



Convention on Biological 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

Seventh meeting

Montreal, 31 October – 4 November 2011

Item 6(d) of the provisional agenda**

ARTICLE 10, WITH A FOCUS ON ARTICLE 10(c), AS A MAJOR COMPONENT OF THE PROGRAMME OF WORK ON ARTICLE 8(j) AND RELATED PROVISIONS OF THE CONVENTION

Note by the Executive Secretary

I. INTRODUCTION

1. In paragraph 10 of its decision X/43, the Conference of the Parties authorized the Secretariat to convene a meeting on Article 10 (sustainable use of biological diversity) with a focus on Article 10(c) (customary use of biological diversity), with the participation of Parties, Governments and international organizations, and representatives of indigenous peoples and local communities, to provide advice on the content and implementation of a new major component of work for consideration at the seventh meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity, to assist the Working Group in taking this component forward. The meeting on sustainable use (Article 10) and customary use (Article 10(c)) was held in Montreal from 31 May to 3 June 2011.

2. In accordance with paragraphs 8, 10 and 11 of decision X/43, the meeting was requested to provide advice, building on the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity, on the development of further guidance on sustainable use and related incentive measures for indigenous and local communities; on measures to increase the engagement of indigenous and local communities and governments at national and local level in the implementation of Article 10 and the ecosystem approach; and on a strategy to integrate Article 10, with a focus on 10(c), as a cross-cutting issue into the Convention's various programmes of work and thematic areas, beginning with the programme of work on protected areas.

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3. Given the significance of this proposed major new component of the programme of work on Article 8(j) and related provisions, the full report of the meeting on Article 10(c) is being circulated as an addendum to the present note (UNEP/CBD/WG8J/7/5/Add.1). Annex I of the report contains advice and recommendations arising from the meeting. Draft recommendations for the consideration of the Working Group are contained in section II below.

II. RECOMMENDATIONS FOR THE CONSIDERATION OF THE WORKING GROUP

The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions may wish to recommend that the Conference of the Parties at its eleventh meeting adopt the following draft decision:

The Conference of the Parties,

Recognizing that sustainable use is the second pillar of the Convention and that this concept is rooted in customary sustainable use;

Also recognizing that Articles 8(j) and 10(c) are interconnected and mutually reinforcing;

Further recognizing that the implementation of sustainable use, including customary sustainable use, is crucial in achieving the Aichi Biodiversity Targets and the Strategic Plan for Biodiversity 2011-2020;

1. *Takes note with appreciation* of the report of the meeting on Article 10 with a focus on 10(c)¹ as useful practical guidance and advice concerning the development of a major component of work focussed on Article 10(c) on customary sustainable use;

2. *Decides* to use the advice in the annex to the present decision as useful guidance for this new major component of work, as prioritized tasks of the programme of work are advanced or completed;

3. *Further decides* to establish this component of work as a new element in the programme of work for Article 8(j) and related provisions, on **sustainable use with a focus on customary sustainable use**;

4. *Also decides* to establish three sub-elements, with initial tasks as they appear below:

A. *Guidance on sustainable use and related incentive measures for indigenous and local communities*

Customary sustainable use and diverse local economies

Task 1. The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity to develop guidelines to promote and encourage community-based resource management.

Task 2. Parties to incorporate customary sustainable use practices, as appropriate, into national biodiversity strategies and action plans, as a strategic way to maintain socio-ecological values and to achieve human well-being and to report on this through the national reports.

¹ UNEP/CBD/WG8J/7/INF/5

Legislation and land and resource rights

With the full and effective participation and free, prior and informed consent of indigenous peoples and local communities,

Task 3. The Working Group to develop guidelines for national and sub-national legislation to respect, recognize and promote customary sustainable use and traditional knowledge, consistent with indigenous peoples' and local communities' customary laws, and procedures.

Task 4. Parties to review national and sub-national laws and policies, with a view towards legal recognition of collective ownership and customary resource management and to report on development through the national reporting system.

Targeted support and funding

Task 5. The Secretariat to provide advice on a regular basis including to the meetings of the Working Group, and through the Article 8(j) web-pages and in partnership with the Global Environment Facility, the United Nations Permanent Forum on Indigenous Issues, and relevant agencies and partners, concerning the availability of funding in support of the initiatives to advance the implementation of Article 10(c).

Opportunities and knowledge gaps for further exploration

Task 6. The Working Group to explore with relevant agencies and partners, the nexus between customary use and sustainable use, and to develop guidance on economic opportunities for indigenous peoples and local communities such as geographic branding and other forms of creative intellectual property protection to promote unique products.

Task 7. The Working Group to develop advice and expand on the methods used to put value on biodiversity and ecosystem services so as to incorporate indigenous cultural and spiritual values with their free, prior and informed consent (FPIC).

B. Measures to increase the engagement of indigenous and local communities and governments at national and local level in the implementation of Article 10 and the ecosystem approach

Plan of Action, including toolbox

Task 8. The Working Group to develop a Plan of Action, including gap analysis and toolbox, in collaboration with relevant agencies, and in particular the FAO instruments, and with the effective participation of indigenous peoples and local communities, for the promotion of customary sustainable use. The toolbox could include: regional approaches and subregional, concrete examples of success; educational curricula; non-monetary benefit sharing (technology transfer, capacity-building, value added); support/stimulation of local economies; customary sustainable use-specific guidelines complementary to the Addis Ababa Principles and Guidelines; rights of indigenous peoples and local communities (including fishers, farmers and other social sectors); relevant instruments of the Convention on Biological Diversity; main messages including how customary sustainable use can benefit people and ecosystems; transparency and financial accountability; explanation of customary sustainable use rights and obligations, and concrete instruments and mechanisms to include in national laws about involving indigenous peoples and local communities in the management and conservation of biological resources. The development of the toolbox should take advantage of the toolbox to be developed for sustainable use and farmers' rights arising from the decision of the Fourth Regular Session of the Governing Body of the International Treaty for Plant Genetic Resources for Agriculture.

Education

Task 9. The programme of work on communication, education and public awareness (CEPA) to develop biodiversity education, including issues of customary sustainable use, traditional knowledge and indigenous languages in the formal and informal education systems with the full and effective participation of indigenous peoples and local communities.

Task 10. The Working Group to cooperate with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other relevant organizations, to develop guidance to promote intergenerational transmission of traditional knowledge and indigenous languages relevant for customary sustainable use by indigenous peoples and local communities.

Monitoring and evaluation

Task 11. Parties to put into place a monitoring system to analyse the relationship between customary sustainable use and ecosystem services and human well-being and sustainable development, with the full and effective participation of indigenous peoples and local communities and to report on such initiatives through the national reporting system;

C. *Strategy to integrate Article 10, with a focus on 10(c), as a cross-cutting issue into the Convention's various programmes of work and thematic areas, beginning with the programme of work on protected areas*

Task 12. The Secretariat to identify opportunities to implement the Plan of Action for the promotion of customary sustainable use, including gap analysis and toolbox, in all of the Convention's various programmes of work and thematic areas beginning with protected areas.

Task 13. The Secretariat to develop information management mechanisms to facilitate the documentation of traditional knowledge and practices for customary sustainable use, with the effective participation and prior informed consent of indigenous peoples and local communities, that can be easily accessed by the various programmes of the Convention and national Governments, and address funding requirements.

Task 14. The programme of work on communication, education and public awareness (CEPA) to promote understanding and broad public awareness that the most biodiverse systems are formed in interaction with humans, and that traditional knowledge and customary sustainable use can contribute to and uphold biodiversity, landscapes and seascapes including in protected areas.

Task 15. The Working Group to develop further guidelines on protected areas legislation:

- (i) To ensure that the establishment of protected areas takes place with the full and effective participation of indigenous peoples and local communities and their free, prior and informed consent (FPIC);
- (ii) That promote innovative protected areas governance and management types, including Indigenous Community Conserved Areas (ICCAs);
- (iii) That encourage the application of traditional knowledge and customary sustainable use in protected areas;
- (iv) That ensure that the national multi-stakeholder committees for the implementation of the programme of work on protected areas (PAs) are established and include representatives of indigenous peoples and local communities and civil society organizations; and

- (v) To develop concrete agreements between indigenous peoples and local communities and protected areas managers concerning the integration of customary sustainable use in protected areas management plans.

Task 16. The Secretariat to prioritize the integration of customary sustainable use into the programme of work on protected areas through customary sustainable use specific guidance in the web-based e-modules of the programme of work and continue to report on this matter to the Ad Hoc Working Group.

5. *Mandates* the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions to provide views and advice on matters of relevance to traditional knowledge relevant to the conservation and sustainable use of biological diversity directly to the Subsidiary Body on Technical and Technological Advice on a regular basis with a view to the integration of Articles 8(j) and 10(c) considerations, as cross-cutting issues into the thematic programmes of the Convention, commencing with the programme of work on protected areas.
