



Ref: SCBD/SEL/HM/FV

26 June 2002

NOTIFICATION

**Decision VI/10 on Article 8(j) and related provisions**

Dear Sir/Madam,

The purpose of this notification is to invite Parties and Governments to contribute to the work on certain elements of decision VI/10 of the Conference of the Parties (COP) to the Convention on Biological Diversity on Article 8(j) and related provisions.

In decision VI/10, the Conference of the Parties decided, *inter alia*, that one meeting of the *Ad Hoc* Open-ended Intersessional Working Group on Article 8(j) and related provisions (the Working Group) be organized prior to its seventh meeting in order “to ensure further advancement of the implementation of the work programme on Article 8(j) and related provisions”. The third meeting of the Working Group is tentatively scheduled for the first quarter of 2004. It will, *inter alia*, (a) review progress in the integration of the relevant tasks of the programme of work in Article 8(j) in the thematic programmes of the CBD; (b) review progress in the implementation of the priority tasks of the programme of work on Article 8(j) and related provisions; (c) review the first phase of the composite report and formulate recommendations with regard to the second phase; (d) carry out further work on guidelines for the conduct of impact assessment regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities; (e) review the question of participatory mechanisms for indigenous and local communities; and, (f) with regard to the assessment of the effectiveness of existing instruments, particularly property rights instruments, address the issue of *sui generis* systems for the protection of traditional knowledge and develop and implement strategies to protect traditional knowledge, innovations and practices based on a combination of appropriate approaches, including the use of existing IP mechanisms...

Contributions by Parties and Governments are sought on a number of issues in connection with the preparatory work for the next meeting of the Working Group. They are reviewed below.

**Outline of composite report on the status and trends regarding the knowledge, innovation and practices of indigenous and local communities**

The Secretariat is undertaking the first phase of the composite report in accordance with decision VI/10. A team of consultants will be hired for a period of 15 months (September 2002 to November 2003) to prepare a first draft of the composite report for submission to the next meeting of the Working Group. As a contribution to the preparation of the report, the Conference of the Parties encouraged Parties and Governments to hold national workshops and to submit the outcome of such workshops to the Executive Secretary.

To: All CBD National Focal Points

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United Nations  
Environment  
Programme

Tel.: (514) 288-2220  
Fax: (514) 288-6588

website: [www.biodiv.org](http://www.biodiv.org)  
e-mail: [secretariat@biodiv.org](mailto:secretariat@biodiv.org)

World Trade Centre Building  
393 Saint-Jacques Street, Suite 300  
Montréal, Québec, Canada H2Y 1N9

To ensure that the conclusions of any national workshops are taken into consideration in the preparation of the composite report, their conclusions should be submitted to the Executive Secretary by **June 2003** at the latest.

**Recommendations for conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities**

In connection with this task of the work programme, the Working Group is requested to carry out further work on guidelines for the conduct of impact assessment with the aim of strengthening the social and cultural aspects and to complement and be in conjunction with the “guidelines for incorporating biodiversity-related issues into environmental assessment legislation and/or processes and in strategic environmental assessment”, endorsed by the Conference of the Parties in its decision VI/7A, and address institutional and procedural considerations.

In order to assist the Executive Secretary in the preparatory work on this issue, Parties and Governments are invited to submit any relevant information, including specific suggestions regarding further work on and content of guidelines by **28 February 2003**.

**Participatory mechanisms for indigenous and local communities**

Parties and Governments are invited to submit to the Executive Secretary information on their national experiences, case-studies, best practices, and lessons learned concerning participatory mechanisms for indigenous and local communities in matters related to the objectives of Article 8(j) and related provisions. The Executive Secretary is requested to prepare a synthesis report based on this information.

To ensure that the synthesis report is prepared in a timely manner, such information should be submitted to the Executive Secretary by **31 May 2003**.

**Assessment of the effectiveness of existing subnational, national and international instruments, particularly intellectual property rights instruments, that may have implications for the protection of the knowledge, innovations and practices of indigenous and local communities**

The Conference of the Parties invited Parties and Governments, with the approval and involvement of indigenous and local communities representatives, to develop and implement strategies to protect traditional knowledge based on a combination of appropriate approaches, respecting customary laws and practices, including the use of existing intellectual property mechanisms, *sui generis* systems, customary law, the use of contractual arrangements, registers of traditional knowledge, and guidelines and codes of practice, with the support of relevant intergovernmental organizations. Parties and Governments are also invited to continue to provide the Executive Secretary with information relating to existing legislation and other measures for the protection of traditional knowledge. Information on the above-mentioned issues should be forwarded to the Executive Secretary by **31 May 2003**.

The COP also requested the Working Group to address the issue of *sui generis* systems for the protection of traditional knowledge, focusing on the following issues:

- a. Clarification of relevant terminology;
- b. Compiling and assessing existing indigenous, local, national and regional *sui generis* systems;
- c. Making available this compilation and assessment through the clearing-house mechanism;
- d. Studying existing systems for handling and managing innovations at the local level and their relation to existing national and international systems of intellectual property rights, with a view to ensuring their complementarity;
- e. Assessing the need for further work on such systems at the local, national, regional and international levels;
- f. Identifying the main elements to be taken into consideration in the development of *sui generis* systems;
- g. The equitable sharing of benefits arising from the utilization of traditional knowledge.

Parties and Governments are requested to provide information on the above issues to the Executive Secretary by **31 May 2003**.

Parties and Governments are also invited to submit case-studies and other relevant information to the Executive Secretary for compilation and dissemination through the clearing-house mechanism concerning:

- a) Information regarding the nature, diversity and status under national laws of customary laws of indigenous and local communities, collected with their full and effective participation;
- b) The development of strategies by indigenous and local communities to protect their traditional knowledge, emphasizing the approaches used, the method of implementation and problems encountered;
- c) The establishment of operational links between national intellectual property authorities and indigenous and local communities to facilitate the protection of their traditional knowledge;
- d) Experiences in the implementation of regionally harmonized *sui generis* systems; and
- e) The activities and conduct of researchers and academic institutions pertinent to the protection and promotion of traditional knowledge.

As much of this information will be useful in the preparation of pre-session documents for the third meeting of the Working Group, Parties and Governments are also invited to submit any relevant information to the Executive Secretary by **31 May 2003**.

Finally, Parties and Governments are invited to submit information on the feasibility of establishing appropriate dispute-settlement or arbitration procedures and mechanisms, including the possible application of Article 27 of the Convention, to address cases of disputes between contracting Parties concerning the interpretation and application of the Convention relating to traditional knowledge. Such information should be submitted to the Executive Secretary by **31 May 2003**.

Thank you for your cooperation and continued support of the work of the Convention.

Accept, Madam/Sir, the assurance of my highest consideration.

Yours sincerely,

Hamdallah Zedan  
Executive Secretary