and documenting traditional knowledge, innovations and practices, and to analyse the potential threats of documentation to the rights of the holders of traditional knowledge, innovations and practices, with the full and effective participation of indigenous and local communities,

*Affirming* the central role of traditional knowledge in the cultures of indigenous and local communities and rights of indigenous and local communities to their knowledge, innovations and practices,

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

1. *Requests* Parties and Governments and international organizations to support and assist indigenous and local communities to retain control and ownership of their traditional knowledge, innovations and practices, through the repatriation of traditional knowledge [and cultural property] in databases, as appropriate, and by supporting capacity building [and the development of necessary infrastructure and resources] with the aim [of enabling] [, as appropriate, and in accordance to their national law, of enabling or ensuring the PIC of] indigenous and local communities to make informed decisions regarding the documentation of traditional knowledge;

2. *Recalling* decision VI/10 F, paragraphs 35-38, 1/ *requests* the Executive Secretary to collaborate with the United Nations Forum on Indigenous Issues, the United Nations Educational, Scientific and Cultural Organization, and the World Intellectual Property Organization, to address both the potential benefits and threats of the documentation of traditional knowledge to make the results available to the sixth meeting of the Working Group on Article 8(j) and Related Provisions.

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1/ In decision VI/10 F, paragraphs 35-38, the Conference of the Parties requested that WIPO make relevant information on the protection of traditional knowledge available through the clearing-house mechanism.

**5/3. *Plan of action for the retention of traditional knowledge: – measures and mechanisms to address the underlying causes for the decline of traditional knowledge***

*The Ad Hoc Working Group on Article 8(j) and Related Provisions recommends that the Conference of the Parties at its ninth meeting adopt a decision along the following lines:*

*The Conference of the Parties*

1. *Notes with appreciation* the advancement of the elements of the plan of action for the retention of traditional knowledge and, in particular, elements B and D, and *decides* that the priority for future work on the plan of action should focus on section E, on capacity-building;

2. *Urges* Parties and Governments to develop their own toolkit of measures and mechanisms to address the underlying causes for the decline of traditional knowledge, innovations and practices based on their own unique national circumstances and diversity of indigenous and local communities, with the full and effective participation of indigenous and local communities and to report on experiences, emphasising positive measures, through the national reporting process and through the clearing-house mechanism and the Traditional Knowledge Information Portal;

3. *Invites* the financial mechanism of the Convention and other possible donors to provide funding for the development of national action plans for the retention of traditional knowledge relevant to the conservation and sustainable use of biological diversity;

4. *Invites* Parties and Governments, with the input of indigenous and local communities, to report on positive measures for the retention of traditional knowledge in areas relevant for the conservation and the sustainable use of biological diversity, such as those contained in but not limited to the annex hereto.

*Annex*

- (a) Strengthening traditional health-care systems based on biodiversity;
- (b) Strengthening opportunities to learn and speak indigenous and local languages;
- (c) Culturally appropriate sport and tourism policies;
- (d) Research on indigenous and local communities way of life and their environment;
- (e) Building of culturally appropriate business structures within indigenous and local communities (such as cooperatives);
- (f) Developing technologies that focus on traditional methods of cultivation, harvesting and post-harvesting activities (i.e., storage and seed preparation activities);
- (g) Re-establishment of traditional spiritual/religious institutions;
- (h) Creation of media, such as radio, newspapers and television stations controlled by indigenous and local communities and with traditional content, according to national law;
- (i) Creation of protected areas, nature parks and others, in consultation with indigenous and local communities and also involving them in their management, consistent with national law;

- (j) Initiatives bringing together women, youth and Elders;
- (k) Promotion of the creation of businesses offering traditional products and services;
- (l) Strengthening institutions that foster traditional collection and distribution of food, traditional medicine and other resources;
- (m) Culturally appropriate education-curriculum development and implementation initiatives, in indigenous and local communities;
- (n) Initiatives of indigenous and local communities for culturally appropriate and sustainable development.

#### 5/4. *Participatory mechanisms for indigenous and local communities in the Convention*

*The Ad Hoc Open-Ended Inter-Sessional Working Group on Article 8(j) and Related Provisions recommends that the Conference of the Parties, at its ninth meeting adopt a decision along the following lines:*

##### *The Conference of the Parties*

1. *Welcomes* the convening of the Capacity-building Workshop on Networking and Information Exchange for National Focal Points and Indigenous and Local Communities in the Latin America and the Caribbean Region, held in Quito from 14 to 16 December 2006, with the generous support of the Governments of Spain and the Netherlands;

2. *Notes with appreciation* the work of the International Indigenous Forum on Biodiversity and other indigenous and local community organizations to promote the understanding of the work of the Convention among indigenous and local communities, and to promote their participation in the meetings of the Convention;

3. *Notes* the need for the translation, into the six official languages of the United Nations, of notifications and other information resources for indigenous and local communities, as appropriate;

4. *Invites* Parties, Governments and relevant funding institutions and mechanisms to donate to the General Trust Fund for Voluntary Contributions to Facilitate the Participation of Indigenous and Local Communities in the Work of the Convention on Biological Diversity, in accordance with the criteria for the operation of the voluntary funding mechanism as adopted by the Conference of the Parties at its eighth meeting in decision VIII/5 D, in order to enable the continuation of this important initiative;

5. *Encourages* Parties, Governments and relevant international organizations, as appropriate, in collaboration with the Executive Secretary, *inter alia* through the Global Initiative on Communication, Education and Public Awareness (CEPA) and the clearing-house mechanism, to develop, including in local languages, as appropriate, alternative means of communicating public information on traditional knowledge related to the conservation and sustainable use of biodiversity, in plain language and diverse community friendly-formats, such as video, including television, audio for community radio, songs, posters, theatre/drama, and film, in order to ensure the full and effective participation of indigenous and local communities, including women and youth, at local, national and international levels, while supporting the development by indigenous and local communities of their own media tools;

6. *Notes with appreciation* the revitalization of the Article 8(j) homepage on the website of the Secretariat and the creation of the Traditional Knowledge Information Portal, and welcomes the development of related initiatives including a number of less-technology intensive communication and information exchange tools for use by indigenous and local communities by the Executive Secretary;

7. *Requests* the Executive Secretary to:

(a) Convene, subject to the availability of financial resources, further regional and subregional workshops on community-friendly communication tools on traditional knowledge related to the conservation and sustainable use of biodiversity, to assist local and indigenous communities in their use and to facilitate the establishment of communication networks, noting the need for adapting them to local languages and for involving trainers from indigenous and local communities;

(b) Continue to develop and translate, subject to the availability of financial resources, the various electronic communication mechanisms, such as the Article 8(j) homepage and the Traditional Knowledge Information Portal, establish links to relevant existing, new and upcoming web-based initiatives such as Indigenousportal.com, and report on progress to the next meeting of the Working Group;

(c) Monitor the use of the Convention website and, in particular, the Article 8(j) homepage and the Traditional Knowledge Information Portal, and to consult with Parties, indigenous and local communities, and their organizations, including youth and women, and other relevant national and regional organizations that are participating in the work of the Convention, such as the International Indigenous Forum on Biodiversity, to identify any gaps or shortcomings, and to report to the next meeting of the Working Group on progress made in establishing networks with indigenous and local communities;

(d) Make available, through the Traditional Knowledge Information Portal and other means, information on possible opportunities and sources of funding that may offer support to indigenous and local communities in States Parties and the networks of those communities, to disseminate information, in appropriate and accessible languages, and through appropriate media, to indigenous and local communities on Article 8(j)-related issues including the issue of access and benefit-sharing;

(e) Provide to the national focal points, in a timely fashion, documentation for meetings under the Convention in the six United Nations languages, in order to facilitate the consultation process with, between and within indigenous and local communities;

(f) Intensify efforts to promote the General Trust Fund for Voluntary Contributions to Facilitate the Participation of Indigenous and Local Communities in the Work of the Convention on Biological Diversity;

8. *Reiterates its request* to the Executive Secretary, expressed in decision VIII/5 C, to endeavour to make documentation for the meetings of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions and the Ad Hoc Open-ended Working Group on Access and Benefit-sharing available three months prior to those meetings, where possible, otherwise as stated in the rules of procedure of this Convention, to facilitate consultations with representatives of indigenous and local communities.

**5/5. Development of elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices**

*The Working Group on Article 8(j) and Related Provisions recommends that the Conference of the Parties at its ninth meeting adopt a decision along the following lines:*

*The Conference of the Parties,*

*Recalling* the chapeau to decision VIII/5, which states that “for the purposes of this decision, protection of traditional knowledge, innovations and practices must be interpreted in accordance with the provisions of Article 8(j)”,

1. *Takes into account* the elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices as further developed in the note by the Executive Secretary on the subject (UNEP/CBD/WG8J/5/6) and, recognizes that they provide useful elements to consider as and when Parties and Governments develop *sui generis* systems to protect traditional knowledge, innovations and practices of indigenous and local communities;

2. *Invites* Parties and Governments to consider that the development, adoption or recognition of effective *sui generis* systems be local, national or regional in nature, taking into consideration the relevant customary law of the indigenous and local communities concerned, and recognized or created with the full and effective participation of those communities, in order to protect, respect, preserve, maintain and promote their knowledge, innovations and practices, while ensuring fair and equitable benefit-sharing;

3. *Invites* Parties, Governments, indigenous and local communities and relevant organizations to share their experience in the development, adoption or recognition of *sui generis* systems, and to submit to the Executive Secretary concise case-studies and other experiences that underpin the elements of *sui generis* systems relevant to the conservation and sustainable use of biodiversity contained in the note by the Executive Secretary on development of elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices (UNEP/CBD/WG8J/5/6), [including the effective implementation of prior informed consent and mutually agreed terms] with practical empirical information;

4. *Requests* the Executive Secretary to make case-studies and experiences received available through the Traditional Knowledge Information Portal in the clearing-house mechanism of the Convention and other means;

5. *Further requests* the Executive Secretary to update his note (UNEP/CBD/WG8J/5/6) in light of case-studies and experiences received, for consideration by the Working Group on Article 8(j) and Related Provisions at its sixth meeting;

6. [Notes the clear linkage between the effective *sui generis* systems as may be developed, adopted or recognized and the implementation of access and benefit-sharing provisions [and the prevention of misappropriation of traditional knowledge associated with genetic resources] [and the need to halt the misuse and misappropriation of knowledge, innovation and practices of indigenous and local communities, as stated in decision VII/16 H].

*5/6. Elements of a code of ethical conduct*

*The Ad Hoc Working Group on Article 8(j) and Related Provisions,*

*Underlining* the desirability of developing elements of a voluntary code of ethical conduct,

*Acknowledging* the work of the Executive Secretary in preparing the revised draft elements of a code of ethical conduct, pursuant to decision VIII/5 F, paragraph 4,

*Having further considered and reviewed* the revised draft elements at its fifth meeting,

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

*The Conference of the Parties*

1. *Takes note* of the further revised draft elements of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant for the conservation and sustainable use of biological diversity, as contained in the annex of the present recommendation;
2. *Requests* Parties and invites Governments, indigenous and local communities, relevant international organizations and other relevant stakeholders, after having undertaken, where appropriate, consultations, to submit written comments to the Executive Secretary on the revised draft elements, at least six months prior to the sixth meeting of the Ad Hoc Working Group on Article 8(j) and Related Provisions;
3. *Requests* the Executive Secretary to transmit the present decision to the United Nations Permanent Forum on Indigenous Issues and to seek collaboration in the development of the elements of a code of ethical conduct;
4. *Also requests* the Executive Secretary to compile views and comments provided and make the compilation available at least three months prior to the sixth meeting of the Ad Hoc Working Group on Article 8(j) and Related Provisions for its consideration;
5. *Requests* the Ad Hoc Working Group on Article 8(j) and Related Provisions to further develop the draft elements of a code of ethical conduct and to submit them to the Conference of the Parties at its tenth meeting for its consideration and possible adoption.

*Annex*

**DRAFT ELEMENTS OF A CODE OF ETHICAL CONDUCT TO [PROMOTE] [ENSURE]  
RESPECT FOR THE CULTURAL AND INTELLECTUAL HERITAGE INDIGENOUS AND  
LOCAL COMMUNITIES RELEVANT TO THE CONSERVATION AND SUSTAINABLE USE  
OF BIOLOGICAL DIVERSITY**

[*Recalling* [the request in] recommendations 1, 8 and 9 of the report of the second session of the United Nations Permanent Forum on Indigenous Issues endorsed by the Conference of Parties in decision VII/16, paragraph 5, and decision VIII/5 F, concerning elements of an code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant for the conservation and sustainable use of biological diversity, and taking into account task 16 of the programme of work on Article 8(j) and related provisions,

*Emphasizing*, that for the purposes of this code “cultural and intellectual heritage” refers to the cultural heritage and intellectual property of indigenous and local communities and is interpreted within

/...

the context of the Convention, as the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity,

[*Aiming to promote*] [promote] full respect for the cultural and intellectual heritage of indigenous and local communities relevant for the conservation and sustainable use of biological diversity,

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

*Recognizing* that respect for traditional knowledge, requires that it is valued equally with and complementary to western scientific knowledge, and that this is fundamental in order to promote full respect for the cultural and intellectual heritage of indigenous and local communities relevant to the conservation and sustainable use of biological diversity,

*Recognizing also* that any measure to respect, preserve and maintain the use of traditional knowledge, such as codes of ethical conduct, will stand a much greater chance of success if it has the support of indigenous and local communities and is designed and presented in terms that are comprehensible, [and enforceable],

*Further recognizing* the importance of implementing the Akwé:Kon Voluntary 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,

[*Recalling* that access by indigenous and local communities to lands and waters traditionally occupied or used by indigenous and local communities, together with the opportunity to practice traditional knowledge on those lands and waters, is paramount for the retention of traditional knowledge, and the development of innovations and practices relevant for the conservation and sustainable use of biological diversity,]

*Bearing in mind* the importance of preserving [and developing] traditional languages used by indigenous and local communities as rich sources of traditional knowledge regarding medicines, traditional [farm] practices, including agricultural diversity and animal husbandry, lands, air, water and whole ecosystems that have been shared from one generation to the next,

*Taking into account* the holistic concept of traditional knowledge and its multi-dimensional characteristics which include but are not limited to spatial, 2/ cultural 3/, [spiritual], and temporal qualities, 4/

*Further taking into account* the various international bodies, instruments, programmes, strategies, standards, reports and processes of relevance and the importance of their harmonization and complementarity and effective implementation, in particular and where applicable:

- 
- 2/ Territorially-based/locally-based.
  - 3/ Rooted in the broader cultural traditions of a peoples.
  - 4/ Evolves, adapts and transforms dynamically over time

- (a) The International Bill of Human Rights (1966);
- (b) International Labour Organization Convention No.169 on Indigenous and Tribal Peoples, (1989);
- (c) The Convention on Biological Diversity (1992);
- (d) The Second International Decade of the World's Indigenous Peoples (2005-2014);
- (e) United Nations Declaration on the Rights of Indigenous Peoples; <sup>5/</sup>
- (f) Universal Declaration On Bioethics And Human Rights (UNESCO 2005);
- (g) Universal Declaration on Cultural Diversity (UNESCO, 2001);
- (h) The Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted on 20 October 2005,
- (i) [The Convention for the Safeguarding of the Intangible Cultural Heritage (UNESCO 2003)]

[Have agreed] [Proclaim] as follows:]

### *Section 1*

#### **[NATURE AND SCOPE] [INTRODUCTION]**

1. The following [draft] elements of a code of ethical conduct are voluntary and are intended to provide guidance [in activities/interactions with indigenous and local communities and for the development of local, national, or regional codes of ethical conduct], with the aim of promoting respect, preservation and maintenance of traditional knowledge, innovations and practices [relevant for the conservation and sustainable use of biodiversity].

### *Section 2*

#### **RATIONALE**

2. [These elements of an code of ethical conduct aim to promote respect for the cultural and intellectual heritage of indigenous and local communities relevant for the conservation and sustainable use of biological diversity. In this way, they contribute to the achievement of the objectives of Article 8(j) of the Convention on Biological Diversity and its Plan of Action for the retention and use of traditional knowledge, innovations and practices of indigenous and local communities.]

3. [These elements are intended to provide guidance to help Parties and Governments in establishing or improving national legal frameworks required for activities/interactions with indigenous and local communities [and in particular, for development or research on lands and waters traditionally occupied by indigenous and local communities] while enabling the indigenous and local communities to promote respect of their traditional knowledge and associated biological and genetic resources.]

Option A: delete para

Option B: new text:

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<sup>5/</sup> As adopted by the United Nations General Assembly on 13 September 2007.

These elements are intended to provide guidance to help Parties [to the Convention] and Governments in establishing or improving national legal frameworks required for [all] activities/interactions with indigenous and local communities [by inter alia government departments and agencies, academic institutions, private sector developers, potential stakeholders in development and/or research projects, extractive industries, forestry and any other actors eventually involved] [and in particular, for development or research on lands and waters traditionally occupied by indigenous and local communities while enabling the indigenous and local communities to promote respect of their traditional knowledge and associated biological and genetic resources.]

4. [One of the aims of the elements of this code of ethical conduct is that all State Parties to the Convention on Biological Diversity, as well as relevant international organizations, whether governmental or non-governmental, actively cooperate in their promotion, understanding and implementation among those interacting with indigenous and local communities and in relevant research specifically involving traditional knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity to [ensure] [promote] respect for that knowledge.]

### *Section 3*

#### **ETHICAL PRINCIPLES**

5. [The following ethical principles apply to activities/interactions with indigenous and local communities, relevant to the conservation and sustainable use of biological diversity, including development and/or research proposed or being conducted on sacred sites, culturally significant sites [and lands and waters traditionally occupied or used by indigenous and local communities.]]

6.

#### Option A

The ethical principles below are intended to [facilitate] [acknowledge] the rights of indigenous and local communities to enjoy, protect and pass on to future generations, their cultural and intellectual heritage [relevant for the conservation and sustainable use of biodiversity] and it is according to these principles that others should engage with indigenous and local communities.

#### Option B

The ethical principles below are intended to [facilitate] [acknowledge] the overarching principle, that indigenous and local communities have the right to enjoy, protect and pass on to future generations, their cultural and intellectual heritage [relevant for the conservation and sustainable use of biodiversity] and it is according to these principles that others should engage with indigenous and local communities.

#### Option C

The ethical principles below suggest the over-arching principle, that indigenous and local community members [are entitled to] to enjoy their culture <sup>6/</sup> and this implies the ability to, if they so desire, pass on their culture [relevant for the conservation and sustainable use of biodiversity] to future generations, and it is on this basis that others are encouraged to engage with indigenous and local communities.

It is highly desirable that activities/interactions with indigenous and local communities be based on the following:

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<sup>6/</sup> The International Covenant on Civil and Political Rights, Article 27.

**A. General ethical principles**

*Respect for existing settlements*

7. This principle recognizes the [predominance and] importance of mutually agreed settlements or agreements at national level which exists in many countries and that respect must be applied to such arrangements at all times.

*Intellectual property*

8. Community and individual concerns over, and claims to, intellectual property relevant to traditional knowledge, innovations and practices related to the conservation and sustainable use of biodiversity should be acknowledged and addressed in the negotiation with traditional knowledge holders and/or indigenous and local communities, as appropriate, prior to starting activities/interactions . [Knowledge holders should be allowed to retain existing rights, including the determination of intellectual property rights, over their traditional knowledge.]

*Non-discrimination*

9. The ethics and guidelines for all activities/interactions should be non-discriminatory, taking into account affirmative action particularly in relation to gender, disadvantaged groups and representation.

*[Transparency/full disclosure]*

10. Indigenous and local communities should be [fully] informed [to the fullest extent possible] about the nature, scope and purpose of any proposed activities/interactions carried out by others [that may involve the use of their traditional knowledge, innovations and practices related to the conservation and sustainable use of biodiversity] [, occurring on or likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities]. [Subject to national law,] this information should be provided in a manner that takes into consideration and actively engages with the body of knowledge and cultural practices of indigenous and local communities.

*[Approval] [Free prior informed consent] of the knowledge holders*

11.

**Option A**

Any activities/interactions related to biological diversity, conservation and sustainable use occurring on or likely to impact on [sacred sites and on lands and waters traditionally occupied or used by] indigenous and local communities and impacting upon specific groups, must be carried out [only] [as far as possible and as appropriate] with the [approval] [free prior informed consent] of those indigenous and local communities concerned [in accordance with existing national and international obligations].

**Option B**

Traditional knowledge should only be used with the approval of the knowledge holders.

**Option C**

Activities/interactions developed [in the lands and waters of indigenous and local communities] should gain the approval of these indigenous and local communities on sacred sites and culturally significant sites as well this should recognize and acknowledge that indigenous and local communities may be reluctant to provide information that would allow for the clear identification of sacred sites.

*Respect*

12. Traditional knowledge must be respected as a legitimate expression of the culture, traditions, and experience of relevant indigenous and local communities. It is highly desirable that those interacting with indigenous and local communities respect the integrity, morality and spirituality of the cultures, traditions and relationships of indigenous and local communities and avoid the imposition of external concepts, standards and value judgements in inter-cultural dialogue. Respect for cultural heritage, ceremonial and sacred sites, as well as sacred species and secret and sacred knowledge ought to be given specific consideration in any activities/interactions.

*[Protection of] collective or individual ownership*

13. The resources and knowledge of indigenous and local communities can be collectively or individually owned. Those interacting with indigenous and local communities should seek to understand the balance of collective and individual rights and obligations.. [The right of indigenous and local communities to protect, collectively or otherwise, their cultural and intellectual heritage should be respected.]

*Fair and equitable sharing of benefits*

14. [Indigenous and local communities ought to receive fair, and equitable benefits for their contribution to any activities/interactions related to biodiversity and associated traditional knowledge [proposed to take place on, or which are likely to impact on, sacred sites and lands and waters traditionally occupied or used by indigenous and local communities]. Benefit sharing should be regarded as a way of strengthening indigenous and local communities and promoting the objectives of the Convention on Biological Diversity and ought to be equitable within and among relevant groups.]

*Protection*

15. Proposed activities/interactions within the mandate of the Convention should make reasonable efforts to protect and enhance the relationships of affected indigenous and local communities with the environment and thereby promote the objectives of the Convention.

*[Precautionary approach [including the concept of “do no harm”]*

16. Reaffirming the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development and in the preamble to the Convention on Biological Diversity, the prediction and assessment of potential biological and cultural harms should include local criteria and indicators, and should fully involve the relevant indigenous and local communities.]

**B. Specific considerations**

17.

Option A

*[Recognition of sacred sites, [culturally significant sites] and [lands and waters traditionally occupied or used by indigenous and local communities]] [7/] [in accordance with international standard ILO 169, part II, Land]*

[This principle recognizes the inalienable connection of indigenous and local communities to their sacred sites, culturally significant sites [and lands and waters traditionally occupied or used by them] and

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[7/ Refer establish international standard ILO 169, part II, Land.  
<http://www.ilo.org/ilolex/english/convdisp1.htm>]

associated traditional knowledge and that their cultures, lands and waters are inseparable.] Parties [to the Convention are] [ought to be] encouraged, in accordance with national [domestic] law and international obligations, [to recognize traditional land tenure of indigenous and local communities, as access to traditional lands and waters [and sacred sites]] is fundamental to the retention of traditional knowledge and associated biological diversity. Sparsely populated lands and waters ought not to be presumed to be empty or unoccupied [but may in fact be lands and waters traditionally occupied or used by indigenous and/or local communities].

#### Option B

##### *Recognition of [lands and waters traditionally occupied or used by indigenous and local communities]*

[Identifying indigenous and local communities whose interests may be affected by activities/interactions within the mandate of the Convention requires the recognition of lands and waters traditionally occupied or used by indigenous and local communities.]

##### *Recognition of sacred sites and culturally significant sites*

Proponents of an activity/interaction should gain the approval of indigenous and local communities for activities/interactions on sacred sites and culturally significant sites. Proponents of an activity/interaction should recognize that indigenous and local communities may be reluctant to provide information that would allow for the clear identification of sacred sites.]

##### *[Access to traditional resources*

#### Option A:

18. Traditional resources are [often] collectively owned [but may include individual interests and obligations] and apply to traditional resources [occurring on lands and waters traditionally occupied or used by indigenous and local communities]. Indigenous and local communities ought to determine for themselves, the nature and scope of their respective traditional resource regime(s) according to their customary law(s). Access to traditional resources is crucial for the sustainable use of biological diversity and cultural survival.

#### Option B:

Research should not interfere with access to traditional resources except with the approval of the community concerned. Research should respect customary rules governing access to resources where this is required by the community concerned.]

#### Option C:

##### *Traditional resource rights*

These rights are collective in nature but can include individual rights and apply to natural and/or traditional resources occurring on lands and waters traditionally occupied or used by indigenous and local communities. Indigenous and local communities should determine for themselves, the nature and scope of their respective resource rights regime according to their customary law/s. Recognition of traditional resource rights is crucial for the sustainable use of biological diversity and cultural survival.

##### *Not being arbitrarily removed and relocated*

19. [Activities/interactions related to biological diversity, and the objectives of the Convention, such as conservation, including related research, ought not to cause indigenous and local communities to be

removed from lands and waters traditionally occupied or used by them, by force or coercion and without their approval. Where they consent to removal from lands and waters traditionally occupied or used by them with their agreement, they should be compensated and given assurance of the possibility to return. <sup>8/</sup> It is highly desirable that any such activities/interactions ought not to cause indigenous and local community members, especially the elderly, the disabled and children to be removed from their families by force or coercion.]

#### *Traditional guardianship/custodianship*

[20. Traditional guardianship/custodianship recognizes the holistic interconnectedness of humanity with ecosystems and obligations and responsibilities of indigenous and local communities, to preserve and maintain their traditional role as traditional guardians and custodians of these ecosystems through the maintenance of their cultures, spiritual beliefs and customary practices. [Because of this, cultural diversity, including linguistic diversity, ought to be recognized as keys to the preservation of biological diversity. Therefore, indigenous and local communities should, where relevant, be actively involved in the management of lands and waters traditionally occupied or used by them, including sacred sites and protected areas.] Indigenous and local communities may also view certain species of plants and animals as sacred and as custodians of biological diversity have responsibilities for their well-being and sustainability and this should be respected and taken into account in all activities/interactions, including research.]

#### *Restitution and/or compensation*

21. [This consideration recognizes that] Every effort will be made to avoid any adverse consequences to indigenous and local communities and their cultures [and lands and waters traditionally occupied or used by them], their sacred sites and sacred species, and their traditional resources from all activities/interactions affecting or impacting on them related to biological diversity, conservation and sustainable use, including related research and its outcomes [ and that, s] [. S]hould any such adverse consequences occur, consideration may be given to appropriate restitution or compensation , through mutually agreed terms. [, between indigenous and local communities and the proposer of such activities/interactions.]]

#### *Repatriation*

22. Repatriation efforts ought to be made to facilitate the repatriation of information in order to facilitate the recover of traditional knowledge of biological diversity.

#### *Peaceful relations*

23. [The exacerbation of any tensions caused by conservation or sustainable use activities/interactions [, between indigenous and local communities and local or national Governments] should be avoided. [Should this not be possible, national and culturally appropriate conflict resolution mechanisms should be put in place to resolve disputes and grievances, subject to national legislation.]

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<sup>[8/</sup> See ILO 169: Article 16, paragraph 1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy. 2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned. 3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist. 4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees. 5. Persons thus relocated shall be fully compensated for any resulting loss or injury. Article 17.]

Those interacting with indigenous and local communities, including researchers should also avoid involvement in intra-indigenous and local community disputes.]

*Supporting indigenous research initiatives*

24. Indigenous and local communities should have the opportunity to actively participate in research that affects them or which makes use of their traditional knowledge related to the objectives of the Convention, and decide on their own research initiatives and priorities, conduct their own research, including building their own research institutions and promoting the building of cooperation, capacity and competence.

*Section 4*

**METHODS**

*Negotiations in good faith*

25. Those employing the elements of this code are encouraged to interact, and to commit formally to a process of negotiation, in good faith.

*Subsidiarity and decision-making*

26.

Option A:

[[All decisions regarding activities/interactions related to biological diversity including research impacting on sacred sites, sacred species and lands and waters traditionally occupied or used by indigenous and local communities, ought to [, where appropriate,] be made at the lowest possible level [in accordance with free and prior informed consent] to ensure community empowerment and [full and] effective participation and the recognition of indigenous and local community institutions, governance and management systems.]

Option B:

Formal activities/interactions regarding activities related to the objectives of the Convention should be made at the appropriate level to ensure community empowerment and effective participation, bearing in mind that activities/interactions should reflect indigenous and local community decision-making structures. ]

Option A

*Partnership and cooperation*

27. Partnership and cooperation should guide all activities/interactions in pursuit of the draft elements of the code of ethical conduct, in order to support, maintain and ensure the sustainable use of biodiversity and traditional knowledge.

*Gender considerations*

28. Methodologies should take into account the vital role that indigenous and local community women play in the conservation and sustainable use of biological diversity, affirming the need for the full and effective participation of women at all levels of policy-making and implementation for biological diversity conservation, as appropriate.

*Full and effective participation/participatory approach*

29. This principle recognizes the crucial importance of indigenous and local communities fully and effectively participating in activities/interactions related to biological diversity and conservation that may impact on them.

*Confidentiality*

30. [Confidentiality of information and resources should be respected, subject to national law. Information imparted by the indigenous and local communities should not be used or disclosed for purposes other than those for which it was [collected or] consented to and cannot be passed on to a third party without the consent of the knowledge holder/s and/or the collective, as appropriate.] In particular, confidentiality ought to be applied to sacred and/or secret information. Those working with indigenous and local communities should be aware that concepts such as “the public domain” may be foreign concepts that may not be within the cultural parameters of many indigenous and local communities.

*Responsible research*

31. [The ethics of interaction between researchers and others, and the people/s who are the source of traditional knowledge is not only a responsibility of the individual and the organization and/or professional society to which the individual belongs, but also of national Governments having jurisdiction over the activity/interaction, researcher and/or the territory. [The cultural and intellectual property of indigenous and local community members, in relation to knowledge, ideas, cultural expressions and cultural materials relevant to biological diversity, conservation and sustainable use should be respected] [Furthermore, all others should respect] the cultural [rights] and intellectual property [rights] of indigenous and local community members, in relation to knowledge, ideas, cultural expressions and cultural materials relevant to biological diversity, conservation and sustainable use].]

32. [This document is not legally binding under international law, and should not be construed as altering or interpreting the obligations of Parties to the Convention of Biological Diversity or any other international instrument.]

*Paragraphs for further checking against the principles:*

*[Inter-cultural respect*

33. Ethical activities/interactions including research relationships ought to be based on respect for indigenous and local communities’ equal but different knowledge systems, decision-making processes and timeframes, their diversity, their distinctive spiritual and material relationship with their sacred sites [and lands and waters traditionally occupied or used by them,] and their cultural identities. Proponents should always be sensitive to [and respect] secrets and sacred knowledge, sacred species and sacred places/sites [related to biological diversity]. Furthermore, proponents should respect the cultural property of indigenous and local communities relevant for biological diversity, conservation and sustainable use. Ethical conduct ought to acknowledge that it may be legitimate for indigenous and local communities in [specific] [some] instances to restrict access to traditional knowledge and associated biological diversity and genetic resources, based on ethical and cultural grounds.]

*Reciprocity*

34. [Indigenous and local communities should benefit from activities/interactions which affect them and/or involves them, their sacred sites [and lands and waters traditionally occupied or used by them,] and/or their resources, and traditional knowledge. [Most importantly,] Information obtained should be given back to them in an understandable and culturally appropriate format/manner. This should promote

inter-cultural exchanges and access to each other's knowledge to promote synergies and complementarity.]

*Recognition of indigenous and local community social structures -Extended families, communities and indigenous nations*

35. For indigenous and local communities all activities/interactions, take place in a social context. Extended "families" are the chief vehicles for cultural dissemination and the role of Elders and youth is paramount in this cultural process, which depends upon intergenerational transfer [of knowledge, innovation and practices]. Therefore the societal structure/s of indigenous and local communities should be respected, including the right to pass on their cultures and knowledge in accordance with their traditions and customs. No activities/interactions should cause the removal by force or coercion and without the [approval] [free and prior informed consent], of indigenous and local community individuals, especially the elderly, the disabled and children from their families and social structures.

**5/7. Indicators for assessing progress towards the 2010 biodiversity target:  
status of traditional knowledge, innovations and practices**

*The Ad Hoc Working Group on Article 8(j) and Related Provisions recommends that the Conference of the Parties at its ninth meeting adopt a decision along the following lines:*

*The Conference of the Parties,*

*Recognizing* that the status and trends of linguistic diversity and numbers of speakers of indigenous languages is one useful indicator for the retention and use of traditional knowledge, if used along with other indicators, and there is a need for additional indicators more specific for indigenous and local communities, traditional knowledge, and biological diversity,

*Considering* the framework provided by decision VIII/15 for the monitoring of implementation of the achievement of the 2010 target and integration of targets into the thematic programmes of work,

1. *Notes* the importance of both qualitative and quantitative indicators to provide a broad picture of the status and trends of traditional knowledge and capture indigenous and local community realities within the framework of the Strategic Plan and the 2010 biodiversity target;

2. *Welcomes* the work carried out under the auspices of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions, and in particular the regional and international expert workshops organized by the Working Group on Indicators of the International Indigenous Forum on Biodiversity, to identify a limited number of meaningful, practical and measurable indicators on the status of traditional knowledge, innovations and practices, to assess progress towards achieving the Convention's Strategic Plan and the 2010 biodiversity target;

3. *Recommends* that a maximum of two additional indicators on the status of traditional knowledge, innovations and practices are selected for inclusion into the framework by the Ad Hoc Working Group on Article 8(j) and Related Provisions at its sixth meeting;

4. *Warmly thanks* the Governments of Norway, Spain, and Sweden for the generous financial support for this initiative;

5. *Takes note* of the proposed indicators contained in annex I of the report of the International Experts Seminar on Indicators Relevant for Indigenous Peoples, the Convention on Biological Diversity and the Millennium Development Goals, organized by the International Indigenous Forum on Biodiversity (IIFB) in Banaue, Philippines, from 5 to 9 March 2007 (UNEP/CBD/WG-8J/5/8);

6. *Invites* Parties, Governments and relevant organizations, in consultation with, and, as requested, active participation of, indigenous and local communities, to design and, as appropriate, test, indicators at the national level for status and trends of traditional knowledge, innovations and practices, in order to assess progress towards to 2010 biodiversity target, as well as to assess progress in the implementation of the Strategic Plan, *noting* that the annex referred to in paragraph 5 above could provide useful information for consideration in this work;

7. *Also invites* Parties, Governments and relevant organizations, in consultation with indigenous and local communities, to submit information on experiences and lessons learned in designing and, as appropriate, testing, national indicators for status and trends of traditional knowledge, innovations and practices, in order to assess progress towards the 2010 biodiversity target, as well as to assess progress in the implementation of the Strategic Plan, to the Executive Secretary, and *also invites* Parties, in consultation with indigenous and local communities, to report thereon in the fourth national reports;

8. *Requests* the Executive Secretary to compile and assess data availability the information received, and to transmit the compilation and analysis to the sixth meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions, as basis for further work;

9. *Requests* the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions at its sixth meeting to continue its work on the identification of a limited number of meaningful, practical and measurable indicators on the status of traditional knowledge, innovations and practices, for assessing progress towards achieving the Convention's Strategic Plan and the 2010 biodiversity target.

10. *Requests* the Executive Secretary to maintain coordination with the United Nations Permanent Forum on Indigenous Issues and the Inter-Agency Support Group on related work on indicators relevant for indigenous peoples, the Convention on Biological Diversity and the Millennium Development Goals.

**5/8. Recommendations of the United Nations Permanent Forum on Indigenous Issues**

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

*The Conference of the Parties*

1. *Welcomes* the continued close cooperation between the Convention process and the United Nations Permanent Forum on Indigenous Issues on matters pertaining to indigenous and local communities and their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity;

2. *Notes with appreciation* the contribution of the United Nations Permanent Forum on Indigenous Issues to the work of the Convention and, in particular, its organization of the International Expert Group Meeting on the Convention on Biological Diversity's International Regime on Access and Benefit-sharing and Indigenous Peoples' Human Rights, held in New York from 17 to 19 January 2007 (UNEP/CBD/WG8J/5/INF/10), and the report on indigenous traditional knowledge prepared by the secretariat of the Permanent Forum (UNEP/CBD/WG8J/5/INF/12);

3. *Requests* the Executive Secretary to draw attention to the important role of indigenous and local communities in activities related to 2010 as the International year of Biological Diversity, and to cooperate closely with the United Nations Permanent Forum on Indigenous Issues, to explore opportunities for common activities as related to information exchange and awareness-raising under the guidance of the Bureau.

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