



**CONVENTION ON
BIOLOGICAL
DIVERSITY**

Distr.
GENERAL

UNEP/CBD/WG8J/4/INF/13
21 December 2005

ENGLISH ONLY

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

Fourth meeting
Granada, Spain, 23-27 January 2006
Item 5 of the provisional agenda*

**REPORT OF THE ADVISORY GROUP/STEERING COMMITTEE ON ARTICLE 8J AND
RELATED PROVISIONS**

The Executive Secretary is circulating herewith, for the information of participants in the fourth meeting of the Ad Hoc Open-ended International Working Group on Article 8(j) and Related Provisions, the report of the Advisory Group/Steering Committee on Article 8(j) and related Provisions, held in Montreal from 11 to 14 July 2005.

* UNEP/CBD/WG8J/4/1.

I. INTRODUCTION

1. In decision VII/16 E, paragraph 4, on article 8 (j) and related provisions, the Conference of the Parties decided to undertake further activities to complete phase one of the composite report on the status and trends of traditional knowledge relevant to the conservation and sustainable use of biological diversity, in order to produce a revised version of it, in consultation with and with input from Parties, governments, relevant stakeholders as appropriate, and from indigenous and local communities through the national focal points in consultation with and after approval of indigenous and local communities.

2. In paragraph 5 of the same decision, the Conference of the Parties requested the Executive Secretary to immediately start work on a second phase of the composite report, laying emphasis on sections 4 and 5 of the outline of the composite report, foreseeing respectively the identification of national processes that may threaten the maintenance, preservation and application of traditional knowledge, innovations and practices and the identification of processes at the local community level that may threaten the maintenance, preservation and application of traditional knowledge, innovations and practices.

3. The Conference of the Parties also requested the Executive Secretary “*to take action [...] to create an advisory group/steering committee in which indigenous and local communities will be represented to assist in the completion of the report and undertake a peer review of the revised version, in consultation with indigenous peoples and local community organizations that have participated in the work on the Convention*”.

4. Pursuant to this request, in notification 43986 of 15 June 2004, the Executive Secretary invited Parties, organizations and stakeholders to make nominations for the Advisory Group/Steering Committee. In notification 46350 of 21st December 2004, Parties were informed of the establishment and composition of the Advisory Group/Steering Committee. Participants were selected on the basis of their expertise, geographic representation and gender balance.

5. The meeting of the advisory Committee was made possible by the generous contributions of the Governments of Spain and Sweden. As requested by the Conference of the Parties, the main purpose of the meeting of the Advisory Group/Steering Committee is to review phase one of the composite report, as well as the regional reports on phase two. In addition, the Executive Secretary drew upon the expertise of Advisory Committee members to seek advice and guidance regarding a number of issues under consideration under the work programme on Article 8 (j) and related provisions and which will be on the agenda of the next meeting of the Ad Hoc Open-ended Working Group on Article 8 (j) and other provisions, to be held in Granada, Spain, on 23-27 January 2006.

6. The draft regional reports for phase two of the composite report as well as other documents for the meeting of the Advisory Group/Steering Committee are available at www.biodiv.org

PART A

I. ORGANIZATION OF WORK

A. Attendance

7. The Advisory Group/Steering Committee for the work programme of Article 8(j) and related provisions was attended by 19 experts, including 6 consultants. The full list of participants is contained in Annex I.

B. Documentation

8. The Advisory Group/Steering Committee had before it, an agenda, an annotated agenda (including a programme of work), 8 working documents and 15 background documents for the consideration of the participants. A list of these documents is contained in Annex II.

C. Opening of the meeting

9. The meeting was opened by the Officer-in-Charge, Mr. Olivier Jalbert, on behalf of the Executive Secretary on Monday 11 July 2005 at 9.30am. The meeting was chaired by a representative of the Secretariat. Mr. Jalbert thanked the Governments of Spain and Sweden for their support and recalled the purpose of the meeting as stated in Decision VII/16.E, paragraph (d). "to assist in the completion of the (Phase I and II of the Composite) report and to undertake a peer review of the revised version...".

D. Adoption of the agenda and programme of work

10. The Advisory Group/Steering Committee Meeting was invited to consider the proposed organization of work for the meeting annexed to the present annotated provisional agenda. (Annex I). The work was carried out in plenary. The meeting adopted the agenda provided in document UNEP/CBD/WG8J/Advisory Committee/1/1 and the annotated provisional agenda (UNEP/CBD/WG8J/Advisory Committee/1/1/Add.1), as prepared by the Secretariat.

E. Closure of the Workshop

The meeting was closed at 5.00pm. Thursday 14 July by the Officer-in-Charge of the Secretariat.

II. COMPOSITE REPORT ON THE STATUS AND TRENDS - DRAFT REGIONAL REPORTS AND THE DRAFT REPORT ON REGISTERS

11. A representative of the Executive Secretary reviewed the objectives of the Advisory Group/Steering Committee Meeting, against the background of the programme of work on Article 8(j) and other relevant work programmes, as well as the expected outputs of the Meeting.

12. Following this introduction, each consultant was invited to introduce his/her draft report regarding the regions they are covering for the Composite Report on the Status and Trends regarding the knowledge, innovations and practices of indigenous and local communities, and the draft report on registers. Each presentation was followed by discussion related to the reports presented. All the draft reports were considered in plenary.

13. The Advisory Group/Steering Committee reviewed the draft regional reports on phase two presented by the consultants, as well as the report on registers. The participants, through a mixture of questions and constructive criticisms provided advice to the consultants to allow the draft reports to be refined and enriched. The Advisory Group/Steering Committee was also asked to consider whether the regional reports address all

priority issues as requested by the Conference of the Parties (Decision VII/16E), especially sections 4 and 5 of the outline of the composite report, foreseeing respectively the identification of national processes that may threaten the maintenance, preservation and application of traditional knowledge, innovations and practices and the identification of processes at the local community level that may threaten the maintenance, preservation and application of traditional knowledge, innovations and practices (decision VI/10, annex I). The Advisory Group/Steering Committee provided advice and suggested improvements to the draft reports, while adhering to the guidance given by the Conference of the Parties.

14. The Advisory Group/Steering Committee also considered in plenary, approaches to ensure consistency among regions for both review of phase one of the composite report as well as the regional reports on phase two. To assist comparability of reports, the Advisory Group/Steering Committee developed a matrix of issues/obstacles at national and local levels, which is attached in Annex IV of this report. It was noted the both phase one and phase two of the composite report would need to be read together to ensure a complete understanding of phase two. Please note that substantive comments regarding the regional reports are available in Part B, of this document: I. Observations regarding the draft report on registers and the draft regional reports; and II. Observations regarding Participatory mechanisms for the participation of indigenous and local communities in the work of the Convention; criteria for the operation of the voluntary funding mechanism; Development of elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices; Ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities; Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices

III. ELEMENTS FOR A PLAN OF ACTION FOR THE RETENTION OF KNOWLEDGE, INNOVATIONS AND PRACTICES OF INDIGENOUS AND LOCAL COMMUNITIES

15. Under this agenda item, the representative of the Secretariat introduced elements of a possible plan of action for the retention of traditional knowledge, innovations and practices of indigenous and local communities as contained in COP 7, Decision 16/E, paragraphs 8-9. The action plan aims 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 TK, and to provide further guidance for the implementation of the programme of work on the implementation of Article 8j and related provisions taking into account elements identified in the annex.

16. The participants were also invited to further elaborate on proposals for the Plan of Action contained in this agenda item, notably by providing specific timeframes and objectives and may also identify priority issues for the plan of action in light of the specific characteristics of the knowledge, innovations and practices of indigenous and local communities.

17. In identifying timeframes, both the consultants and Advisory Group/Steering Committee members noted that regional reports would need to be completed by late August, to allow them to be edited and process for the WG8(j) in January 2006. It was also noted that all documents for WG8(j) would need to be submitted by early October, and therefore all comments and input should be received by the Secretariat by late September 2005.

IV. MECHANISMS FOR THE PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES IN THE WORK OF THE CONVENTION

18. Under this item, Advisory Group/Steering Committee members were invited to discuss mechanisms for the participation of indigenous and local communities in the work of the convention, and in particular the proposed draft selection criteria for the Voluntary Fund for Indigenous and Local Communities (VFILC). A representative of the Executive Secretary of the Convention on Biological Diversity reviewed the establishment of

the Voluntary Funding Mechanism (as per COP 7 Decision VII/16/G, paragraph 10), followed by discussions related to possible selection criteria for indigenous and local communities representatives, as requested by COP 7, Decision VII/16/G. The participants then provided advice with regard to identifying criteria for the selection of participants from indigenous and local communities and the operation of the Fund, for the eventual consideration of WG8(j) and the COP 8.

19. Discussions also covered other participatory mechanisms including the development of information sharing-tools such as the TK (Information) Web Portal aimed to promote awareness and enhance access by indigenous and local communities to information on issues relating to Article 8(j) and related provisions of the Convention. Mr. David Cooper of the SCBD also discussed with the Advisory Group/ Steering Committee, cooperation with other conventions, organizations and initiatives, and engagement of stakeholders in the implementation of the convention and sought advice on international indigenous organizations that may be able to participate in this initiative.

V. DEVELOPMENT OF ELEMENTS OF SUI GENERIS SYSTEMS FOR THE PROTECTION OF TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES

20. As per COP 7 Decision 16/H, paragraphs 1-11, under this agenda item, the representative of the Secretariat introduced an initial overview of relevant material/s regarding *sui generis* systems for the protection of traditional knowledge, innovations and practices.

21. The participants were invited to elaborate on the development of elements 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 is related to the negotiation of an international regime on access and benefit sharing. In particular, participants were requested to identify any relevant information on innovative policy, administrative and legislative measures that are supportive of customary laws and practices (as requested by COP Decision VII/16, Annex VI H).

VI. ETHICAL CODE OF CONDUCT FOR RESEARCH, ACCESS TO, USE, EXCHANGE AND MANAGEMENT OF INFORMATION CONCERNING TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES FOR THE CONSERVATION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

22. As per COP 7 Decision 16/E, Annex C, under this agenda item, the representative of the Secretariat submitted for consideration by the participants, a draft code of ethics/conduct to guide further research on the retention and use of traditional knowledge, innovations and practices of indigenous and local communities, embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity.

23. The participants were invited to further elaborate on the draft presented, taking into account the outcomes of their work under item 3. In particular, participants were encouraged to review and enrich the draft proposal in light of the specific characteristics of the knowledge, innovations and practices of indigenous and local communities.

VII. INDICATORS FOR ASSESSING PROGRESS TOWARDS THE 2010 BIODIVERSITY TARGET: STATUS OF TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES

24. To initiate discussion, a representative of the Executive Secretary of the Convention on Biological Diversity reviewed the objective/s of this agenda item in connection with the ongoing work on indicators under the Convention, as per COP 7 Decision VII/30, Annex 1 and II. The presentation was followed by discussion

on possible indicators for the retention and use of TK, including further discussions regarding status and trends of linguistic diversity and numbers of speakers of indigenous languages, as well as with the view to identifying further possible indicators.

25. The participants were invited to further elaborate on the issue, taking into account the outcomes of their work under item 3 and assessing the importance of establishing indicators to assess the success or failure of measures to promote or preserve traditional knowledge, innovations and practices. The participants were requested to note that any proposed indicators must be established in accordance with the principles for choosing indicators identified by the Expert Group on Indicators and Monitoring (UNEP/CBD/SBSTTA/9/10), and that any additionally proposed indicators must include reliable and comparable data over standardized periods of time, to allow for measurement and the establishment of trends. It was further noted that it was most likely that an accurate picture of the state of TK will be achieved through a bundle of indicators. It was also noted that in such a programme of indicators, it would be important to consider both qualitative and quantitative indicators.

PART B

I. OBSERVATIONS REGARDING THE REPORT ON REGISTRIES, AND THE REGIONAL REPORTS.

26. Following is a brief synopsis of major items discussed. This is not intended as an exhaustive list of issues discussed by the Advisory Group/Steering Committee but is an indication of the broad ranging discussions that occurred at the meeting and that will continue electronically in the lead up to the Ad Hoc Working Group on Article 8 (j) scheduled for January 2006 (Granada, Spain).

a. Draft report on the usefulness of registries

27. Recalling the COP 7 Decision VII/16/E paragraph 6(e), which requests the Secretariat to: assess the role of databases and registers in the protection of traditional knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, including the advantages and limitations of registers as a measure to protect traditional knowledge, innovations and practices, as well as approaches used for the implementation of registers, and of incentives and disincentives, the Advisory Group/Steering Committee provided the following advice taking into account the draft report before them (refer document UNEP/CBD/WG8J/4/Registers/1).

28. The Advisory Group/Steering Committee noted that while in some cases databases and registers may play a role in the protection of traditional knowledge, innovations and practices, such databases and registers are only one approach in the effective protection of traditional knowledge, innovations and practices and their establishment should be voluntary, not a requirement for protection, and established with the prior informed consent of indigenous and local communities. The Advisory Group/Steering Committee also emphasized that if indigenous and local communities decide to use such databases and registers, that there would be a corresponding need for funding and capacity-building for indigenous and local communities regarding the establishment and maintenance of such databases and registers.

29. Various Advisory Group/Steering Committee members emphasized the cultural context of registers and expressed concern over the reductionist approach noting that TK cannot be separated from the associated biodiversity and genetic resources. Some members also stated that registering information about TK may take TK out of its context and add to the problem of reductionism.

Many members felt that documented experiences and cases (both good and bad) would be helpful in allowing indigenous and local communities to assess the value, usefulness and possible dangers of registers.

30. There were various views expressed by the Advisory Group/Steering Committee members regarding use of appropriate terminology. Some members rejected the use of the work “banks” and suggested that “archives” be

substituted. Some members noted that the issue of providing “access” to TK was new to indigenous and local communities and hence they would need time to fully consider this issue. It was also noted that terminology such as “facilitate access” (to TK and associated biodiversity and genetic resources) may be problematic for indigenous and local communities and that these communities may also want to seek access to indigenous plants and seeds from botanical gardens and seed banks.

31. In general, the Advisory Group/Steering Committee felt that community-based registers and registers controlled by indigenous and local communities may be useful. It was noted that the security of registers remained an issue for indigenous and local communities and registers controlled by indigenous and local communities, with different levels of access and levels of security, may be a useful strategy for indigenous and local communities to pursue. The costs and capacity needed to develop and maintain registers remains a pressing issue for indigenous and local communities

32. Members of the Advisory Group/Steering Committee noted that issues around “public domain” continue to concern indigenous and local communities. It was reported that protection often requires that the information be in the “public domain” and that the concept of “public domain” remains an alien concept for indigenous and local communities, exasperating their attempts to protect and promote their knowledge. One consultant proposed the development and protection of a special cultural heritage list – a red list – to identify urgent action required concerning cultural heritage (including TK).

34. In general, it was noted that registers may be useful tools but they cannot offer a panacea of protection to TK. Registers have advantages and disadvantages. There remain unresolved issues around registers such as who decides on what is registered. At the same time, it was agreed that registers may be useful tools to protect TEK, especially if registers are locally based and controlled by the knowledge holders (ILC). To achieve this, indigenous and local communities need capacity building to decide if registers may be a useful tool (considering the local context) and then to use them and maintain them, as such. It was also noted that registers with disclosure requirements may be useful in addressing unauthorized use but in general, protection should not require registration of TEK.

b. Draft African region report

35. The Advisory Group/Steering Committee members provided both general and specific advice regarding the various regional reports. General comments will be provided in the concluding observations, along with a matrix of issues (Annex IV), developed by the Committee to assist the consultants and to increase the comparability of the various regional reports.

36. Regarding the African report, the Advisory Committee specifically noted that the issue of indigenous peoples remains problematic in the African context and was often confused with “tribalism”. They also noted that the draft report would benefit from a more detailed discussion about globalization and that case studies would also be a useful addition. The consultant also advised that in the African context, there was more interest in advancing protection of TK and biodiversity and associated genetic resources, as the African States believe that access has already been facilitated.

37. The Advisory Committee recommended that a more critical analysis be applied to economic issues as a major factor impacting on the use and transmittal of TK and in particular, the role of poverty. The role of traditional healers, as holder and carriers of TK should also be further examined. Some Advisory Group/Steering Committee members recommended that a report be structured around thematic issues. It was also recommended that greater attention be paid to the sub-region of North Africa. It was also noted that the report could address in more details issues such as the breakdown of traditional institutions, tourism, protected areas, role of and repatriation of artefacts, people movement (i.e. migration, conflict, refugees, etc.), and changing family structures including the inability of Elders to find interested and worthy students for the intergenerational transfer of TK. It

was also noted that the report could contain more on the important role of indigenous women as knowledge holders, practitioners and transmitters.

39. It was also noted by the Advisory Group/Steering Committee that the report had a strong focus on TK related to medicinal medicines, and that it should be refocused according to the mandate of Article 8(j), specifically on the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biodiversity. It was also suggested to link the research to the Millennium Development Goals (MDGs). The group/ steering committee also advised that there should be more of a focus on the role of Indigenous Women in the retention of TK.

b. Draft Asian/Australian region report

40. It was noted that it is difficult to include both the Asian region and the Australian continent in the same regional reports because of the diverse circumstances of both of these areas. It was also noted that the political context of indigenous peoples and whether they were officially recognized or not, often provided an indication of the state of TK. It was also noted that the concept of indigenous remains problematic in the Asian region and non-recognition of indigenous peoples impacts on both their cultural survival and the retention and transmittal of TK. Where indigenous peoples are not officially recognized as distinct peoples, their specific needs and rights are not taken into account in law or policy and in particular their collective rights are not addressed. It was further noted that if indigenous peoples are not respected then their knowledge is also not respected.

41. The Advisory Group/Steering Committee noted that in-situ conservation by indigenous and local communities was paramount for conserving biodiversity. They also noted that the failure to develop inclusive education systems which value indigenous learning styles and teaching strategies and contained elements of traditional knowledge adversely impacted on the transmittal of TK. The same could be said of health systems, which fail to incorporate elements of traditional medicine.

42. In the Asia/Australian region deforestation remains a major issue to the retention, use and transmission of TK and in particular illegal logging activities in tropical Asia and movements away from traditional agricultural systems to modern mono-cultural (and unsustainable) farming systems were negatively impacting on TK.

43. Advisory Committee members discuss the historical context of TK and noted that in the recent past some governments had banned TK practices believing they were harmful to the environment and that yet in recent times such policies had been reversed and internationally there was impetus to protect and promote TK. The Committee also advised that loss of access to traditional territories remained the most pressing issue in the region and that this should be highlighted in the regional report. Included in loss of territories should be included land degradation and salination, which was impacting severely on TK in regions such as Australia.

44. Advisory Committee members also recommended that individual countries should not be singled out in the report, as the report was a regional report to identify trends. One Advisory Group/Steering Committee member noted that Asia was a leader in valuing TK and in such areas as aquaculture and diverse traditional agricultural systems and that these successes should be highlighted in the report.

45. The Advisory Group/Steering Committee recommended that loss of access to territories remained the most urgent issue in the region and that this issue should be foremost in the regional report. Imposition of foreign religions and assimilation policies were also identified as having major negative impacts on TK use and transmission.

45. Advisory Group/Steering Committee members also provided advice regarding the scope of the report (i.e. Asia not South-East Asia) and noted that there was a lack of research on TK issues in the region and more

primary research was needed. The Asian regional workshop was seen as a useful way of collecting first-hand information directly from indigenous and local communities.

c. Draft Arctic region report

46. The Advisory Group/Steering Committee noted the use of case studies in the Arctic report is a useful methodology in ensuring indigenous perspectives are visible in the report, however some Advisory Group/Steering Committee members felt that the report was too descriptive and on the whole, needed to be more analytical and use less case studies in a more strategic manner. In general, it was thought that the choice of case studies should be more critical and that using a thematic approach may assist in choosing a more focussed set of case studies. Some members thought that the report could be restructured to provide greater clarity. It was also noted that the Arctic is a diverse region crossing diverse political boundaries and that it was difficult to collect the same information (and equal information) from all the sub-regions. Despite this diversity, common issues were noted in the report and the consultant emphasized the difficulty that indigenous peoples have with discussions concerning ABS moving ahead before adequate protection was afforded to TK.

47. The Advisory Group/Steering Committee members from Greenland/Denmark noted that Greenland could provide a good case study of autonomy and its impact on TK use and retention. She also recommended that other international bodies relevant to the Arctic be included in research and data-collection efforts such as the Nordic Council, the Sami Council, the Arctic Council and the Circum-Polar Conference. She noted that intra-regional cooperation between indigenous peoples in the Arctic provided a mechanism/strategy for protecting and preserving TK. She also advised that Greenland would submit an independent report this year for the first time, which would accompany the Denmark report. It is expected that the Greenland report will provide useful information for the Arctic regional report.

48. Advisory Group/Steering Committee members also raised issues such as climate change, sub-surface resources, and militarization in indigenous territories. Many members felt that repatriation programmes, which sought to return artefacts and human remains may also be useful support for the retention, use and inter-generational transfer of TK and that the report should make reference to such programmes. Some members noted the impact of “hard-core conservationists” who campaigned against indigenous traditional activities in the Arctic such as sealing and whaling, noting that these too, impact on the use and transfer of TK and should be referred to in the regional report.

49. One member noted that lack of access to all levels of education pressured younger indigenous peoples to move away from their communities and this increased the chances of them not returning after their studies and also limited the possibilities of Elders passing on the knowledge (intergenerational transfer). This trend was particularly evident in Greenland where indigenous students wishing to pursue tertiary studies had to travel to Denmark for access. The lack of indigenous perspectives in mainstream curricula, were also seen as detrimental to the retention and use of TK.

d. Draft Latin American, South America and the Caribbean region report

50. The LAC report provided an insight into the particular vulnerabilities of indigenous peoples and in particular, the impact of poverty and displacement on the cultural transfer between generations. The consultant noted the importance of redefining rural development in a way that could be inclusive and value indigenous communities. He also noted the impact of foreign religions on TK but also noted that the lack of research available regarding the impact of religions on TK made it difficult to draw conclusions. The consultant also indicated that strengthening indigenous involvement at local government level could do a lot to assist indigenous empowerment and the protection and promotion of TK. He also noted that there were 64 known indigenous groups living in voluntary isolation and there remained a great need to ensure such peoples (and their knowledge systems) were protected from harassment from outsiders including religious institutions, if their cultures and

knowledge is to be protected. Some members suggested that repairing the damage caused by religious institutions to indigenous peoples (and their knowledge systems) should include restoration and reconciliation strategies. Along these lines, language restoration programmes were discussed noting that Mexico has recently recognized 62 languages within the country.

51. Some Advisory Group/Steering Committee members noted that some countries have good policies in place but they were not effectively implemented. Also the colonial legacy was quite diverse in the LAC region and this impacted on the survival of indigenous peoples as distinct groups and the use and retention of TK. Many members noted the importance of customary law and called for governments to recognize and/or reaffirm customary law to protect TK. One member suggested that the report should contain a critical analysis of trade agreements and how they impact adversely on TK. Many members supported the emphasis on education and the role of indigenous women. Many members also supported the need for indigenous peoples to be involved at all stages of policy development. The Committee also recommended the inclusion of good practices and in particular, noted that in Mexico there had been recent constitutional reforms at the federal and state levels that provide a legal basis for the protection of indigenous peoples' rights and in Venezuela, laws and procedures are now in place to protect indigenous traditional knowledge, as guaranteed in their constitution. This protection includes penalties for the illegal appropriation of indigenous knowledge, technology, innovations and customs. Given that some countries have strived to develop protection mechanisms that include TK protection, an analysis of whether or not these procedures were making a difference in regards to TK would be useful.

52. Some members requested that the report examine such positive initiatives as health programmes that incorporate TK and TK practitioners and the establishment of inter-cultural Universities, as measures to assist TK retention. Some Advisory Group/Steering Committee members also requested for further refinement of the recommendations and an increase in the outcomes oriented recommendations. Finally, it was suggested to do some work on the links between traditional knowledge preservation and poverty.

e. Draft North American region report

53. The consultant outlined the historical context of indigenous peoples in North America and discussed complexities including the identification of "local communities" within the North American context. She noted that the regional reports have struggled with the difficulties of defining a healthy state of TK and considering possible indicators. She also noted that no definitions had been adopted for TK or indigenous peoples and yet it was still possible to take forward the protection and preservation of TK. She noted that it is necessary to read the composite regional reports as a package (both Phase I and II) to understand and appreciate both the negative impacts on TK (Phase II) and the positive efforts States, indigenous peoples, educators, museums, the media, etc. are taking to preserve and retain TK (Phase I).

54. The consultant argues that the major threat to TK is a lack of respect for indigenous peoples and their beliefs. She also noted that loss of land and language is a result of lack of respect for indigenous peoples. She noted that in loosing language, people loose concepts and TK that is expressed by that language. If you loose the opportunity to practice TK, the TK becomes less and often disappears. The message for TK is "use it or loose it".

55. She further argues that the lack of funding, poverty, lack of access to traditional economies and lack of access the new market economies, keep indigenous peoples socially disadvantaged. She also noted that indigenous peoples are often left out of decision-making processes. From the report, it appears that the principles of the modern market economy and its paradigm of continuing (unsustainable) development and growth work directly against sustainable community-based indigenous economies. Furthermore, customary legal systems have been overshadowed by introduced legal systems leaving indigenous peoples either living under both legal systems or weakening or loosing their traditional structures including those that are applicable to TK.

56. The report discusses the growing problem of youth suicide in indigenous communities and noted that cultural continuity was necessary for the well being of youth and indigenous communities. She further noted the correlation between self-government and youth suicide, suggesting that community empowerment was a necessary pre-requisite in addressing various societal issues including the retention and transfer of TK. She also noted that people movements resulting from migration and settlement together with introduced diseases, has taken an enormous toll of indigenous peoples' population numbers. Demographics and increasing youth populations in recent times are also effecting the transmission of intergenerational transfer of TK. She also noted that urban peoples may still pursue cultural practices – and it was difficult to determine to what extent urbanization was detrimental to TK, as many urban indigenous peoples continue to travel to and from their homelands and continue to practice their culture (and use their TK). She noted that historically, incoming settlers' lack of respect for the indigenous peoples has lead directly to loss of land and resources. She emphasised that access to traditional lands was pivotal for the survival of indigenous peoples as distinct peoples and the survival of their knowledge. On a policy level, the consultant argues that over time, governments have neglected their fiduciary duties towards their indigenous populations and indigenous peoples remain disadvantaged and impoverished as a result.

58. The Advisory Group/Steering Committee members noted that gender analysis is a critical area concerning TK and Western researchers may be analysing indigenous societies incorrectly as a result of their own cultural and gender perspective/s. The members also recommended that indigenous sources be used as much as possible to ensure an accurate picture is developed regarding the state of TK. They also cautioned against a report, which reinforces the victim mentality and could lead to further disempowerment of indigenous peoples. The Advisory Group/Steering Committee stressed the need for indigenous peoples to become empowered players in this process that sought to preserve and protect indigenous knowledge.

59. In particular, the Advisory Group/Steering Committee noted that legislative reviews may be useful and maybe more achievable in regions such as North America, because of the limited number of countries in that region.

60. The Advisory Group/Steering Committee also recommended the inclusion of positive examples and good practices where possible and in particular, requested further information of a number of initiatives in Canada, including an 11-year plan to revitalize and promote Aboriginal languages and cultures; “bush schools” to assist trouble youth; the 1991 Nunavut Agreement provisions for traditional Inuit harvesting; the recently-finalized land claims agreement which recognizes the Nunatsiavut Government's jurisdiction over culture and language, as to ascertain their impact on TK retention and use.

61. Some members of the group raised concerns about the possible impact on TK, of genetically modified organisms (GMOs) and the impact of invasive species. Many Members noted the need to take into account the ongoing issues surrounding intellectual property, TK and indigenous peoples and the work being carried out across the international system on these issues. The ongoing cultural conflict between laws and value systems also was discussed. Deforestation, mining and in particular oil extraction and pipeline impact were noted at having possible detrimental effect on the ability of indigenous peoples to practice TK. Lack of access to waters and in particular fresh water, also remains a concern and the group emphasized the important role that water lays in the spiritual life of a peoples and in TK practice.

f. Draft Pacific report

60. The Pacific report was presented on behalf of the Pacific consultant by the Secretariat, as the consultant was not available. The Pacific report provided a cursory overview of TK issues in the Pacific region and in particular, noted that Pacific Island States are particularly vulnerable to external factors including economic forces and environmental shocks. These countries are characterised by remote geographic isolation, wide dispersal, vulnerability to natural disasters, small internal markets and limited natural resources. The report noted the

effects of people movements and in particular, immigration for economic reasons (opportunities) and urbanization as major factors in TK retention.

61. In general the report did not adequately cover the 3 cultural communities agreed upon, those being Micronesia, Polynesia and Melanesia. Various countries were used as examples throughout the text but there was no consistency in these examples. New Zealand featured largely in the report, whereas other areas were not address in any depth. In particular, under national obstacles, the only obstacle identified was national politics in New Zealand. The Advisory Group/Steering Committee recommended that the Pacific countries be divided into “colonized”, “independent countries” and “territories” as a more useful comparative model for these regional issues. This may also provide a structure for a comprehensive legislative review for the region, which would be useful in identifying action that could be taken by Member States to preserve and promote TK.

62. Given the importance of the marine environment to the indigenous peoples of the Pacific, the advisory group/steering committee members recommended that the Pacific region report look closely at issues of marine tenure and resource rights. The members also recommended that the report include an examination of the proposed Pacific Model Law proposed by indigenous peoples in the Pacific. Furthermore, they suggested that the report also should look more closely at the impact of HIV/AIDS and other epidemics, as well as the role of TK and traditional health practices as an indication of TK). It was suggested also that the report should also refer to migratory species and shared knowledge across borders and that. given the particularly vulnerability of small island states it is also important that climate change is addressed. Regarding natural disasters, the Advisory Group/Steering Committee noted the Pacific had an early warning system and that this should be included in the report. It was noted that indigenous peoples can be early warning indicators for natural disasters and that indigenous peoples had been subject to natural disasters for millennia and were adept at adapting and recovering. It should be emphasised that increased incidents of natural disasters as the result of climate change poses increased risks rather than natural disasters per se. The issue of nuclear waste, testing and pollution also was not adequately addressed in the report but were regarding as important factors by the Advisory Committee.

63. In general, the Advisory Group/Steering Committee requested that further work be completed on the draft Pacific region report by the consultant to ensure that it adequately covers the region and the cultural communities and adequately addresses the factors impacting on the retention and use of TK. To assist all the consultants the Advisory Group/Steering Committee has developed a matrix of issues to should be addressed in each of the regional reports (attached as Annex IV). The matrix will be circulated to all the consultants to assist them with the second draft of the reports, which are due 31 August 2005.

Concluding General Observations regarding the draft reports

64. In general, a sharper focus in the reports on the mandate of Article 8(j) and specifically on the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biodiversity, is required. Too often the draft reports drift into generalities and examine related issues and other forms of TK or the broader concept of TK (which is beyond the mandate of the CBD), at the expense of a deeper critical analysis of obstacles at national and local levels to the transmittal of knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biodiversity. All to easily, this approach can lead to incorrectly focussing on unauthorized access issues (to TK such as TK related to traditional medicines) at the expense of the promotion of the wider application of TK, which is paramount to the survival of biodiversity, sustainable development and the survival of indigenous cultural diversity.

65. There were major issues relevant to all regions identified consistently throughout the draft regional reports and included such issues as recognition of indigenous peoples, people movement (including migration, forces relocations, conflict, economic opportunity and urbanization), conflict and militarization, loss of natural resources, water/s and lands, amongst others. Peace and security were identified as major requirements for the practicing of TK (I would add ownership and participation and freedom of choice and action). In particular, lack

of access to fresh water was identified as a significant threat to TK. The Advisory Committee also considered in plenary, approaches to ensure consistency among regions for both review of phase one of the composite report as well as the regional reports on phase two. (this was already mentioned in paragraph 63) It was noted the both phase I and phase two of the report would need to be read together to ensure a complete understanding of phase two.

66. An overarching theme in many of the reports is “colonization”. Many of the reports argue that in many regions colonisation remains an ongoing process or that countries and indigenous peoples continue to live under the legacy of colonialism. Some argued that colonialism has been over-taken by neo-colonialism and in recent time, Globalization. The Advisory Group/Steering Committee recommended that the draft reports consider both Globalisation and climate change as overarching issues. It was noted that governments are more likely to take action on what they see as current problems and that governments find it difficult to take action on historical grievances.

67. All reports indicate that access to the traditional lands and waters (territories) of indigenous and local communities, is a prerequisite for indigenous and local communities to practice their TK. The major message of the regional reports therefore remains “in-situ conservation”. Indigenous and local communities must be empowered to practice their knowledge on the territories if TK and associated biodiversity is to survive. Indigenous and local communities are not prepared to give their knowledge to others to practice on their behalf – they must be actively involved in managing their territories and associated biodiversity by being enabled to practice their TK on their own territories. Indigenous peoples also see the ongoing discussions on Access and Benefit Sharing may undermine TK preservation and protection if the ABS regime is negotiated before effective protection is afforded to TK.

68. Changing land use, loss of habitat and specifically loss of forests were identified as major threats to TK. Restoration of lands and waters and reforestation and revitalization of wetland programmes are all positive programmes that can assist TK preservation and promotion. The Advisory Group/Steering Committee challenged the general view that indigenous peoples are opposed to development, noting that indigenous peoples have all too often been victims of development rather than beneficiaries and called for the development paradigm to change. They noted that indigenous peoples were interested in sustainable development and had always changed and developed depending on their circumstances.

69. The Advisory Group/Steering Committee agreed that the reintroduction of indigenous plants and animals and the control and/or elimination of alien species could contribute to the retention, use and transfer of TK. The control of alien species was also coupled with environmental contamination by genetically modified organisms as well as other introduced pests and diseases. Furthermore, it was argued that the reintroduction of indigenous fauna and flora must be accompanied by support for traditional and diverse agricultural systems. Support for agricultural diversity and heritage was regarded as highly significant strategy to preserve and promote TK, particular in regions such as Asia.

70. On a regional level, it was also noted that countries needed to consider cross-border issues such as traditional movement patterns and species migration and the need to allow for cultural flow and cross border cultural obligations.

71. In general, the specific issue of HIV and its impact on TK was not addressed effectively in the reports and this may be because of the lack of relevant research on this issue. Indeed, the impact of HIV/AIDS on indigenous peoples has to be contextualised against a history of introduced epidemics and a continuing background of social disadvantage, limited formal education, alienation from mainstream societies (and health systems), poor nutrition, substance abuse and poor health (and nutrition), which remain the societal factors that made indigenous peoples particularly vulnerable to such epidemics.

72. In particular, the Advisory Group/Steering Committee noted that regional legislative reviews may be useful and maybe more achievable in regions such as North America, because of the limited number of countries in that region. In regions, such as the Pacific, it was recommended that such as review could take place by dividing the Pacific nations into the colonised (Australia, New Zealand and the 7 Pacific territories) and independent Pacific Island countries. In the LAC region, it was noted that there are good practices in legislation in such countries as Peru and Panama and in the African region – in South Africa. All consultants were encouraged to conduct a legislative review with the focus of providing Member States of the CBD with something that they could work with. A critical legislative review of laws and policies on a national and regional level that impact (positively or negatively) on TK use, retention and transmission would be most useful in identifying action that national governments could take to urgently address the issue of TK. More importantly, on a regional or global level, such as review may identify common issues that can be addressed by Member States. Such legislative reviews should also seek to identify conflicts between legal systems (introduced legal system and the customary legal system) and should focus only on laws and legal principles relevant specifically to TK.

73. In general, the reports argue and the Advisory Group/Steering Committee agreed that ongoing discrimination against indigenous peoples (lack of respect) remains a significant factor in the preservation of their knowledge, innovations and practices. One Advisory Committee member argued that the indigenous peoples have been and are seen as inferior – as somehow “less” and thus their cultures and knowledge are regarded as “less”. Hence changing societal attitudes towards indigenous peoples and their knowledge should be a broad objective of programme of work.

74. In general, it was argued that the reports may never be adequate given the breadth of the subject and that it is necessary to focus on the programme of action, if the CBD is to achieve real results in this area.

75. In general, support for indigenous institutions, structures and processes relevant to TK and increased cooperation between indigenous peoples was regarded as useful strategies in preserving TK and in addressing the issues that cause a decline in TK.

76. Consultants were cautioned not to rely too much on anthropologists in their research as the views of anthropologists may differ significantly from those of indigenous peoples.

77. In response to concerns raised by the Advisory Group/Steering Committee regarding the name used for the indigenous region referred to as “the former USSR”, the Secretariat of the CBD has sought clarification from the UNPFII and has been advised that this region will now be referred to as “Eastern, Central Europe and the Caucasus”. Consultants were cautioned to ensure names for regions and peoples are accurate to avoid potential offence (misunderstandings).

78. In finalising their reports the consultants are urged to revisit the mandate of Article 8(j) and the terms of reference for the reports to ensure their reports are focussed. In particular, the Advisory Group/Steering Committee recommended that all consultants ask themselves, “have we identified all the threats?” The Advisory Group/Steering Committee also developed the Matrix of issues (attached as Annex IV), to assist consultants in identifying common issues and to enhance to comparability of the regional reports.

II. OBSERVATIONS REGARDING PARTICIPATORY MECHANISMS FOR THE PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES IN THE WORK OF THE CONVENTION; CRITERIA FOR THE OPERATION OF THE VOLUNTARY FUNDING MECHANISM; DEVELOPMENT OF ELEMENTS OF *SUI GENERIS* SYSTEMS FOR THE PROTECTION OF TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES; ETHICAL CODE OF CONDUCT TO ENSURE RESPECT FOR THE CULTURAL AND INTELLECTUAL HERITAGE OF INDIGENOUS AND LOCAL COMMUNITIES; INDICATORS FOR ASSESSING

PROGRESS TOWARDS THE 2010 BIODIVERSITY TARGET: STATUS OF TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICE

- a. Participatory mechanisms for the participation of indigenous and local communities in the work of the convention - criteria for the operation of the voluntary funding mechanism

79. The Advisory Group/Steering Committee critically analyses the document prepared by the Secretariat (UNEP/CBD/WG8J/AdvisoryCommittee/VFILC/1) and congratulated the Secretariat of preparing a comprehensive draft. In particular, they noted that the document provided a comprehensive process to improve indigenous and local community participation in CBD processes.

80. The Advisory Group/Steering Committee recommended that the application form be simplified and that the section "III Substantive Contribution" be removed. They also noted that the CBD had an obligation to accept applications in any of the official languages of the United Nations. The Advisory Group/Steering Committee also suggested that the VFILC could be used to assist a comprehensive communications strategy. They also suggested that the selection criteria should take into account when selecting delegations the need for both expertise and the need to build capacity of new participants. Furthermore, they supported the idea that the VFILC should allow for the broad participation of indigenous and local communities in all CBD meetings of interest to them.

81. The Secretariat will take on board the recommendations of the Advisory Group/Steering Committee and the draft-working document (UNEP/CBD/WG8J/AdvisoryCommittee/VFILC/1) will be redrafted and submitted to the Fourth Session of the WG8(j), in early 2006.

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

82. The Advisory Committee welcomed the draft document prepared by the Secretariat and used it as a basis to discuss consider non-intellectual-property-based *sui generis* forms of protection of traditional knowledge, innovations and practices relevant for the conservation and sustainable use of biodiversity and possible elements for *sui generis* systems, for protection of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity (and ensure benefit-sharing arrangements for these communities when their traditional knowledge and associated genetic resources are access). The Advisory Committee offered the following advice regarding the development of elements of *sui generis* systems for the protection of TK.

83. The Member from Peru opened the discussions with a presentation on *sui generis* community-based forms of protection and used the Potato Park as an example. He noted that because intellectual property protection could only at best protect the intellectual property elements of TK, it was necessary to devise other holistic forms of protection. It was noted that some countries have already developed *sui generis* protection at the national level and that these should be critically analysed to ascertain their general applicability to the international level.

84. The Advisory Group/ Steering Committee advised the Secretariat, in further developing the draft working document, to include and build on the work of WIPO, UNU-IAS, and the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), who have all conducted research of *sui generis* protection and specifically on the recognition of principles of customary laws. The Advisory Group/Steering Committee members also noted that indigenous peoples themselves must look at their customary laws to determine what continues to be useful and applicable in contemporary times, and advise the international

community on the best ways forward. They also noted that definitions for TK and other terms remains problematic.

85. It was noted by the Advisory Group/Steering Committee that the elements suggested in the annex to the decision already propose a way forward; however, some committee members questioned whether this was the best way to proceed. It was also noted that the nature of customary law requires that it be exercised by indigenous peoples and not by Member States, although Member States could take it into account. Regarding the term “competent authority”, the Committee advised that with regards to TK, the only competent authority could be indigenous peoples (as knowledge holders). It was also emphasised that TK cannot be separated from the peoples concerned, nor from the peoples’ resources. The Committee also requested further work to be carried out on the purposes, which extend beyond scientific or commercial uses.

86. The Committee noted that there are differing levels of protection however local protection may be the most useful and practical level to focus upon, noting that once a resource is extracted and removed (internationally), it becomes harder to protect. The use of customary law also is most applicable at the local level. The Advisory Committee member for the Pacific region, urged consideration be given to the models laws being developed in the Pacific. The Committee also advised the concept of “public domain”, should require the user to prove that it was the intention of the TK holder to place TK in the public domain. The draft document will be revised and presented for comment to WG8(j) at its fourth session.

c. Ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities

87. The Advisory Group/Steering Committee congratulated and express thanks to the Secretariat for a comprehensive draft document to assist with their discussions. The Member from the African region requested the inclusion of the principle of “subsidiarity” – that is, that all decisions should be made at the lowest possible level to ensure community empowerment, and the recognition of local systems. In this case, decisions regarding research and any development process should involve or ensure participation of the lowest indigenous and local community institutions, governance and management systems. Other members noted the importance of a broad definition for “research”, to allow for the widest possible circumstances. The Advisory Group/Steering Committee agreed that there are problems with the proposed voluntary nature of such a code. They also advised that the fundamental role of indigenous women should be emphasised in the document. The representative from Brazil noted that much of the contents of the draft document are in the Brazilian national code for researchers. Brazil also noted that “compensation” should be replaced with “equitable sharing of benefits”, as a more accurate reflection of the desires of indigenous peoples. The advisory Group/Steering Committee members sought clarification on whether the code should also apply to internal research being carried out by indigenous peoples and it was agreed that any proposed code should apply to all (indigenous, non-indigenous, national or foreigner) researchers equally. They emphasized that gender was an important consideration when researching in indigenous contexts and this must be taken into account, as knowledge areas may be gender specific. Researchers should always be sensitive to secret and sacred knowledge, species and places.

88. The Member from Norway noted that the draft code should also consider promoting indigenous peoples rights to conduct their own research, including building their own research institutions and promoting the building of cooperation, capacity and competence. Some members also felt that the current draft before them contained too many principles and should be reworked to be more concise and better structured. Many members also agreed that the draft code should refer to the importance of giving back (information) to the community. The Committee also emphasised that research should promote inter-cultural exchange and access to each other’s knowledge to promote synergies and complementarity. The Advisory Group/Steering Committee members also noted that the outcomes of this work should not pre-empt the outcomes of discussions regarding access and benefit sharing. They encouraged the further development of the draft code believing its chief value is as a working level document.

89. The Committee suggested that the Secretariat clarify the scope of the draft code, and clearly defined “research”. They also emphasized the principle of respect particularly as it related to indigenous processes, and timeframes. It is also important to recognise the diversity of indigenous peoples. Some members noted that some kinds of research may never be acceptable to indigenous peoples and that they must retain the right to say “no”. The Committee advised that researchers should never presume “terra nullius” (empty land), as the territory may be sparsely populated but not empty. An example was provided of the impact of low-level military flights over Arctic territories and the impact on Inuit peoples and traditional hunting. The code should also take into account that research conducted on peoples and communities is fundamentally different from research conducted on territories. In clarifying terms, a definition of prior and informed consent would be useful.

90. It was noted by the Committee that the recommendation from the UNPFII requesting the CBD to develop elements of an ethical code to ensure respect for the cultural and intellectual heritage of indigenous and local communities (COP7 Dec.16/I) was beyond the mandate of the CBD, however the CBD could partially fulfil this recommendation by referring to the original COP 5 Decision 16, III – Element 5, which requests the Secretariat to “*identify, compile and analyse ... existing and customary codes of ethical conduct to guide the development of model codes of ethical conduct for research, access to, use, exchange and management of information concerning traditional knowledge, innovations and practices for the conservation and sustainable use of biological diversity*”. The Committee recommended that current work focus on the development elements of a draft code, as per COP5 Decision 16, for consideration of the WG8(j) at its fourth session.

- d. Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practice

Language Indicator

91. The Advisory Group/Steering Committee welcomes the draft-working document prepared by the Secretariat and made the following suggestions to improve the text for the consideration of WG8(j). Measuring outcomes for the status of traditional knowledge, innovations and practices is a difficult task and the selection of indicators requires careful thought. It was noted that the COP had agreed on the status and trends of linguistic diversity and the numbers of speakers of indigenous languages as one possible indicator. In discussing the language indicator, Advisory Group/Steering Committee members provided wide-ranging comments noting that at one extreme, indigenous peoples may keep their language and yet still lose their knowledge or lose their language but retain at least part of their knowledge. It was also noted that non-verbal communication plays a highly significant role in many indigenous societies and that this may survive traditional language loss. However, it was felt in general that a language indicator, used along with other indicators may be a useful way forward.

Cultural Indicators

92. The Advisory Group/Steering Committee emphasized that indicators should be community-based and the Pacific representative discussed the usefulness of noting indigenous and local community initiatives including research initiatives (such as those conducted by indigenous academic institutions) and the usefulness of “cultural well-being audits” or “which are being used by some Maori communities as a self-administered and self-initiated indicator/s of their own indigenous well-being (these could be family, local community or tribally-based). The principle of self-assessment was also a particularly important consideration, as was the notion of “cultural well-being”.

Indigenous Land Tenure Indicator

93. The Advisory Group/Steering Committee discussed, at length, the use of indigenous land tenure as a possible indicator of the status of TK. It was agreed that territories under indigenous authority and/or where indigenous peoples could continue to practice their knowledge, innovations and practices relevant for the conservation and sustainable use of biodiversity may provide a useful indicator of the continued use of TK. It was also agreed that such an indicator could possibly include territories such as protected areas and national parks that are co-managed by indigenous peoples. Again the Committee cautioned about looking for a single indicator that could provide a panacea for measuring the status of TK and noted that indigenous land tenure may be a useful indicator when linked to a bundle of agreed indicators.

Changing Land-use Patterns Indicator

94. Changing land-use patterns was also proposed as a possible indicator and it was noted that such an indicator may be scientifically valid and measurable using modern satellite technology and information already available. In particular, changing forest patterns and deforestation should be taken into account. The Advisory Group/Steering Committee cautioned that protected areas, which overlap or occur on indigenous territories, may indicate loss of access to resources and associated knowledge and that this should be taken into account regarding the accuracy of land-use patterns as a possible indicator.

Demographics and Urbanization as an Indicator

95. There was a wide-ranging discussion of the use of demographics as a possible indicator and the Advisory Group/Steering Committee noted that urbanization and people movements away from traditional territories may be useful, however some indigenous peoples in urban areas continue to travel regularly to their traditional territories to practice their culture and use their knowledge. It was also noted that some indigenous peoples have become urbanized but continue to occupy their traditional lands and practice and to practice their tk to some extent?. It was therefore noted, that like the language indicator, the use of a demographics indicator is not perfect but together and reinforced with other indicators, may provide a useful indicator as to the health of TK.

Favourable (National) Policy Environment as an Indicator

96. Recalling their early discussion that the Advisory Group/Steering Committee emphasized that indicators should be community-based and that in measuring a national policy environment, the proof of success would be at the community level and through the effective implementation of policy. However, a favourable government policy environment was considered by the Advisory Group/Steering Committee as useful indicator, if complemented by other indicators. In discussing a favourable national policy environment for the retention, use and promotion of TK, the Committee discussed official recognition of indigenous peoples by the State, Indigenous Education Policies and Programmes such as early childhood education in mother-tongue or programme that incorporated TK, Indigenous Health Policies and Programmes that recognized traditional healers and knowledge. The Committee also discussed other policies and programmes that may indicate a supportive environment such as reconciliation policies (cultural redress), policy participation of diverse cultural groups (including indigenous and local communities); policies on religions and religious practice; policies on customary law and legal pluralism; policies on multiple languages (including indigenous languages); and/or Policies for redressing socio-economic exclusion.

97. It was further noted that the existence and effective implementation of government policies and programmes which have a direct impact (either positive or negative) on the retention and use of TK could be considered as possible indicators although measurement may prove problematic and if possible may largely be qualitative in nature. Specific programmes such as Indigenous Education, which includes elements of TK, may provide a useful measurement of whether TK is being valued and passed on to future generations through formal education settings. Hence on a national policy level, countries with established indigenous education programmes may be an indication of the survival and use of TK. Included in indigenous education policies or programmes

should be elements of mother-tongue education, bilingual education and/or English as a second language (ESL) strategies, which indicate the use of indigenous language/s. The same could be said of countries that have established health policies that include elements of traditional knowledge and/or recognized traditional health practitioners.

Other Possible Indicators

98. The Advisory Committee members offered the following advice of other possible indicators for the health of TK for the consideration of the Secretariat. In particular, the existence of cultural institutions; the existence of knowledge holders and the persistence of customary law and cultural practices; the existence of totems (indicating totemic diversity); the loss of distinct tribal groups (tribal clustering), physical manifestations of culture such as rituals, ceremonies; the continuing transmittal of TK to future generations; and loss of lands and waters; access to resources (resource rights), amongst others.

Conclusion

99. The Committee concluded that traditional languages as an indicator was useful if used along with other indicators (yet to be agreed upon). In particular, demographics and changing land-use patterns may be useful quantitative indicators and could be complemented by qualitative indicators such as the “tribal audits” (refer to cultural indicators, para. 92) to provide a more accurate and holistic picture. It is apparent that a bundle of indicators will need to be developed, as proxies for cultural change and that they will have relative value as indicators for the health of TK. The Committee also noted the importance of both qualitative and quantitative indicators to provide a broad picture of the status of TK. It was also emphasized that community indicators were highly significant in measuring TK where it occurs.

Annex I

ATTENDANCE

Experts for the Advisory Group/Steering Committee by Region

Africa

Ms. Haman Hajara, Cameroon
Ms. Lucy Mulenkei, Kenya
Mr. Gladman Chibememe, Zimbabwe
Mr. Mohammad Gad, Egypt - Absent

Asia and the Pacific

Ms. Jannie Lasimbag, Malaysia
Mr. Sandy Gauntlett, New Zealand - Apologies received and replaced by
Ms. Aroha Mead, New Zealand
Mr. Stephen Schnierer, Australia - Apologies received

Central and Eastern Europe

Ms. Erjen C. Khamaganova, Russia

Latin America and the Caribbean

Mr. Andrés Madariaga, Argentina - Apologies received
Ms. Esther Camac Ramirez, Costa Rica
Mr. Mindahi Crescencio Bastida Muñoz, Mexico
Mr. Alejandro Argumedo, Peru

Western Europe and Arctic

Ms. Marianne Jensen, Denmark/Greenland
Ms. Audhild Schanche, Norway

North America

Ms. Peigi Wilson, Canada
Mr. Preston Hardison, USA

Consultants for Phases I and/or II of the Composite report

1) Ms. Peigi Wilson, Canada;

- 2) Mr. Preston Hardison, USA;
- 3) Mr. Sem Taukondjo Shikongo, Namibia;
- 4) Mr. Glen Alan Kelly, Australia;
- 5) Mr. Kirk Tyler (replacing Ms. Elina Helander) Finland;
- 6) Mr. Gonzalo Oviedo, Ecuador (consultant);
- 7) Mr. Maui Solomon, New Zealand (apologies received)

*Annex II***ORGANIZATION OF WORK: ADOPTION OF THE AGENDA***Annotations to the provisional agenda***PROPOSED ORGANIZATION OF WORK FOR THE FOR THE ADVISORY COMMITTEE ON ARTICLE 8(J) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY**

	<i>Plenary</i>	<i>Notes</i>
<p><i>Monday</i> 11 June 2005 9.30 am to 12.30 p.m.</p>	<p>1. Opening of the meeting;</p> <p>2. Organizational matters:</p> <p> 2.1 Election of Officers;</p> <p> 2.2 Adoption of the Agenda;</p> <p> 2.3 Organization of Work.</p> <p> 2.4 Background and review of the elements of the work programme of Article 8j and of the First Phase of the Composite Report.</p>	<p>1. Meeting opened by the Executive Secretary of the CBD or his representative;</p> <p>2. The programme officer will assist as Rapporteur; A representative of the SCBD will act as chairperson.</p> <p>2.4 Power-Point presentation on CBD and Article 8j by Programme Officer for Traditional Knowledge, will be followed by a review of the objective of the Advisory Group/Steering Committee, the background and relevant Convention processes and decisions, including an overview of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities, relevant to the conservation and sustainable use of biodiversity.</p> <p>The presentation is followed by discussion related to the topics presented.</p>
<p>2.00 – 5.30 p.m.</p>	<p>3. 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: review of draft regional reports.</p>	<p>3. Presentations by the regional consultants of the regional reports. The order of the presentations is as follows: All regions (Phase I, revised version – the use of registers); Africa; Asia and Australia; Arctic; Latin, Central America and the Caribbean, North America and the Pacific.</p> <p>This will be followed by a question and answer period and discussions.</p>

	<i>Plenary</i>	<i>Notes</i>
<i>Tuesday</i> <i>12 June 2005</i> 9.00 am. to 12.30 pm	3. 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: review of draft regional reports.	3. Finalization of presentations by the regional consultants of the regional reports. The meeting is then invited to break into four working groups according to the regions used for the purpose of the regional reports. Each consultant is invited to participate in the regional group that corresponds to the mandate of its work. Each group is invited to review phase one of the composite report as well as the regional reports on phase two presented by the consultants.
<i>Tuesday</i> <i>12 June 2005</i> 1.00 p.m. to 5.30 pm.	3. 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: review of draft regional reports.	3 Plenary will be re-convened to allow working groups to report on progress and draft recommendations.
<i>Wednesday</i> <i>13 June 2005</i> 9.00 am to 12.30 pm	4. Elements for a plan of action for the retention of knowledge, innovations and practices of indigenous and local communities.	Item 4 will also take the form of group work with various experts brainstorming on possible elements of a plan of action, followed by the Group Leaders reporting the outcomes back to the broader meeting/plenary. These groups can be formed on a regional level to provide a commonality of experience.

	<i>Plenary</i>	<i>Notes</i>
<p><i>Wednesday</i> 13 June 2005 2.00 – 5.30 p.m.</p>	<p>5. Participatory Mechanisms for the participation of indigenous and local communities in the work of the Convention, including criteria for the operation of the Voluntary fund Identification and assessment of measures and initiatives to protect, promote and facilitate the use of Traditional Knowledge;</p> <p>6. Development of elements of sui generis systems for the protection of traditional knowledge.</p>	<p>Item 5 will take the form of plenary discussions based on the draft document concerning participatory processes and will then open for a discussion, proposals and recommendations.</p> <p>Item 6 will take the form plenary discussions based on the draft document concerning sui generis systems and will then open for a discussion, proposals and recommendations.</p>
<p><i>Thursday</i> 14 June 2005 9.0 a.m. to 12.30 p.m.</p>	<p>7. Ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities.</p>	<p>Item 7 will take the form of plenary discussions based on the draft document concerning an ethical code of conduct and will then open for a discussion, proposals and recommendations.</p>
<p>2.00 pm – 5.30 p.m.</p>	<p>8. Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices;</p> <p>6. Adoption of the Report/Recommendations;</p> <p>7. Closure of meeting.</p>	<p>Item 8 will take the form of plenary discussions based on the draft document concerning possible indicators towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices and will then open for a discussion, proposals and recommendations.</p>

**DOCUMENTS FOR THE ADVISORY COMMITTEE ON ARTICLE 8(J) AND RELATED PROVISIONS OF THE CONVENTION ON
BIOLOGICAL DIVERSITY**

<i>Symbol</i>	<i>Title</i>
	<i>A. Working documents</i>
UNEP/CBD/WG8J/Advisory Committee/1/1	Provisional agenda
UNEP/CBD/WG8J/Advisory Committee/1/1/Add.1	Annotated provisional agenda
UNEP/CBD/WG8J/3/4	Executive Summary - Report on the first phase 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/4/Africa/1	Phase Two - 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 – African region (Working Draft only)
UNEP/CBD/WG8J/4/Artic/1	Phase Two - 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 – Arctic region (Working Draft only)
UNEP/CBD/WG8J/4/Asia/1	Phase Two - 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 – Asian region (Working Draft only)
UNEP/CBD/WG8J/4/LAC/1	Phase Two - 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 – Latin America, Central America and the Caribbean region (Working Draft only)
UNEP/CBD/WG8J/4/North America/1	Phase Two - 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 – North American region (Working Draft only)
UNEP/CBD/WG8J/4/Pacific/1	Phase Two - 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 – Pacific region (Working Draft only)

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UNEP/CBD/WG8J/4/Registers/1 Phase Two - 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 – the advantages and limitations of registers as a measure to protect traditional knowledge, innovations and practices – Working Draft only.

B. Background/information documents (by region)

African Region

UNEP/CBD/WG8J/3/INF/3 Composite Report on the status and trends regarding the knowledge, Innovations and practices of indigenous and local communities.
Regional Report: Africa

UNEP/CBD/WG8J/RW/Africa/1 Report of the African regional meeting on the composite report on traditional knowledge (New York, 21-22 April 2005)

Australia, Asia and the Middle East

UNEP/CBD/WG8J/3/INF/4 First Phase of the Australia, Asia and the Middle East - Regional Report on the status and trends concerning the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biological diversity.

UNEP/CBD/WG8J/RW/Asia/1 Report of the Asian regional meeting on the composite report on traditional knowledge (Baguio City, Philippines, 28-30 April 2005)

Latin America and Caribbean Region

UNEP/CBD/WG8J/3/INF/10 Composite Report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities.
Regional Report: South America

UNEP/CBD/WG8J/3/INF/10/CORR1 Composite Report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities.
Regional Report: South America - Corrigendum

UNEP/CBD/WG8J/3/INF/6	Composite Report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities. Regional Report: Central America
UNEP/CBD/WG8J/3/INF/6/CORR1	Composite Report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities. Regional Report: Central America – Corrigendum
UNEP/CBD/WG8J/3/INF/5	Composite Report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities. Regional Report: Caribbean
UNEP/CBD/WG8J/3/INF/5/CORR1	Composite Report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities. Regional Report: Caribbean - Corrigendum
UNEP/CBD/WG8J/RW/LAC/1	Report of the Latin America and the Caribbean regional meeting on the composite report on traditional knowledge (New York, United States of America, 14-15 May 2005) <i>North America</i>
UNEP/CBD/WG8J/3/INF/8	Composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities. Regional report: North America
Pacific Region	
UNEP/CBD/WG8J/3/INF/9	Composite Report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities. Regional Report: Pacific. <i>Europe and Russia</i>
UNEP/CBD/WG8J/3/INF/7	Composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities. Regional report: Europe and Russia

Annex III

Matrix of Common Issues – National processes that may threaten the maintenance, preservation and application of traditional knowledge, innovations and practices and the identification of processes at the local level that may threaten the maintenance, preservation and application of traditional knowledge, innovations and practices (Decision VI/10, annex (i)).

National and Local Obstacles Indigenous and local communities are subject to:	Africa	Asia/Australia	Arctic	LAC	North American	Pacific
1. Lack of secure land tenure						
2. Lack of recognition and access to traditional resource rights						
3. Imposed “Western” Education						
4. Changing family structures						
4. Loss of indigenous languages						
5. Increasing urbanization and people movement and migration						
6. Introduced Religion and foreign value systems						
7. Degradation of territories – including deforestation and/or habitat loss, dams, mining, pollution, and/or salination						
8. Trans-boundary issues						
9. Climate change						
10. Objectification through Tourism						
11. Conflict/militarization						
12. Food aid and introduced foods						
13. New technologies						
14. Lack of formal recognition and respect of TK						
15. Spatial scale of TK (as a holistic concept)						
16. Livelihood and food security						
17. Economic issues, including bio-trade,						

bio-prospecting and intellectual property issues						
18. Poverty						
19. Lack of indigenous participation in decision-making						
20. Status of indigenous women						
21. Political climate/processes						
22. Status of indigenous peoples – including racism/discrimination						
23. Tourism and objectification						
24. Unsustainable Development						
