



## 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

Ninth meeting

Montreal, Canada, 4-7 November 2015

Item 6 of the provisional agenda\*

### **RECOMMENDATIONS FROM THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES TO THE CONVENTION ON BIOLOGICAL DIVERSITY**

*Note by the Executive Secretary*

#### **INTRODUCTION**

1. As is the practice of the Convention, recommendations of the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity are considered by the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions, which, in turn, makes recommendations for the consideration of the Conference of the Parties. Recommendations emanating from the eleventh and twelfth annual sessions of the Permanent Forum, held at United Nations Headquarters, in New York, from 7 to 18 May 2012 and from 20 to 31 May 2013 respectively, were considered by the Working Group at its eighth meeting, in October 2013, and by the Conference of the Parties to the Convention on Biological Diversity at its twelfth meeting, in October 2014.

2. The Secretariat has prepared this background document to facilitate and guide the discussion under this item concerning recommendations emanating from the thirteenth and fourteenth annual sessions of the Permanent Forum, held from 12 to 23 May 2014 and from 20 April to 1 May 2015, respectively. Section I of the present document provides a summary of recommendations emanating from these two sessions of the Permanent Forum not yet considered by the Convention on Biological Diversity, and as background, provides an analysis of action already taken under the Convention, of relevance to these recommendations. Section II provides an update on previous recommendations of the Permanent Forum on which action by the Conference of the Parties has been taken. Section III provides a draft recommendation for the consideration of the Working Group.

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\* UNEP/CBD/WG8J/9/1.

## I. RECENT RECOMMENDATIONS OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES TO THE CONVENTION ON BIOLOGICAL DIVERSITY

3. During the period 2014-2015, the Permanent Forum did not address any specific recommendations to the Convention on Biological Diversity. Some of the general recommendations may be of relevance to the Convention on Biological Diversity; however these recommendations have already been considered to a certain extent by the Conference of the Parties in previous work, as discussed below.

### A. Recommendations emanating from the thirteenth session of the Permanent Forum<sup>1</sup>

#### *General recommendations*

37. The Permanent Forum recommends that **United Nations agencies** review their policies, which presently allow them to assist only indigenous peoples in developing countries, and to urgently revise such policies to ensure that all indigenous peoples, in both developed and developing countries, have access to resources, technical assistance and other support from all United Nations agencies and funds.

4. In its decision VII/16 G, paragraph 10, on participatory mechanisms for indigenous and local communities, the Conference of the Parties decided to establish a voluntary funding mechanism under the Convention to facilitate the participation of indigenous and local communities in meetings held under the Convention, giving special priority to those from developing countries and countries with economies in transition and small island developing States in meetings under the Convention. The Conference of the Parties at its eighth meeting (decision VIII/5 D, annex), adopted the criteria for the operation of such a Fund. This Fund remains the only United Nations fund specifically for indigenous and local community participation in meetings related to the Convention.<sup>2</sup> The Convention is the only multilateral environmental agreement with such a participation mechanism. The voluntary fund is accessible for indigenous representatives from developed countries, but preference is given to indigenous representatives from developing countries, countries with economies in transition and small island developing States.

5. Thus, the Convention on Biological Diversity has already adopted decisions and taken action of relevance to this particular issue.

43. The Permanent Forum urges States to generate statistics disaggregated by ethnicity, gender, **indigenous identity, language**, language skills and self-identification, and to provide sources of data to allow for a more accurate assessment of whether indigenous children and youth are actually benefiting from the expenditure earmarked for them. The Forum also urges **United Nations agencies, funds and programmes** to support member States in generating statistics and the **United Nations agencies, funds and programmes** and academic centres to produce a **toolkit that provides a comprehensive** and an accurate overview of human development indicators concerning indigenous children and youth.

6. Of some relevance to indigenous children and youth but with a broader focus on generating useful statistics of relevance to indigenous peoples (regarding status and trends in traditional knowledge), the Conference of the Parties, within the framework of the programme of work on Article 8(j) and related

<sup>1</sup> See *Official Records of the Economic and Social Council, 2014, Supplement No. 23* (E/2014/43-E/C.19/2014/11), available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=E/2014/43](http://www.un.org/ga/search/view_doc.asp?symbol=E/2014/43).

<sup>2</sup> See <https://www.cbd.int/traditional/fund.shtml>.

provisions and the Strategic Plan for Biodiversity 2011-2020, adopted the indicators<sup>3</sup> below in order to help Parties to generate statistics relevant to indigenous peoples and local communities, about the achievement of the Aichi Targets by 2020, particularly Target 18 on traditional knowledge and customary sustainable use. The indicators on traditional knowledge adopted, particularly the indicator related to languages, can support Parties to assess the status of traditional knowledge and provides an indication of intergenerational transmission, which is of significant relevance to indigenous youth.

Target 18. By 2020, the traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected, subject to national legislation and relevant international obligations, and fully integrated and reflected in the implementation of the Convention with the full and effective participation of indigenous and local communities, at all relevant levels.	
Headline indicator(s)	Operational indicator(s)
Trends in integration of biodiversity into planning, policy formulation and implementation	Trends in land-use change and land tenure in the traditional territories of indigenous and local communities (decision X/43)
Trends in integration of biodiversity into planning, policy formulation and implementation	Trends in the practice of traditional occupations (decision X/43)
Trends in accessibility of scientific/technical/traditional knowledge and its application	Trends in degree to which traditional knowledge and practices are respected through their full integration, safeguards and the full and effective participation in the national implementation of the Strategic Plan
<b>Trends in accessibility of scientific/technical/traditional knowledge and its application</b>	<b>Trends of linguistic diversity and numbers of speakers of indigenous languages (decision VII/30 and VIII/15)</b>

(Adapted from decision XI/3 A, annex, Indicative List of Indicators for the Strategic Plan for Biodiversity 2011-2020.)

7. In addition, in its decision XI/3 A, paragraph 12, the Conference of the Parties requested the Executive Secretary, in collaboration with the International Indigenous Forum on Biodiversity, among other organizations, to develop explanatory practical toolkits on each of the Aichi Biodiversity Targets, including possible steps for measuring progress towards these targets. To this end, the International Indigenous Forum on Biodiversity is fully inclusive of indigenous youth and their perspectives.

8. Moreover, in its decision XII/12 A, paragraph 7, the Conference of the Parties requested the Executive Secretary, in collaboration with the International Indigenous Forum on Biodiversity, among other organizations, and subject to the availability of resources, to continue to organize and facilitate international technical workshops and regional workshops on indicators of the status of traditional knowledge, innovations and practices and customary sustainable use and to further explore the added value of contributions from indigenous and local communities' community-based monitoring and information systems and of applying a multiple evidence base approach when monitoring indicators on the status of traditional knowledge, innovations and practices and customary sustainable use, in order to assess progress towards implementing the Strategic Plan for Biodiversity 2011-2020 and achieving the Aichi Biodiversity Targets, and to inform Parties, organizations and stakeholders of progress through the Traditional Knowledge Information Portal.

9. Further to these requests, the Secretariat of the Convention on Biological Diversity is organizing, in collaboration with the International Indigenous Forum on Biodiversity and other organizations, four

<sup>3</sup> More information is available in the note by the Executive Secretary on indicators relevant for traditional knowledge and customary sustainable use dated 23 August 2013 (UNEP/CBD/WG8J/8/9).

regional training programmes (for the African, Asian and Pacific, and Latin American regions) and one subregional workshop (Caribbean) that will include training on indicators on traditional knowledge and Community-Based Monitoring and Information Systems tools as well as the development of training materials on the subject, including in indigenous languages.<sup>4</sup> These activities are made possible thanks to the Government of Japan, through the Japan Biodiversity Fund. The significant work being advanced on community-based monitoring and information systems is fully inclusive of indigenous youth and many community youth are engaged in data collection, including in generating and controlling their own data and creating their own information systems.

10. Thus, the Conference of the Parties to the Convention has already adopted decisions and taken action of some relevance to this recommendation from the United Nations Permanent Forum on Indigenous Issues, and this can be reported to the Permanent Forum at its next session.

48. The Permanent Forum recommends that member States and **relevant United Nations agencies** place employment, decent work, social protection and recognition of **traditional occupations** and livelihoods of indigenous peoples, including pastoralism, on the post-2015 development agenda. A focus on indigenous peoples' access to decent work, livelihoods and social protection is of utmost importance in this context. It will provide the opportunity to work globally towards building the enabling conditions for capturing the opportunities of sustainable development for pastoralists.

11. The Conference of the Parties adopted in its decision X/43 an indicator for traditional knowledge, status and trends in traditional occupations. The Secretariat is investigating the operationalization of this indicator with the International Labour Organization.

#### **B. Recommendations emanating from the fourteenth session of the Permanent Forum<sup>5</sup>**

6. The Permanent Forum recommends that States, indigenous peoples and United Nations **agencies, funds and programmes** immediately engage in a consultative process focused on the full and effective implementation of the outcomes document at the local, national, regional and international levels. It also recommends that the Under-Secretary-General for Economic and Social Affairs outlines and provide his vision of a procedure to guarantee the direct participation of representatives of indigenous peoples, including the expert members of the Forum, in the preparation and coordination of the system-wide action plan (SWAP), with the objective of promoting the coherence of the activities of the United Nations system in that regard. The Forum invites the Under-Secretary-General for Economic and Social Affairs to inform the Forum on the progress at its fifteenth session

12. As member of the Inter-Agency Support Group on Indigenous Peoples' Issues, the Secretariat of the Convention on Biodiversity has been contributing in the development of the Secretary-General's system-wide action plan (SWAP) to ensure a coherent approach to achieving the ends of the United Nations Declarations on the Rights of Indigenous Peoples,<sup>6</sup> including the identification of opportunities for the consultative process. The action plan is in accordance with the mandate set out in the outcome document of the World Conference on Indigenous Peoples<sup>7</sup> held at United Nations Headquarters in New York on 22 and 23 September 2014. This mandate establishes the following:

<sup>4</sup> More information is available at <https://www.cbd.int/tk/cb/trainingprogramme.shtml>.

<sup>5</sup> See *Official Records of the Economic and Social Council, 2014, Supplement No. 23* (E/2015/43-E/C.19/2015/10), available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=E/2015/43](http://www.un.org/ga/search/view_doc.asp?symbol=E/2015/43).

<sup>6</sup> General Assembly resolution 61/295, annex.

<sup>7</sup> See General Assembly resolution 69/2, available at <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/69/2>.

“31. We request the Secretary-General, in consultation and cooperation with indigenous peoples, the Inter-Agency Support Group on Indigenous Peoples’ Issues and Member States, to begin the development, within existing resources, of a system-wide action plan (SWAP) to ensure a coherent approach to achieving the ends of the (United Nations) Declaration (on the Rights of Indigenous Peoples) and to report to the General Assembly at its seventieth session, through the Economic and Social Council, on progress made. We invite the Secretary-General to accord, by the end of the seventieth session of the Assembly, an existing senior official of the United Nations system, with access to the highest levels of decision-making within the system, responsibility for coordinating the action plan, raising awareness of the rights of indigenous peoples at the highest possible level and increasing the coherence of the activities of the system in this regard.”

13. Thus, the Secretariat of the Convention on Biological Diversity will continue to contribute to the process as member of the Inter-Agency Support Group on Indigenous Peoples’ Issues in order to ensure that the SWAP reporting framework allows for progress made by the Convention, within its mandate and of relevance to the United Nations Declarations on the Rights of Indigenous Peoples, to be recorded, especially those of relevance to traditional knowledge, customary sustainable use, and the effective participation of indigenous peoples in the work of the Convention.

## II. UPDATE ON PREVIOUS RECOMMENDATIONS OF THE PERMANENT FORUM TO THE CONVENTION ON BIOLOGICAL DIVERSITY

14. The following section provides information on action taken in response to recommendations of the United Nations Permanent Forum on Indigenous Issues at its tenth session regarding, among other matters, the use of the term “indigenous peoples and local communities”, which were addressed by the Conference of the Parties at its twelfth meeting in its decision XII/12 F. No additional recommendations have been received since. Recommendations emanating from the eleventh and twelfth sessions of the Permanent Forum were considered by the Conference of the Parties at previous meetings.

Recommendation 26. Affirmation of the status of indigenous peoples as “peoples” is important in fully respecting and protecting their human rights. Consistent with its 2010 report (E/2010/43 and E/C.19/2010/15), the Permanent Forum calls upon the Parties to the Convention on Biological Diversity, and especially **including the Nagoya Protocol**, to adopt the terminology “indigenous peoples and local communities” as an accurate reflection of the distinct identities developed by those entities since the adoption of the Convention almost 20 years ago.

Recommendation 27. The Permanent Forum reiterates to the parties to the Convention on Biological Diversity, and especially to the parties to the **Nagoya Protocol**, the importance of respecting and protecting indigenous peoples’ rights to genetic resources consistent with the United Nations Declaration on the Rights of Indigenous Peoples. Consistent with the objective of “fair and equitable” benefit sharing in the Convention and Protocol, all rights based on customary use must be safeguarded and not only “established” rights. The Committee on the Elimination of Racial Discrimination has concluded that such kinds of distinctions would be discriminatory.

15. At its twelfth meeting, the Conference of the Parties considered the recommendations contained in paragraphs 26 and 27 of the report of the tenth session of the Permanent Forum,<sup>8</sup> and, in paragraph 1 of

<sup>8</sup> See *Official Records of the Economic and Social Council, 2011, Supplement No. 23* (E/2011/43-E/C.19/2011/14), available at <http://www.un.org/Docs/journal/asp/ws.asp?m=E/C.19/2011/14>, and Corr.1, available at <http://www.un.org/Docs/journal/asp/ws.asp?m=E/C.19/2011/14/Corr.1>.

its decision XII/12 F on the terminology “indigenous peoples and local communities”, the Conference of the Parties decided to use the terminology “indigenous peoples and local communities” in future decisions and secondary documents under the Convention, as appropriate. However, the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol has yet to consider these recommendations.

16. The Working Group may wish to invite the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol to consider these recommendations and to take action, as appropriate.

### **III. POSSIBLE DRAFT 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 thirteenth meeting, adopt a decision along the following lines:

*The Conference of the Parties,*

*Noting* decision XII/12 F on the terminology “indigenous peoples and local communities”,

1. *Invites* the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to consider the recommendations contained in paragraphs 26 and 27 of the report of the tenth session of the United Nations Permanent Forum on Indigenous Issues<sup>9</sup> and to take action, as appropriate;

2. *Notes* the recommendations emanating from the thirteenth and fourteenth sessions of the United Nations Permanent Forum on Indigenous Issues, and requests the Secretariat to continue to inform the United Nations Permanent Forum on Indigenous Issues on developments of mutual interest.

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<sup>9</sup> See *Official Records of the Economic and Social Council, 2011, Supplement No. 23* (E/2011/43-E/C.19/2011/14), available at <http://www.un.org/Docs/journal/asp/ws.asp?m=E/C.19/2011/14>, and Corr.1, available at <http://www.un.org/Docs/journal/asp/ws.asp?m=E/C.19/2011/14/Corr.1>.