



Convention on Biological Diversity

Distr.
GENERAL

CBD/WG8J/10/2
11 September 2017

ORIGINAL: ENGLISH

AD HOC OPEN-ENDED INTER-SESSIONAL
WORKING GROUP ON ARTICLE 8(j) AND
RELATED PROVISIONS OF THE CONVENTION
ON BIOLOGICAL DIVERSITY

Tenth meeting

Montreal, Canada, 13-16 December 2017

Item 3 of the provisional agenda*

THE RUTZOLIJIRISAXIK VOLUNTARY GUIDELINES FOR THE REPATRIATION OF TRADITIONAL KNOWLEDGE RELEVANT FOR THE CONSERVATION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

Note by the Executive Secretary

INTRODUCTION

1. In decision XIII/19, paragraph 3, the Conference of the Parties requested the Executive Secretary to prepare a revised draft of the Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, taking into account developments in various international bodies, instruments, programmes, strategies, standards, guidelines, reports and processes of relevance as referred to in paragraph 5 of the annex,¹ and based on: (a) an analysis of the information received on good practices and actions undertaken at various levels, including through community-to-community exchanges, to repatriate, receive and restore traditional knowledge relevant for the conservation and sustainable use of biological diversity; (b) the report of the Expert Meeting on the Repatriation of Traditional Knowledge Relevant to the Conservation and Sustainable Use of Biological Diversity;² and (c) the annex to the decision XIII/19, containing the objective, purpose, scope and guiding principles for repatriation.

2. In paragraph 2 of decision XIII/19 the Conference of the Parties also invited Parties, other Governments, relevant organizations, indigenous peoples and local communities and stakeholders interested or involved in repatriation to submit to the Executive Secretary good practices and actions undertaken at various levels, including through community-to-community exchanges, to repatriate, receive and restore traditional knowledge relevant for the conservation and sustainable use of biological diversity.

3. In accordance with this decision, the Executive Secretary in a notification dated 27 January 2017,³ invited submissions from Parties, other Governments, relevant organizations, indigenous peoples

* CBD/WG8J/10/1.

¹ Developments in various international bodies, instruments, programmes, strategies, standards, guidelines, reports and processes of relevance to repatriation of traditional knowledge were considered in the first stage of work on the repatriation guidelines and are available in UNEP/CBD/WG8J/8/5.

² UNEP/CBD/WG8J/9/INF/4.

³ SCBD/SPS/DC/VN/JS/DM/86220 (2017-006).

and local communities and relevant stakeholders. Submissions were received from Australia, Bolivia, Brazil, Canada, the European Union (on behalf of its Member States, with national contributions from Denmark including Greenland, Finland, Sweden, (including Swedbio at the Stockholm Resilience Centre), Mexico, New Zealand, Peru, Saint Lucia, Venezuela, the Great Barrier Reef Marine Park Authority (Australia), the Indigenous Women's Biodiversity Network Latin America and Caribbean Region, and the Secretariat of the United Nations Framework Convention on Climate Change. This information is compiled in CBD/WG8J/10/INF/1. Additionally, the draft guidelines were made available for peer review from 4 to 28 August 2017, in order to prepare an advanced draft to assist the Working Group on Article 8(j) and Related Provisions in finalizing this matter at its tenth meeting.⁴

4. As requested, a revised draft of the guidelines has been prepared for the consideration of the Working Group at its tenth meeting. Section I of the present document contains background information on task 15 of the programme of work on the implementation of Article 8(j) and related provisions of the Convention, including the terms of reference adopted for the task⁵ and information related to other relevant decisions taken by the Conference of the Parties, as well as the advice of the Expert Group on the Repatriation of Traditional Knowledge Relevant to the Conservation and Sustainable Use of Biological Diversity.⁶ Section II clarifies the methodology used in order to analyse the information received and revise the guidelines in the light of the submissions received.

5. Finally, draft recommendations to the Conference of the Parties are contained in section III. The annex to the present document contains a revised draft of the Rutzolijirisaxik voluntary guidelines, for consideration by the Working Group. The draft guidelines completed by the Working Group will then be submitted for consideration and adoption by the Conference of the Parties at its fourteenth meeting.

I. BACKGROUND

6. The Conference of the Parties at its tenth meeting, in decision X/43 paragraph 6, tasked the Working Group with developing guidelines that would facilitate the repatriation of information, including cultural property, in accordance with [Article 17, paragraph 2](#) of the Convention, in order to facilitate the recovery of traditional knowledge relevant to the conservation and sustainable use of biological diversity.⁷

7. In order to assist the Working Group with this task, the Conference of the Parties at its eleventh meeting in decision XI/14 D, adopted the following terms of reference, emphasizing that task 15 is to be interpreted in accordance with the provisions of the Convention, in particular [Article 8\(j\)](#) and related provisions and Article 17, paragraph 2 and is intended to build on, and enhance repatriation undertaken by Parties, Governments and other entities, including international organizations, museums, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, etc.

A. Terms of reference

8. The purpose of task 15 is to develop best-practice guidelines that would facilitate enhancement of the repatriation of indigenous and traditional knowledge relevant to the conservation and sustainable use of biological diversity, including of indigenous and traditional knowledge associated with cultural property, in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge of biological diversity.

⁴ In response to the peer review comments were received from Brazil, Belgium, Iraq, Mexico, New Zealand, Saint Lucia United States of America, SwedBio at Stockholm Resilience Centre, Assembly of First Nations; International Indigenous Forum for Biodiversity (IIFB), Saami Parliament (Sweden); and Traditional Knowledge and Peoples Network SWBC Nepal.

⁵ Decision XI/14 D, annex.

⁶ UNEP/CBD/WG8J/9/INF/4.

⁷ Task 15 of the programme of work on the implementation of Article 8(j) and related provisions of the Convention, as contained in the annex to decision V/16, requests the Ad Hoc Working Group on Article 8(j) and Related provisions., to develop guidelines that would facilitate repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity in order to facilitate the recovery of traditional knowledge of biological diversity.

9. Task 15 is to be interpreted in accordance with the provisions of the Convention, in particular Article 8(j) and related provisions and Article 17, paragraph 2.

10. Task 15 is intended to build on and enhance repatriation undertaken by Parties, other Governments and other entities, including international organizations, museums, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, etc.

11. Stakeholders may include, inter alia:

- (a) Parties and other Governments;
- (b) Museums, herbaria, botanical, and zoological gardens and other collections containing information on the knowledge, innovations and practices of indigenous and local communities relevant for conservation and sustainable use;
- (c) Relevant international organizations, in particular the United Nations Educational, Scientific and Cultural Organization, as well as its relevant treaties and programmes, the Food and Agriculture Organization of the United Nations, the International Labour Organization, the United Nations Permanent Forum on Indigenous Issues, and the World Intellectual Property Organization;
- (d) The International Indigenous Forum on Biodiversity;
- (e) Indigenous and local communities;
- (f) Relevant non-governmental and indigenous and local community organizations;
- (g) Academic societies and research scientists;
- (h) The private sector;
- (i) Individuals.

B. The Expert Meeting on the Repatriation of Traditional Knowledge Relevant to the Conservation and Sustainable Use of Biological Diversity

12. As requested in decision XI/14 D, the Working Group on Article 8(j) at its eight meeting, guided by the terms of reference, considered an initial draft of the guidelines and recommended that the Conference of the Parties at its twelfth meeting⁸ request the Executive Secretary to convene a technical expert group meeting to further develop the draft voluntary guidelines, for consideration by the Working Group at its ninth meeting and the Conference of the Parties at its thirteenth meeting. In accordance with decision XII/12 C, an Expert Meeting on the Repatriation of Traditional Knowledge Relevant to the Conservation and Sustainable Use of Biological Diversity was convened in Panajachel, Guatemala, on 14 and 15 June 2015.

13. As requested by the Conference of the Parties in decision XII/12 C, the Expert Meeting on the Repatriation of Traditional Knowledge Relevant to the Conservation and Sustainable Use of Biological Diversity further developed the draft voluntary guidelines. In particular, the Expert Group agreed upon objectives, purpose, scope, and general guiding principles for the draft Rutzolijirisaxik voluntary guidelines for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity, as presented in the annex to decision XIII/19 D.

14. The expert group also provided advice on a way forward by suggesting possible measures and actions to promote and enhance repatriation, as contained under items 5 and 6 of its report.⁹ These measures and actions, along with submissions received have informed a revision of the guidelines and the development of section VI of the draft guidelines contained in the annex to the present document entitled “Good practices and actions undertaken at various levels, including through community-to-community

⁸ The Conference of the Parties adopted this recommendation from the Working Group, in decision XII/12 C.

⁹ UNEP/CBD/WG8J/9/INF/4.

exchanges, to repatriate, receive and restore traditional knowledge relevant for the conservation and sustainable use of biological diversity”.

15. Finally, as the Expert Group met on the traditional territories of the indigenous Mayan peoples, in Panajachel, Guatemala, and as is the custom of the Convention, the local indigenous peoples were invited to propose a traditional indigenous name for the guidelines. The title provided is “the Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity”. This traditional Mayan title was provided by the local indigenous peoples in the local traditional language, Maya Kaqchikel, in honour of the guidelines being advanced on their traditional territories. “Rutzolijirisaxik” means “the significance of returning to the place of origin”.

C. Related work of relevance to the Repatriation Guidelines

16. The documentation, recording and/or digitization¹⁰ of traditional knowledge are very relevant to advancing work on repatriation of traditional knowledge and related or complementary information. However a number of issues have been raised under the Convention with regard to the documentation of traditional knowledge, including its challenges and opportunities. When considering the protection of traditional knowledge, the Conference of the Parties in decision VIII/5 B recommends to Parties and Governments to bear in mind that “registers are only one approach to the protection of traditional knowledge, innovations and practices, and as such their establishment should be voluntary, not a prerequisite for protection. Registers should only be established with the prior informed consent of indigenous and local communities.” For consistency across the Convention, Parties, institutions and entities interested in repatriation, and indigenous peoples and local communities may wish to take into account both the benefits and challenges of documenting traditional knowledge¹¹ in the context of the digitization of collections to assist in repatriation. Additionally the Traditional Knowledge Documentation Toolkit of the World Intellectual Property Organization¹² may also be relevant in this context. It provides essential information, including possible benefits and challenges, for indigenous peoples and local communities to consider when deciding whether or not they wish to pursue documentation of their knowledge.

II. AN ANALYSIS OF THE INFORMATION RECEIVED

17. As requested by the Conference of the Parties in decision XIII/19 D, the Executive Secretary has compiled the information and views received and has made the compilation available for the consideration of the Working Group at its tenth meeting in CBD/WG8J/10/INF/1.

18. Building on the report¹³ of the Expert Meeting and on the draft guidelines contained in the annex to decision XIII/19, the views and information received were analysed with a view to revising the guidelines¹⁴ as needed, and to identify key elements for inclusion in section VI of the guidelines on good practices and actions undertaken at various levels, to repatriate, receive and restore traditional knowledge relevant for the conservation and sustainable use of biological diversity.

19. The key elements for inclusion in the guidelines were identified based on actions recommended in the submissions received and were arranged in a sequential order in section VI of the revised guidelines. Additionally, some submissions provided views on other elements of the guidelines¹⁵ and these suggestions have been accommodated, where possible. Concerning section VI of the guidelines on

¹⁰ “Digitization” is the process of converting information into digital or electronic format.

¹¹ Including decision VIII/5 on registers for traditional knowledge.

¹² Available at: http://www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_toolkit_draft.pdf.

¹³ UNEP/CBD/WG8J/9/INF/4.

¹⁴ As they appear in the annex to decision XIII/19.

¹⁵ Other elements include objectives, purpose, scope, and guiding principles.

good practices and actions undertaken at various levels, the actions identified fall into three categories: (a) procedural; (b) special considerations; and (c) mechanisms that may aid in the repatriation of traditional knowledge.

A. Procedural elements

20. In general, there is much convergence in the submissions received on the need for clear and practical steps in repatriation processes. Procedural elements identified in the information received included such practical actions as creating a multi-stakeholder team¹⁶ to guide a repatriation process, training the various actors, identifying collections of traditional knowledge for repatriation, as well as identifying the origins of the traditional knowledge in question and the original knowledge holders, developing agreements for repatriation, and ensuring both the repatriating institutions and entities and the receiving indigenous peoples and local communities are prepared to engage in repatriation, as well as considerations of formats that may enable repatriation.

21. One submission from a Party with considerable experience with repatriation in an indigenous context endorses the concepts of reciprocity, community/institution exchanges, promoting a better understanding of traditional knowledge between Parties and mutual benefit contained in the draft guidelines. The same Party also noted the importance of a voluntary approach to the guidelines given the diversity of Parties, other Governments, institutions and entities holding traditional knowledge, and indigenous peoples and local communities, and emphasizes that “relationships” are central to successful repatriation projects. Another Party also emphasized that in terms of reciprocity, research should be diffused back into the community in their language of understanding.

B. Special considerations

22. Some submissions received suggested that in the context of repatriation, there should be special considerations for publically available traditional knowledge and an encouragement for the equitable sharing of benefits arising from ongoing use. Other submissions emphasized that repatriation should not impede the ongoing use of such publically available information in the Party, institution or entity that decides to repatriate it. These two concepts need not be contradictory, as benefit-sharing could occur without impeding ongoing use.

23. Some submissions have also suggested there should be special considerations for secret, sacred or gender specific knowledge.

C. Mechanisms that may aid in the repatriation of traditional knowledge

24. Some submissions from Parties and international organizations took a broad view of repatriation by focussing on the ultimate goal of repatriation, which is knowledge restoration for conservation and sustainable use, and identified various mechanisms at different levels and scales that may assist in knowledge restoration. Mechanisms suggested cover a broad range of possibilities from local level community protocols or customary procedures to regional and international knowledge sharing platforms. These submissions suggest that the guidelines should take a broad view of repatriation that takes into account mechanisms for knowledge restoration. On this basis, the consideration of “community-to-community exchanges” as well as the use of “knowledge-sharing platforms” as mechanisms to aid in the repatriation of traditional knowledge have been included in the guidelines.

25. Based on this methodology, a revised draft of the Rutzolijirisaxik Voluntary Guidelines for the repatriation of traditional knowledge is proposed in the annex to the present document for consideration by the Working Group.

¹⁶ Including with the effective participation of the relevant indigenous peoples and local communities.

III. DRAFT RECOMMENDATION FOR THE CONSIDERATION OF THE WORKING GROUP

26. In the context of the information provided in the previous sections, the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions may wish to recommend that the Conference of the Parties adopt a decision along the following lines:

The Conference of the Parties,

Recalling Article 17 of the Convention, which requires Parties to facilitate the exchange of information on traditional knowledge, including, where feasible, the repatriation of information in order to facilitate the recovery of traditional knowledge relevant to the conservation and sustainable use of biological diversity, and Article 18, which obliges Parties to promote scientific cooperation to develop methods of cooperation for the development and use of technologies, including indigenous and traditional knowledge,

Bearing in mind the importance of international cooperation for the repatriation of traditional knowledge including by providing access to traditional knowledge and related and/or complementary information for indigenous peoples and local communities to facilitate the recovery of traditional knowledge of biological diversity,

Considering the importance of harmonization and complementarity and effective implementation of the various international arrangements, instruments, programmes, strategies, standards, guidelines reports and processes of relevance,

Recognizing the benefits of upholding the principles of legality, transparency and mutual respect and understanding in relations between indigenous peoples and local communities, on the one hand, and academics, private sector, educational, governmental and other users of traditional knowledge of indigenous peoples and local community, on the other,

1. *Adopts* the Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, hereafter referred to as “the Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge Relevant for Conservation and Sustainable Use of Biodiversity”;

2. *Invites* Parties and other Governments, relevant organizations, and entities holding collections of traditional knowledge and related or complementary information, as well as indigenous peoples and local communities:

(a) To use the Voluntary Guidelines, as appropriate, in efforts to repatriate and restore traditional knowledge relevant for conservation and sustainable use of biological diversity;

(b) To promote the Voluntary Guidelines through educational and awareness-raising activities, as appropriate;

(c) To make available through the Traditional Knowledge Portal, where appropriate, best practices, lessons learned and good examples and benefits of repatriation of traditional knowledge relevant for conservation and sustainable use of biological diversity, including community-to-community exchanges and, where appropriate, through other knowledge sharing platforms;

(d) To report on experiences gained by using the Voluntary Guidelines, to promote international, regional and national cooperation, and to share experiences and best practices on relevant

measures, relating to repatriation of traditional knowledge shared across borders, where they exist or held outside of the country of origin, through national reports and the Traditional Knowledge Portal¹⁷ in order to contribute to reporting on progress in the implementation of Article 8(j) and related provisions to the Subsidiary Body on Implementation and the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions at their next meetings.

¹⁷The Traditional Knowledge Portal, available at <https://www.cbd.int/tk/default.shtml>, is part of the clearing-house mechanism of the Convention on Biological Diversity.

*Annex***INTRODUCTION TO THE RUTZOLIJIRISAXIK VOLUNTARY GUIDELINES FOR THE REPATRIATION OF TRADITIONAL KNOWLEDGE OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES RELEVANT FOR THE CONSERVATION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY**

1. The international community has recognized the close and traditional dependence of many indigenous peoples and local communities on biological resources, notably in the preamble to the Convention on Biological Diversity. There is also a broad recognition of the contribution that traditional knowledge can make to both the conservation and the sustainable use of biological diversity - two fundamental objectives of the Convention - and of the need to ensure the equitable sharing of benefits arising from the utilization of traditional knowledge. For this reason, Parties to the Convention have undertaken in Article 8(j), subject to their national legislation, to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

2. To address the effective implementation of Article 8(j) and related provisions, in decision V/16, the Conference of the Parties to the Convention on Biological Diversity adopted the programme of work on Article 8(j) and related provisions, including task 15, in which it requested the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions to develop guidelines that would facilitate repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity in order to facilitate the recovery of traditional knowledge of biological diversity.

3. The Conference of the Parties further considered the task at hand in its decision X/43,¹⁸ paragraph 6, and in its decision XI/14 D, annex, adopted a terms of reference to advance the task clarifying that the purpose of task 15:

“is to develop best-practice guidelines that would facilitate enhancement of the repatriation of indigenous and traditional knowledge relevant to the conservation and sustainable use of biological diversity, including of indigenous and traditional knowledge associated with cultural property, in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge of biological diversity.”

4. All tools and guidelines developed under the Working Group on Article 8(j) and related provisions are interrelated and mutually supporting, in particular the Mo'otz Kuxtal¹⁹ Voluntary Guidelines for Traditional knowledge.²⁰ The guidelines for the repatriation of traditional knowledge build on relevant decisions of the Conference of the Parties, including paragraph 23 of the Tkarihiwaié:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant to the Conservation and Sustainable Use of Biological Diversity,²¹ as well as decision VII/16 with regard to registries and databases, and is complementary to other tools developed by the Working Group on Article 8(j) and Related Provisions and adopted by the Conference of the Parties to the Convention on Biological Diversity.

¹⁸ Refer to decision X/43, annex, paragraph 1.

¹⁹ Meaning “roots of life” in the Maya language.

²⁰ The Mo'otz Kuxtal²⁰ Voluntary Guidelines for Traditional knowledge were adopted by the Conference of the Parties in decision XIII/18.

²¹ Decision X/42, annex, Tkarihiwaié:ri Code of Ethical Conduct, paragraph 23.

5. The guidelines take into account the various international bodies, instruments, programmes, strategies, standards, guidelines reports and processes of relevance and the importance of their harmonization and complementarity and effective implementation, including the United Nations Declaration on the Rights of Indigenous Peoples,²² especially Article 31, as well as other relevant articles, as appropriate, and in particular the mandate of United Nations Educational, Scientific and Cultural Organization concerning cultural property, as well as the mandate of the World Intellectual Property Organization, which deals with intellectual property issues.

6. As such, they highlight the importance of international cooperation for the repatriation of traditional knowledge, including by providing access to traditional knowledge and related or complementary information for indigenous peoples and local communities, in order to facilitate the repatriation of traditional knowledge relevant to conservation and sustainable use, to assist these communities in knowledge and cultural restoration.

RUTZOLIJIRISAXIK VOLUNTARY GUIDELINES FOR THE REPATRIATION OF TRADITIONAL KNOWLEDGE RELEVANT FOR THE CONSERVATION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

I. OBJECTIVES

7. The objective of these guidelines is to facilitate the repatriation of the traditional knowledge of indigenous peoples and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, including related or complementary information, in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge relevant for the conservation and sustainable use of biological diversity,²³ and without limiting or restricting its ongoing use and access.

8. The guidelines may also assist in the effective implementation of the global Plan of Action on Customary Sustainable Use of Biological Diversity, endorsed by the Conference of the Parties in decision XII/12 B.

II. PURPOSE

9. For the purposes of the voluntary guidelines, “repatriation” in the context of traditional knowledge relevant for conservation and sustainable use of biological diversity, means “the return of knowledge, innovations and practices of indigenous peoples and local communities²⁴ after a considerable period of time, to where it originated or was obtained for the recovery of knowledge on biological diversity”.²⁵

10. The guidelines are intended to be practical guidance to Parties, Governments,²⁶ international and regional organizations, museums, universities, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, libraries, archives and information services, private collections and other entities

²² General Assembly resolution 61/295, annex.

²³ XI/14 D, annex, terms of reference for repatriation guidelines.

²⁴ The traditional knowledge in question may include related or complementary information.

²⁵ Refer to the note by the Executive Secretary on development of best-practice guidelines for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity (UNEP/CBD/WG8J/8/5, para. 13), available at: <https://www.cbd.int/doc/?meeting=WG8J-08>.

²⁶ Including subnational governments and government departments, which may hold indigenous and/or local community traditional knowledge and related or complementary information relevant to the conservation and sustainable use of biological diversity.

storing or housing traditional knowledge and related or complementary information, and indigenous peoples and local communities, in efforts to repatriate traditional knowledge.

11. The guidelines are a guide to good practice which will need to be interpreted taking into account the political, legal, economic, environmental and cultural diversity, as appropriate, of each Party, Government, institution, entity and indigenous peoples and local communities, and applied in the context of each organization's mission, collections and the relevant communities, taking into account community protocols and other relevant procedures.

12. The guidelines are not prescriptive or definitive.

13. Given the political, legal, economic, environmental and cultural diversity of States, institutions and entities, and indigenous peoples and local communities that may be involved in repatriation, it is unlikely that these guidelines will cover all the issues that may arise in professional practice. However, they should provide practical guidance for those wishing to pursue repatriation.

14. The guidelines should enable those working on repatriation, including information professionals,²⁷ to make sound judgments regarding appropriate responses to any issues, or to provide some ideas about where to go for assistance if more expertise is required.

15. The guidelines should assist indigenous peoples and local communities in the recovery and revitalization of their traditional knowledge related to conservation and sustainable use of biological diversity.

III. SCOPE

16. The guidelines apply to the knowledge, innovations and practices of indigenous peoples and local communities, relevant for the conservation and sustainable use of biological diversity.

IV. GUIDING PRINCIPLES FOR REPATRIATION

17. Repatriation is best facilitated building on the following principles and considerations:

(a) Whenever possible, indigenous peoples and local communities should be entitled to repatriation of their traditional knowledge, including from across international borders, to assist them with the recovery of traditional knowledge relevant to biological diversity;

(b) Underpinning successful repatriation efforts is the concept embedded in Article 8(j) of "respect" for traditional knowledge, taking into account the United Nations Declaration on the Rights of Indigenous Peoples, including Article 31, and other relevant articles and instruments, as appropriate;²⁸

²⁷ An information professional is someone who collects, records, organizes, stores, preserves, retrieves, and disseminates printed or digital information. The term is most frequently used interchangeably with the term "[librarian](#)" (see *U.S. Occupational Outlook Handbook* (2008-2009 edition), p. 266), or as a progression of it. Librarians traditionally managed information contained in books or other paper records. Nowadays, however, libraries make extensive use of modern media and technology; hence, the role of librarians has been enhanced. The versatile term "information professional" is also used to describe other, similar, professions, such as [archivists](#), information managers, information systems specialists, and [records managers](#) (see *Introduction to the Library and Information Professions*, by Roger C. Greer, Robert J. Grover, Susan G. Fowler, pp. 12-15). Information professionals work in a variety of private, public, and academic institutions.

²⁸ Article 8(j) calls on Parties, subject to their national legislation, to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

(c) Respect for traditional knowledge implies respect for the values, practices, world views, cosmologies, customary laws, community protocols, rights and interests of indigenous peoples and local communities, with due respect for international norms;

(d) Repatriation requires the development of enduring relationships with indigenous peoples and local communities, in order to build trust, good relations, mutual understanding, intercultural spaces, knowledge exchanges and reconciliation. Such relationships can be mutually beneficial and embody the concept of reciprocity;²⁹

(e) Repatriation efforts should be forward-looking, should foster the building of relationships, and should encourage the creation of intercultural spaces and the co-sharing of knowledge;

(f) Preparedness of institutions holding traditional knowledge and related or complementary information relevant for conservation and sustainable use, to repatriate, including preparedness to cooperate with indigenous peoples and local communities to develop appropriate measures, is essential for a successful process;

(g) Repatriation may require assisting indigenous peoples and local communities to be prepared to receive and keep safe, repatriated traditional knowledge and related information, in culturally appropriate ways, as specified by them;

(h) Parties, repatriating institutions and entities should recognise the importance of repatriating secret or sacred, gender-specific or sensitive traditional knowledge³⁰ as identified by the relevant indigenous peoples and local communities, as a priority for indigenous peoples and local communities;

(i) Repatriation can be enhanced by developing the awareness and professional practice of those working on repatriation, including information professionals and indigenous peoples and local communities, in accordance with best practice ethical standards, including the Tkarihwaié:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant to the Conservation and Sustainable Use of Biological Diversity;³¹

(j) Repatriation includes recognition and support of community-to-community efforts to restore traditional knowledge relevant to conservation and sustainable use of biological diversity;

(k) Repatriation of traditional knowledge and related information should facilitate the exchange of information, rather than limit or restrict it, while respecting the rights of the original holder of such knowledge and not impede the ongoing use of traditional knowledge that is publically available in the Party, institution or entity that decides to repatriate it.

²⁹ See paragraph 32 on the principle of Reciprocity in the Tkarihwaié:ri Code of Ethical Conduct on Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, adopted in decision X/42 and available at <https://www.cbd.int/doc/publications/ethicalconduct-brochure-en.pdf>

³⁰ And related or complementary information.

³¹ See [decision X/42](#).

V. GOOD PRACTICES AND ACTIONS UNDERTAKEN AT VARIOUS LEVELS, INCLUDING THROUGH COMMUNITY-TO-COMMUNITY EXCHANGES, TO REPATRIATE, RECEIVE AND RESTORE TRADITIONAL KNOWLEDGE RELEVANT FOR THE CONSERVATION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

18. The following good practices and actions to repatriate traditional knowledge aim to provide advice to institutions and entities where traditional knowledge and related information may be held and which serve indigenous peoples and local communities and/or hold materials with indigenous peoples and local community content or perspectives. These may include but are not limited to: government departments, international organizations, museums, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, libraries, archives and information services. These good practices and actions cover such areas as governance, management and cooperation.

19. The following elements are arranged in sequential order; however, Parties and others using the guidelines may wish to consider these, as they see fit, taking into account the unique circumstances of each Party, institution or entity.

A. Procedural considerations

1. Establish a team

20. Depending on the repatriating institution, consider the establishment of a team with technical expertise, guided by a multi-stakeholder committee, in order to build relationships between the relevant indigenous peoples and local communities and institutions and other entities holding traditional knowledge. Indigenous peoples and local communities should effectively participate in such arrangements.

21. Indigenous peoples and local communities participating in multi-stakeholder committees for repatriation may be best placed to identify whether there are community protocols and/or customary processes in place for the return of traditional knowledge.

2. Training the actors in the repatriation process

22. The various actors involved in repatriation, including staff of repatriating institutions and entities, representatives of relevant indigenous peoples or local communities may require training on repatriation. Training can equip indigenous peoples and local communities with the knowledge and skills needed to effectively participate in a repatriation process. Training may assist the various actors involved in agreeing on common understandings of terms used in the repatriation process.

23. Training can also assist staff of repatriating institutions and entities to be aware of issues such as indigenous peoples' and local communities' rights and issues related to their traditional knowledge, as well as assist in the development of agreements for a repatriation process. Cross-cultural training for staff of institutions holding traditional knowledge and for indigenous peoples and local communities may assist in increasing mutual understanding and in establishing successful repatriation processes. Staff from repatriating institutions or entities should be encouraged to also, where appropriate, and available, undertake training on the customs, worldviews and/or priorities of the indigenous peoples and local communities relevant to their institution or collections prior to repatriation and in an ongoing manner building enduring relationships. Indigenous peoples and local communities who have written about libraries and other resource centres have invariably mentioned how important it is to feel comfortable in them. Friendly, culturally aware/sensitive staff will mean that indigenous peoples and local communities do not feel intimidated by an alien cultural system or inadvertently made to feel inferior, if they do not

know how to find information. These suggestions imply that the institutions or entities interested in repatriation of traditional knowledge should be prepared.³²

24. Training could take into account experiences gained and lessons learned in other repatriation processes, such as return of artefacts and/or human remains, as appropriate.³³

3. *Identification of collections that hold traditional knowledge and related or complementary information for possible repatriation*

25. After creating a multi stakeholder team and training the participants, the initial concrete step in a repatriation process is to identify collections and content³⁴ for possible repatriation.

26. It is for each institution or entity holding traditional knowledge and related information to identify content in collections for possible repatriation and to make decisions regarding repatriation. At the same time indigenous peoples and local communities may wish to assist such institutions or entities holding traditional knowledge in identifying content for possible repatriation, and initiate requests to examine collections in order to identify content, possibly leading to requests to repatriate.

27. The identification of elements of traditional knowledge for possible repatriation may require regional or international cooperation as per the Convention's Article 17 on exchange of information. Article 17 requires contracting Parties to facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, including specialized knowledge, indigenous and traditional knowledge. It shall also, where feasible, include repatriation of related or complementary information.

28. *Related or complementary information* to be taken into account when repatriating traditional knowledge could include, but is not limited to, information about when, where and from whom the knowledge in question was first accessed or collected, the arrival of the knowledge in institutions and entities holding traditional knowledge (such as place and date) and initial contacts in those places, and/or indigenous and traditional knowledge associated with cultural property.³⁵ Such information may assist in identifying the original knowledge holders.

29. Related or complementary information could also include information held in gene-banks, geo-referenced species level data and related information, and other types of information held in collections or databases that may be useful to supplement repatriated traditional knowledge for the conservation and sustainable use of biological diversity.

4. *Identification of the origin of the traditional knowledge and related or complementary information for possible repatriation*

30. Identification of the origin of the traditional knowledge in question may depend upon access to "related or complementary information", referred to in paragraphs 30 and 31, such as when the traditional knowledge in question was acquired, where, from whom and in what form.

³² Which is complementary to Procedural consideration 7 on "preparedness to receive".

³³ Note that tangible cultural heritage, such as artefacts, as well as human remains, fall under the mandate of UNESCO.

³⁴ Traditional knowledge and related or complementary information.

³⁵ The terms of reference adopted in decision XI/14 D states: The purpose of task 15 is to develop best-practice guidelines that would facilitate enhancement of the repatriation of indigenous and traditional knowledge relevant to the conservation and sustainable use of biological diversity, including of indigenous and traditional knowledge associated with cultural property, in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge of biological diversity.

31. Indigenous peoples and local communities should effectively participate in identifying origins of the traditional knowledge in question and in some case may be guided by oral histories and other forms of information.

32. Parties and Governments should consider proactive arrangements to facilitate the identification the origins of traditional knowledge and of the original knowledge holders. Such arrangements could include requirements in national law for authors to state the origin of access to traditional knowledge in all publications, uses, developments and other disseminations or the adoption of national laws that require the return of tangible and intangible cultural heritage removed from its country of origin.

5. *Identification of the original traditional knowledge holders*

33. Paramount to successful repatriation of traditional knowledge is the identification of the original traditional knowledge holders.

34. In order to identify the original traditional knowledge holders, firstly the origin of the traditional knowledge in question, including when it was acquired, where, from whom and in what form, should be established.³⁶ In such cases, above-mentioned related or complementary information may be of assistance.

35. The processes of indigenous peoples and local communities for the repatriation of traditional knowledge may include drawing on their oral histories and traditions to identify: where traditional knowledge may be held; when, where and from whom the knowledge in question was collected and in what form; and information about the arrival of the knowledge in those places, including dates and initial staff contacts in those places storing traditional knowledge.

36. Oral histories combined with efforts by institutions to make their collections publically available may assist in identifying the original holders for potential repatriation.

37. Government departments, institutions and entities holding traditional knowledge should work in partnership with the relevant indigenous peoples and local communities and ensure their effective participation in identifying the original knowledge holders.³⁷

6. *Agreements for repatriation*

38. In order to clarify a repatriation process, indigenous peoples and local communities may wish to identify customary procedures or develop community protocols that address repatriation of traditional knowledge.³⁸

39. In general, agreements to repatriate should recognize any rights that the original traditional knowledge holders may have to consent to the repatriation process for the traditional knowledge in question, and aim to develop mutually agreed terms for a repatriation process.

40. Institutions and entities³⁹ interested in repatriating traditional knowledge may be able to adapt standard framework agreements, such as memorandums of understanding or cooperation to include repatriation of traditional knowledge. These framework agreements may be useful mechanisms for guiding repatriation, especially from the institution's perspective.

³⁶ May include traditional knowledge held in other countries (such as loans or collections), or in transboundary situations.

³⁷ This can be achieved through step one "Establish a team, inclusive of representatives of the relevant indigenous peoples and local communities".

³⁸ The traditional knowledge being repatriated may include "related or complementary information".

³⁹ These may include Parties, other Governments and other entities, including international organizations, museums, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, etc.

41. If the repatriation process builds on framework agreements combined with community protocols or customary procedures, the process is more likely to meet the needs of the different actors involved in a repatriation process.

42. Additionally, in order to facilitate repatriation processes, it is advisable to keep administrative measures and costs to a minimum.

7. *Preparedness to receive*

43. From an indigenous peoples and local community perspective “preparedness to receive” includes the ability of the relevant indigenous peoples and local communities to receive, store, restore and transmit traditional knowledge and the development of local mechanisms for the protection and promotion (including intergenerational transfer) of traditional knowledge and safeguard strategy. This may involve the reintroduction, re-establishment or restoration of related biological resources, such as traditional crops and animal breeds.

44. Thus, indigenous peoples and local communities seeking the repatriation of traditional knowledge and/or related or complementary information should be prepared to receive returned traditional knowledge and consider appropriate infrastructure⁴⁰ for holding and safe-keeping of returned traditional knowledge.

45. Those Parties, Governments, institutions and entities interested or engaged in repatriation are encouraged to support indigenous peoples and local communities to be prepared to receive traditional knowledge and related or complementary information that is returned to them.

8. *Recording, documenting and digitization⁴¹ of traditional knowledge – consideration of formats that enable repatriation*

46. Some institutions working with traditional knowledge and related or complementary information recommend the digitization of collections, in order to facilitate repatriation while also allowing for retention of the information by the repatriating institution, as a back-up for safe keeping.⁴² Good practices for repatriation may also include making collections and data freely available online, as well as facilitating access to collections not in digital format. Many entities holding traditional knowledge, such as museums, routinely provides for the free access to publically available traditional knowledge related to biodiversity.

47. While digitization may be useful, a number of issues have been raised under the Convention⁴³ with regard to the documentation of traditional knowledge, including its potential challenges and opportunities. Taking this into account, institutions and entities considering the digitization of collections, as an aid to repatriation, should do so with the effective participation of indigenous peoples and local communities, fully cognizant of both the challenges and benefits of documenting traditional knowledge, including digitization and of making it publically available.

⁴⁰ Such as secure databases.

⁴¹ Digitization is the process of converting information into digital or electronic format. Please note that documentation and digitization are distinct acts. Documentation is a form of recording, usually writing down of information, whereas digitization is converting the documented information into an electronic format.

⁴² For example, see: <http://aiatsis.gov.au/about-us>

⁴³ See decision VIII/5 B, which recommends that Parties and Governments bear in mind that registers are only one approach to the protection of traditional knowledge, innovations and practices, and as such their establishment should be voluntary, not a prerequisite for protection. Registers should only be established with the prior informed consent of indigenous and local communities.

48. Additionally, the Traditional Knowledge Documentation Toolkit of the World Intellectual Property Organization (WIPO)⁴⁴ may also be relevant in this context as it provides essential information, including possible benefits and challenges, for indigenous peoples and local communities to consider when deciding whether or not they wish to pursue documentation of their knowledge.

49. Also relevant to the recording, documenting and digitization and repatriation of traditional knowledge and as an action to promote the principles of relationship building and reciprocity, where possible, traditional knowledge and related information obtained from activities/interactions with indigenous peoples and local communities should be shared with them, where possible, in indigenous and local languages and understandable and culturally appropriate formats, with a view to promoting intercultural exchanges, knowledge and technology transfer, synergies and complementarity.⁴⁵

B. Special considerations

1. Publicly available traditional knowledge and ongoing use and benefit-sharing

50. Where there is ongoing use of traditional knowledge, the user should consider special measures to address benefit-sharing, where this is feasible. These measures may include: compensation or benefit-sharing for ongoing use; encouragement for ongoing users to enter into mutually agreed terms for the equitable sharing on benefits and/or the return of copyright to the original knowledge holders; or the development of mechanisms for equitable sharing of benefits from traditional knowledge that was collected and used for a specific or ongoing period. In such instances, benefits should, to the largest extent possible, be appropriate to the cultural and social context and the needs and aspirations of the indigenous peoples and local communities concerned. Benefit-sharing should also be encouraged whenever traditional knowledge has been accessed and is used for either commercial or non-commercial purposes.⁴⁶

51. Further to the issue of benefit-sharing, the Conference of the Parties, in its decision XIII/18, adopted the Mo'otz Kuxtal Voluntary Guidelines for Traditional Knowledge, which contain advice regarding benefit-sharing that may be applicable also in the context of repatriation and continuing use.

52. Recalling that the nature of these repatriation guidelines is to enhance repatriation of traditional knowledge with the ultimate goal of repatriating and restoring traditional knowledge relevant for conservation and sustainable use to the original knowledge holders, it is important that any discussions concerning benefit-sharing in the context of these guidelines does not detract from the overall benefit of repatriating and restoring knowledge, relevant for the conservation and sustainable use of biological diversity.

2. Secret or sacred or gender specific knowledge

53. Special considerations are needed for secret or sacred or gender specific knowledge by both repatriating institutions and entities and receiving communities. For instance, some materials in libraries, archives and information services are confidential or sensitive which may require certain restrictions on access for regulatory, commercial, conservation, security or community reasons.⁴⁷ Suitable management practices will depend on both the materials and the communities served by the organizations. Gender

⁴⁴ Available at: http://www.wipo.int/export/sites/www/tk/en/resources/pdf/tk_toolkit_draft.pdf.

⁴⁵ This principle is also embedded in the principle of Reciprocity in the Tkarihwaí:ri1 Code of Ethical Conduct on Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, adopted in decision X/42 and available at <https://www.cbd.int/doc/publications/ethicalconduct-brochure-en.pdf>

⁴⁶ See UNEP/CBD/WG8J/8/5, para. 72.

⁴⁷ Secret or sacred or sensitive indigenous and local community information should not be confused with material that may be considered offensive to indigenous and local communities.

specific traditional knowledge and related information should be accessed by culturally appropriate persons and advice can be provided about this from the receiving communities.⁴⁸

C. Mechanisms that may aid in the repatriation of traditional knowledge

1. Community-to-community exchanges

54. Commonly, *community-to-community exchanges* allow for communities who have retained their traditional knowledge to share it with other communities who have lost their traditional knowledge, and to do so in culturally appropriate ways.

55. Community-to-community exchanges for knowledge restoration are growing in popularity and success and can cover such issues as fire management, water management, community conservation areas, in-situ conservation (for traditional diets, human health and well-being), community resource mapping and monitoring, sustainable hunting management systems, cultural heritage activities, monitoring the health of species and habitats, compliance patrols and training and advising land and sea managers on strategies to strengthen the protection and management of protected areas.

56. Through community-to-community exchanges, communities with their traditional knowledge intact are encouraged to share and assist other communities in restoring their traditional knowledge, including in transboundary situations, and to do so in culturally appropriate ways.

57. Community-to-community exchanges to repatriate receive and restore traditional knowledge relevant to the conservation and sustainable use of biological diversity, are regarded as a best practice for repatriation and knowledge restoration. Those interested or engaged in repatriation are encouraged take this into consideration and where possible and appropriate, support such community-driven initiatives.

58. Complimentary to community-to-community exchanges, are *traditional use agreements* between communities sharing common resources or ecosystems. Traditional use agreements can assist in ensuring a common understanding of customary laws, including related traditional knowledge, rights and obligations across different groups occupying a common area or ecosystem and/or sharing common natural or biological resources and by doing so assist in restoring traditional knowledge about sustainable use of common natural or biological resources and shared ecosystems. These agreements describe how each group will manage their natural resources, as well as their roles in compliance activities and in the monitoring of environmental conditions. Thus, traditional use agreements can contribute to the repatriation of traditional knowledge by communities themselves, with the goal of restoring knowledge systems across common ecosystems.

2. Knowledge sharing platforms

59. Parties, institutions and entities interested in repatriating knowledge and indigenous peoples and local communities may wish to consider the establishment of national or local knowledge-sharing platforms at relevant levels and scales, including community-based observation programmes aimed at improving the sustainable management of natural resources. These can assist communities that share ecosystems and natural and biological resources in having a common understanding of the relevant customary laws and traditional knowledge in order to ensure sustainable use.

60. Traditional knowledge along with community observations can inform management actions, such as changes to hunting and fishing seasons for certain species, changes to quotas for taking plants and

⁴⁸ For instance, it may be culturally appropriate that women's knowledge is only accessible to women.

animals to ensure sustainable use and amendments to local laws and by-laws, such as imposing restrictions on fishing methods and allowable equipment.

61. Similarly international knowledge-sharing platforms can contribute to the sharing of traditional knowledge, innovations, practices and observations, allowing communities that may have lost the relevant knowledge to restore and use it in practical ways, contributing to the effective management and sustainable use of biological resources.

62. Knowledge-sharing platforms at relevant scales developed with the effective participation of indigenous peoples and local communities can assist communities in exchanging knowledge and information aimed at restoring traditional knowledge across shared ecosystems for the conservation and sustainable use of natural resources.
