



## Convention on Biological Diversity

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### Conference of the Parties to the Convention on Biological Diversity Sixteenth meeting

Cali, Colombia, 21 October–1 November 2024

Agenda item 14

#### Implementation of Article 8(j) and related provisions

Working Group I

### **Institutional arrangements for the full and effective participation of indigenous peoples and local communities in the work undertaken under the Convention on Biological Diversity**

#### **Draft decision submitted by the Chair of Working Group I**

##### *The Conference of the Parties*

*Acknowledging* the unique role of indigenous peoples and local communities, their innovations, practices and traditional knowledge in the implementation of the Convention on Biological Diversity<sup>1</sup> its Protocols and the Kunming-Montreal Global Biodiversity Framework<sup>2</sup> and the work of the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions of the Convention, and recognizing the need for the full and effective participation of indigenous peoples and local communities through a permanent subsidiary body,

[1. *Decides* to establish a [subsidiary body] on Article 8(j) and other provisions of the Convention on Biological Diversity, the modus operandi of which is contained in the annex to the present decision, with a mandate to provide advice to the Conference of the Parties, other subsidiary bodies and, subject to their request, the Conference of the Parties serving as the meetings of the Parties to the Cartagena Protocol on Biosafety<sup>3</sup> and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity,<sup>4</sup> on all matters of relevance to indigenous peoples and local communities that are within the scope of the Convention and its Protocols;]

[2. *Takes* note of the information document prepared by the Secretariat<sup>5</sup> in which it was concluded that a change from the current working group to a subsidiary body would have zero or minimal impact on the budget;]

[3. *Invites* the Subsidiary Body on Implementation and the Subsidiary Body on Scientific, Technical and Technological Advice to support the work of [SB8j] by further incorporating and

<sup>1</sup> United Nations, *Treaty Series*, vol. 1760, No. 30619.

<sup>2</sup> Decision 15/4, annex.

<sup>3</sup> United Nations, *Treaty Series*, vol. 2226, No. 30619.

<sup>4</sup> United Nations, *Treaty Series*, vol. 3008, No. 30619.

<sup>5</sup> CBD/COP/16/INF/36.

promoting the work of Article 8j and other provisions of the Convention on matters related to indigenous peoples and local communities, while avoiding duplication of work;]

[4. *Encourages* Parties, other Governments and relevant organizations to provide additional support to representatives of indigenous peoples and local communities to participate effectively in the meetings of the Subsidiary Body on Scientific, Technical and Technological Advice, the Subsidiary Body on Implementation [and the [SB8J]].]

## **[Annex**

### **Proposed modus operandi of the [permanent Subsidiary Body] on Article 8(j) and Other Provisions of the Convention on Biological Diversity related to indigenous peoples and local communities**

#### **I. Functions**

1. The [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention on Biological Diversity related to indigenous peoples and local communities will perform its functions under the guidance of the Conference of the Parties to the Convention and the Conference of the Parties serving as the meetings of the Parties to the Cartagena Protocol on Biosafety and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization for items referred to it by them, in collaboration with the Subsidiary Body on Scientific, Technical and Technological Advice and the Subsidiary Body on Implementation.

2. The [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention related to indigenous peoples and local communities shall carry out its functions taking into account the roles and functions of the Subsidiary Body on Scientific, Technical and Technological Advice and the Subsidiary Body on Implementation, with a view to ensuring complementarity with their work and avoiding overlaps. The functions of the [Subsidiary Body] on Article 8(j) and Other Provisions are:

(a) To promote, support and review the implementation of the work undertaken under the Convention pertaining to Article 8(j) and other provisions of the Convention related to indigenous peoples and local communities and its programme of work on Article 8(j) and other provisions of the Convention, as contained in the annex to decision 16/--;

(b) To provide advice to the Conference of the Parties and, as appropriate, the Conference of the Parties serving as the meetings of the Parties to the Cartagena and Nagoya Protocols and other subsidiary bodies, on measures that enhance the implementation of Article 8(j) and other provisions of the Convention related to indigenous peoples and local communities. This includes providing advice on the development and implementation of legal and other appropriate forms of measures to respect, preserve and maintain the knowledge, innovations and practices of indigenous peoples and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity.

#### **II. Operating principles**

3. In carrying out its functions, the [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention shall align its work with any post-2030 framework or strategic plan under the Convention.

4. In promoting the implementation of the programme of work contained in the annex to decision 16/--, the [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention shall cooperate with and benefit from the assistance of United Nations agencies and other processes that have complimentary functions and work on matters related to indigenous peoples and local communities.

### III. Procedural matters

5. In line with paragraph 5 of rule 26 of the rules of procedure for meetings of the Conference of the Parties, the rules of procedure for meetings of the Conference of the Parties apply, *mutatis mutandis*, to the meetings of the [Subsidiary Body] on Article 8(j) and Other Provisions, with the exception of rule 18.
6. When the [Subsidiary Body] on Article 8(j) and Other Provisions serves a Protocol of the Convention, decisions under the Protocol shall be taken only by the Parties to the Protocol.
7. The [Subsidiary Body] on Article 8(j) and Other Provisions should undertake any tasks that fall within the scope of its programme of work and those that are referred to it by the Conference of the Parties or the Conference of the Parties serving as the meeting of the Parties to the respective Protocol and should report on its work to those bodies.

### IV. Bureau and co-chairs

8. The Bureau of the Conference of the Parties will serve as the Bureau of the [Subsidiary Body] on Article 8(j).
9. The [Subsidiary Body] will have two co-chairs elected by the Conference of the Parties, one nominated by Parties of the regional group that exercises its turn, in a rotation among United Nations regional groups,<sup>6</sup> and the other nominated by representatives of indigenous peoples and local communities. At least one of the co-chairs will be selected from a developing country, taking into account gender balance. The co-chairs shall take office from the end of the meeting of the Conference of the Parties at which they have been elected and remain in office until their successors take office at the end of the following ordinary meeting of the Conference of the Parties. The number and length of the meetings and activities of the Subsidiary Body and its organs should be reflected in the budget adopted by the Conference of the Parties or other sources of extra budgetary funding.
10. Candidates for the co-chairing of the [Subsidiary Body] should have experience in the processes of the Convention and competence in matters related to indigenous peoples and local communities in the context of the Convention. The regional groups, when identifying a candidate, should take into account the availability of time that the candidates have for the work of the [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention on Biological Diversity related to indigenous peoples and local communities. In the event that the co-chair nominated by Parties and elected by the Conference of the Parties is from a country that is not a Party to one or both Protocols, a substitute would be assigned from among members of the Bureau representing a Party to the Protocol to chair items related to one or the other Protocol. The co-chairs of the [Subsidiary Body] will be *ex officio* members of the Bureau of the Conference of the Parties. The President of the Conference of the Parties will invite the co-chairs of the [Subsidiary Body] to the sessions of the Bureau on matters related to the [Subsidiary Body].
11. Further to the established and effective practice of the Ad Hoc Working Group on Article 8(j) and Related Provisions of the Convention, the Bureau of the Conference of the Parties serving as the Bureau of the [Subsidiary Body] will continue to invite representatives of indigenous peoples and local communities to designate at the beginning of each meeting of the [Subsidiary Body] one representative each from the seven sociocultural regions identified by the Permanent Forum on Indigenous Issues to participate in the work of the [Subsidiary Body], as friends of the Bureau.

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<sup>6</sup> Following the practice of rotation in the chairing of the Subsidiary Body on Scientific, Technical and Technological Advice and the Subsidiary Body on Implementation, and with a view to avoiding that, at any one time, a regional group provides the chairs of more than one subsidiary body, the order of the regions from which the Chair of the Subsidiary Body on Article 8(j) and Other Provisions of the Convention is elected shall be as follows: African States, Western European and other States, Asia-Pacific States, Latin America and Caribbean States and Eastern European States.

**V. Budgetary matters**

12. The [Subsidiary Body] should meet in each intersessional period, as a general practice, back-to-back with meetings of the other subsidiary bodies of the Convention, unless otherwise decided by the Conference of the Parties, with due consideration to the importance of ensuring the full and effective participation of indigenous peoples and local communities and developing country Parties.

13. The [Subsidiary Body] on Article 8(j) and Other Provisions may, within the budgetary resources approved by the Conference of the Parties or the Conference of the Parties serving as the meetings of the Parties to the Cartagena or Nagoya Protocols in respect to a specific decision by those bodies within the mandate of the [Subsidiary Body], make requests to the Executive Secretary and use mechanisms under the Convention or its Protocols, as appropriate.

14. The Executive Secretary should provide to the [Subsidiary Body] the support necessary to carry out its functions and mandate. The [Subsidiary Body], may, as appropriate, use mechanisms that are established under the Convention. The meetings of the [Subsidiary Body] on Article 8(j) and Other Provisions will be conducted in plenary sessions or, where the necessary budgetary resources have been approved by the Conference of the Parties, in open-ended sessional working groups, as appropriate. Up to two open-ended sessional working groups of the [Subsidiary Body] on Article 8(j) and Other Provisions could be established and operate simultaneously during meetings of the [Subsidiary Body]. The working groups would not meet in parallel to the plenary sessions. The working groups shall be established on the basis of well-defined terms of reference and will be open to all Parties and observers.

15. Upon a decision of the Conference of the Parties considering it necessary to carry out its mandate, and subject to the availability of resources, ad hoc technical expert groups may be established in accordance with section H, paragraph 18, of the consolidated modus operandi of the Subsidiary Body on Scientific, Technical and Technological Advice, as contained in annex III to decision VIII/10 of 31 March 2006.

**VI. Focal points**

16. Parties should designate national focal points to follow up on the work of the [Subsidiary Body]. The existing national focal points for Article 8(j) and related provision may continue to be the focal points for the [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention on Biological Diversity related to indigenous peoples and local communities.

**VII. Documentation**

17. The Secretariat shall make the documentation for meetings of the [Subsidiary Body] on Article 8(j) and Other Provisions available at least six weeks before the opening of the meeting, in accordance with rule 10 of the rules of procedure for meetings of the Conference of the Parties.

18. The number and length of documents, including information documents, should be kept to a minimum, and documentation should include proposed conclusions and recommendations for consideration by the [Subsidiary Body] on Article 8(j) and Other Provisions.

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