



**CONVENTION ON
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DIVERSITY**

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**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 12 of the provisional agenda*

**RECOMMENDATIONS OF THE UNITED NATIONS PERMANENT FORUM ON
INDIGENOUS ISSUES**

Note by the Executive Secretary

I. INTRODUCTION

1. In decision VII/16 I, on the recommendations of the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity, the Conference of the Parties decided to take action on the Forum's request at its second session regarding the organization of a workshop on cultural, environmental and social impact assessment and the development of elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities.
2. Section II of this document provides an update of progress in the implementation of decision VII/16 I.
3. Relevant recommendations from the Permanent Forum on Indigenous Issues at its third and fourth sessions, which are addressed to the Convention and have not yet been considered by the Working Group, are reproduced in the annex to this document. They are recommendations 6 (paragraphs 75 and 77 (f)) of the report of the third session of the Permanent Forum on Indigenous Issues, which was held in New York from 10 to 21 May 2004 (E/2003/43-E/C.19/2003/23), and paragraphs 27 and 140 of the report of the fourth session, which was held in New York from 16 to 27 May 2005 (E/2005/43-E/C.19/2005/9).
4. Section III contains suggested recommendations that the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and related provisions may wish to make to the Conference of the Parties, as appropriate.

II. OVERVIEW OF ACTIONS TAKEN WITH REGARD TO THE RECOMMENDATIONS OF THE SECOND SESSION OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES (UNPFII)

A. *Recommendation 8: environmental impact assessment and cultural diversity (paragraphs 55 and 56 of the report of the second session of the Permanent Forum on Indigenous Issues (E/2003/43-E/C.19/2003/22)) (Workshop on protecting sacred places and ceremonial sites of indigenous peoples);*

5. At its second session, the Permanent Forum on Indigenous Issues recommended, *inter alia*, “that United Nations bodies, in particular the Convention on Biological Diversity, in coordination with the World Bank, UNDP, FAO, IFAD and UNEP, organize a workshop on protecting sacred places and ceremonial sites of indigenous peoples with a view to identifying protective mechanisms and instituting a legal framework that make cultural, environmental and social impact assessments studies mandatory and ensure the environmental accountability of economic, social and environmental projects that are proposed on sacred sites and on lands, territories and waters traditionally occupied or used by indigenous peoples”.

6. In decision VII/16 I, paragraph 4, the Conference of the Parties requested the Executive Secretary to consult and coordinate with the Secretariat of the Permanent Forum on Indigenous Issues and to collaborate with United Nations agencies and relevant international organizations with a view to organizing a workshop on cultural, environmental and social impact assessments based on the Akwé:Kon Voluntary Guidelines and aimed to the further strengthening of the understanding of the link between environment and cultural diversity, with the participation of representatives of indigenous and local communities, and urged Parties and Governments to provide financial resources in support of the organization of the workshop.

7. Further to this request, the Executive Secretary organized, in collaboration with the Permanent Forum, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations University (UNU) and the Food and Agriculture Organization of the United Nations (FAO), a workshop on the Akwé: Kon Guidelines, as part of the broader symposium entitled “Conserving Cultural and Biological Diversity: the Role of Sacred Natural Sites and Cultural Landscapes” – an activity of the World Expo 2005 in Aichi, Japan. The Working Group may wish to take note of the report of the workshop (UNEP/CBD/WG8J/4/INF/14).

B. *Recommendation 9: Convention on Biological Diversity (paragraph 57 of the report of the second session of the Permanent Forum on Indigenous Issues (E/2003/43-E/C.19/2003/22)) (Code of ethics)*

8. At its second session, the Permanent Forum on Indigenous Issues recommended, *inter alia*, “the establishment of an international ethical code on bio-prospecting in order to avoid bio-piracy and ensure the respect for indigenous cultural and intellectual heritage. Under the framework of the Convention, a mechanism should be established for the repatriation and devolution of genetic materials collections to indigenous peoples. The Forum recommends to the Convention secretariat that the global taxonomy initiative incorporate an ethical principles and social framework for the protection of indigenous peoples’ rights to their lands, traditional knowledge and resources before its implementation”.

9. Following up on this recommendation, in paragraph 5 of decision VII/16/ I, the Conference of Parties requested the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions to develop elements of an ethical code of 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, taking into account task 16 of the programme of work on Article 8(j) and related provisions. Accordingly, this issue has been included as item 9 of the agenda of this meeting of the Working Group.

10. It should also be noted that, in task 16 of the programme of work on the Implementation of Article 8(j) and related provisions (decision V/16, annex), the Executive Secretary was requested to: identify, compile and analyse, with the participation of indigenous and local communities, existing and customary codes of ethical conduct to guide the development of models for 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. Thus, the follow-up to this request of the Permanent Forum also addresses task 16 of the programme of work.

11. The Secretariat has gathered codes of ethics and conduct from various sources and distilled the various elements into a draft, which was examined and commented upon by the Advisory Group to Article 8(j) and related provisions at its meeting in Montreal, on 11-14 July 2005. Furthermore, the Secretariat has prepared a draft decision endorsing the elements of an ethical code of conduct, which is being submitted for consideration by the Working Group

III. SUGGESTED RECOMMENDATIONS

12. The Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions may wish to recommend that the Conference of the Parties:

(a) Welcome the close cooperation between the Convention process and the 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;

(b) Note with appreciation the Workshop on Cultural, Environmental and Social Impact Assessments based on the Akwé: Kon Voluntary Guidelines and aimed at the further strengthening of the understanding of the link between environment and cultural diversity, which was held in Tokyo, Japan, from 30 May to June 2, 2005, in collaboration with other United Nations agencies and relevant international organizations, with the participation of representatives of indigenous and local communities.

(c) Request the Executive Secretary to transmit the report of the Workshop to the Permanent Forum;

(d) Also request the Executive Secretary to transmit to the Permanent Forum on Indigenous Issues the elements of an ethical code of conduct attached in the annex;

(e) Take note of the request by the Permanent Forum on Indigenous Issues to the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions to advance its mandate to develop mechanisms for effective *sui generis* systems of protection based on customary laws of indigenous peoples.

Annex

**EXTRACT FROM THE REPORT ON THE THIRD SESSION OF THE PERMANENT FORUM
ON INDIGENOUS ISSUES (E/2004/43-E/C.19/2004/23)**

“(…)

“6. Environment

“75. The Forum recognizes the unique contributions made by indigenous women in terms of possessing and transmitting through the generations a wealth of traditional knowledge on the conservation of biodiversity and sustainable environmental management, and calls on the secretariat of the Convention for Biological Diversity, UNEP and all relevant United Nations bodies to mainstream indigenous gender issues and knowledge in national environmental policies and programmes.

“Convention on Biological Diversity

“77. The Forum: (…)

“(f) Recommends that the Convention’s ad hoc open-ended working group on article 8(j) advance its mandate to develop mechanisms for the effective sui generis systems of protection based on customary laws of indigenous peoples, especially in the light of the decision of the Conference of the Parties to the Convention to increase the pace in the elaboration and implementation of a proposed international regime on access and benefit-sharing.”

**EXTRACT FROM THE REPORT ON THE FOURTH SESSION OF THE PERMANENT
FORUM ON INDIGENOUS ISSUES (E/2005/43-E/C.19/2005/9)**

“(…)

“Other follow-up

“27. The Forum calls on the secretariat of the Convention on Biological Diversity to continue its support to the national indigenous peoples biodiversity participatory mechanisms of the small island developing States through the Convention’s island and biodiversity project and indigenous peoples programme, in the promotion of sustainable biodiversity.

“Traditional knowledge

“140. The Forum recommends that the Inter-Agency Support Group convene a technical workshop on indigenous traditional knowledge, in collaboration with United Nations agencies dealing with this issue, with the participation of indigenous experts, with a view to promoting a collaborative, complementary and holistic approach to traditional knowledge in order to enhance better understanding of indigenous concerns and their possible solution and requests the workshop to submit its report to the Forum at its fifth session.”
