

Agenda item 14

Implementation of Article 8(j) and related provisions

Working Group I

Non-paper

Draft programme of work on Article 8(j) and other provisions of the Convention

III. Elements

<i>Tasks</i>	<i>Actors</i>	<i>Level of priority</i>
Element 1. Conservation and restoration		
<i>To promote and support the conservation, protection and restoration of biological diversity led by indigenous peoples and local communities, thereby contributing to the implementation of relevant goals and targets of the Kunming-Montreal Global Biodiversity Framework.</i>		
1.1 Develop guidelines, ¹ with the full and effective participation ² of indigenous peoples and local communities, to strengthen the legal and policy framework for the implementation of Targets 2 and 3, including on indigenous and traditional territories, to support the protection and restoration practices led by indigenous peoples and local communities.	[SB8j]	High priority
1.2 Identify and promote best practices to secure land tenure and governance by indigenous peoples and local communities and develop guidelines for the inclusion and consideration of traditional lands and of resource use in spatial planning processes and environmental impact assessments, in accordance with national legislation and international obligations.	[SB8j, Parties]	High priority
1.3 Promote the rights of indigenous peoples and local communities without formal access to land, including in urban areas, and partner with them in the conservation, protection and restoration of biodiversity and in creating and maintaining blue and green spaces.	Parties	Low priority
1.4 Engage and collaborate with indigenous peoples and local communities to improve the outcomes of management actions addressing the direct drivers of biodiversity loss ³ [in accordance with national circumstances and priorities].	Parties	High priority
Element 2. Sustainable use of biological diversity		
<i>To promote, encourage and ensure the sustainable use of biological diversity, inter alia, to respect and protect the customary sustainable use by indigenous peoples and local communities, thereby contributing to the implementation of Article 10(c) of the Convention, the Plan of Action on Customary Sustainable Use</i>		

¹ For the purpose of the present programme of work, “guidelines” refer to voluntary guidelines.

² For the purpose of the present programme of work, “participation” should be understood as being full, equitable, inclusive, effective and gender-responsive.

³ As identified by the IPBES Global Assessment on Biodiversity and Ecosystem Services (2019)

<i>of Biological Diversity⁴ and relevant goals and targets of the Kunming-Montreal Global Biodiversity Framework.</i>		
2.1 Incorporate customary sustainable use practices or policies, in accordance with the Plan of Action on Customary Sustainable Use of Biological Diversity and with the full and effective participation and leadership of indigenous peoples and local communities, as appropriate, into national biodiversity strategies and action plans.	Parties	High priority
2.2 Promote and strengthen community-based initiatives developed by indigenous peoples and local communities, including in collaboration with other actors, that support and contribute to the sustainable use of biological diversity and to the respect and protection of the customary sustainable use of biological diversity.	Parties	High priority
2.3 Support initiatives led by indigenous peoples and local communities that address the interlinkages between biodiversity and climate change, based on their traditional knowledge, innovations, technologies and practices of customary sustainable use of biodiversity.	Parties	High priority
2.4 Support the livelihoods of indigenous peoples and local communities through activities that promote the customary sustainable use of biodiversity.	Parties [All actors]	Low priority
Element 3. Sharing of benefits from the utilization of genetic resources and digital sequence information on genetic resources, as well as traditional knowledge associated with genetic resources		
<i>To promote the fair and equitable sharing of benefits arising from the utilization of genetic resources, traditional knowledge associated with genetic resources and digital sequence information on genetic resources, thereby contributing, inter alia, to the implementation of relevant goals and targets of the Kunming-Montreal Global Biodiversity Framework.</i>		
3.1 Develop a plan of action to support the implementation of the Convention 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 [DSI placeholder] in relation to genetic resources and traditional knowledge associated with the genetic resources held by indigenous peoples and local communities. Such a plan of action should include capacity-building activities [support the development of biodiversity community protocols, knowledge exchange platforms, technical and legal support, dialogue and collaboration between users and providers with the framework of biocultural community protocols, and the implementation of the Mo'otz Kuxtal Voluntary Guidelines] and technical and legal	[SB8j]	High priority

⁴ Decision XII/12 B, annex.

assistance, taking into account the Mo'otz Kuxtal Voluntary Guidelines. ⁵		
[3.2 Undertake studies[based on submissions from Parties, indigenous peoples and local communities] on best practices on [concrete] access and benefit-sharing [cases] and experiences of indigenous peoples and local communities, including the [effectiveness and] governance role of databanks and databases that contain data on the utilization and protection of genetic resources, traditional knowledge associated with genetic resources[, digital sequence information on genetic resources] and their associated information on geographical origin and other relevant [provenance] metadata, including the disclosure of the origin of products and information on the process arising from such utilization. The results of the studies should be shared with indigenous peoples and local communities.]	[Secretariat] [SB8j]	High priority
3.3 Promote programmes that encourage collaboration and partnerships between indigenous peoples and local communities and the users of traditional knowledge associated with genetic resources [and digital sequence information on genetic resources], and collaborate to prevent the unlawful appropriation of traditional knowledge.	All actors	Low priority
3.4 Support capacity development for indigenous peoples and local communities, as well as dialogues with external stakeholders, regarding genetic resources and associated traditional knowledge, taking into account the cultural and organizational contexts and adjusting to sui generis governance systems of indigenous peoples and local communities.	All actors [SB8j] [Parties with Secretariat]	High priority
3.5 Support capacity development for indigenous peoples and local communities, and create platforms for information exchange between indigenous peoples and local communities and Parties, as well as for dialogue with other actors, including users of genetic resources and traditional knowledge.	All actors [SB8j] [Parties with Secretariat]	Low priority
3.6 Support initiatives by indigenous peoples and local communities to develop biocultural community protocols or other measures to ensure their free, prior and informed consent and the effective and equitable sharing of benefits arising from the use of traditional knowledge associated with genetic resources [and digital sequence information on genetic resources].	All actors [Parties]	Low priority

⁵ Voluntary guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure the “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, of indigenous peoples and local communities for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge (decision XIII/18, annex).

3.7 Generate data and statistics on the participation of indigenous peoples and local communities, including women, in decision-making on access to genetic resources and the sharing of benefits arising from their utilization and improve their participation from those baselines, where required.	Parties	Low priority
Element 4. Knowledge and culture		
<i>To support the transmission and protection of traditional knowledge, including to future generations, and ensure that traditional knowledge and other knowledge systems are valued equally, thereby contributing to the implementation of Article 8(j) of the Convention and relevant goals and targets of the Kunming-Montreal Global Biodiversity Framework.</i>		
4.1 Support efforts by indigenous peoples and local communities to strengthen the intergenerational transmission, use and revitalization, and enhancement of their languages and traditional knowledge, including in formal and informal education settings and in cultural and education centres in particular with respect to the roles and needs of women, girls and youth.	Parties	High priority
4.2 Promote the implementation, strengthening and dissemination of the Joint Programme of Work on the Links between Biological and Cultural Diversity. ⁶	All actors [Secretariat]	Low priority
4.3 Promote the inclusion of traditional knowledge, innovation and practices in all bodies of the Convention, in particular the Subsidiary Body on Scientific, Technical and Technological Advice, taking into account the work of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.	[SB8j]	High priority
4.4 Undertake capacity-building and development and awareness-raising activities, on the basis of the Long-term Strategic Framework for Capacity-building and Development and the knowledge management component ^{7,8} of the Framework to promote the role of traditional knowledge in guiding the management of biodiversity.	All actors [Secretariat]	Low priority
4.5 Strengthen and support a global network of national focal points on Article 8(j) and related provisions to support the implementation of the Convention at national and international levels.	Secretariat	High priority
4.6 Organize the exchange of knowledge and learning platforms to promote the implementation of the tasks in the programme of work.	[Secretariat,] Parties, civil society organizations, in collaboration with indigenous peoples and	Low priority

⁶ UNEP/CBD/COP/10/INF/3, annex I. In accordance with decision 15/22, the Joint Programme of Work is led by the Secretariat, the United Nations Educational, Scientific and Cultural Organization, the International Union for Conservation of Nature and other partners.

⁷ Pending the outcomes of the sixteenth meeting of the Conference of the Parties.

⁸ Decision 15/8, annex I.

	local communities and relevant actors	
4.7 Promote the co-production of new knowledge by indigenous peoples and local communities, scientists and other stakeholders necessary for the resilience, adaptation and continuation of customary sustainable use and biodiversity conservation practices under rapid environmental change, [such as climate change, land- and sea-use change, invasive alien species and pollution,] by indigenous peoples and local communities, in particular with respect to the roles and needs of women, girls and youth.	All actors [Secretariat] [Parties]	Low priority
4.8 Develop communication, education and public awareness materials with indigenous peoples and local communities relevant to all elements and tasks of the present programme of work, including in indigenous and local languages.	All actors [SB8j and Parties]	Low priority
Element 5. Strengthening implementation and monitoring progress		
<i>To contribute to the implementation of the Kunming-Montreal Global Biodiversity Framework through the full and effective implementation of decisions, principles and guidelines of relevance for indigenous peoples and local communities, and to strengthen the integration of Article 8(j) and other provisions of the Convention in the work undertaken under the Convention and its Protocols.</i>		
5.1 Promote the wider application, implementation and monitoring at the national level of adopted plans of action, guidelines and principles, such as: (a) The Voluntary Glossary of Key Terms and Concepts Within the Context of Article 8(j) and Related Provisions; (b) The Akwé: Kon Voluntary Guidelines for the 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 Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities; (c) The Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities; (d) The Plan of Action on Customary Sustainable Use of Biological Diversity; (e) The Mo'otz Kuxtal Voluntary Guidelines; (f) The Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge Relevant for the Conservation and Sustainable Use of Biological Diversity; (g) Voluntary guidelines on safeguards in biodiversity financing mechanisms; (h) Gender Plan of Action; (i) Guiding principles on assessing the contribution of collective action by indigenous peoples and local communities.	Parties, national focal points on Article 8(j) and related provisions	High priority

5.2 Develop guidelines for the establishment of [stimulating innovative][incentive] schemes for indigenous peoples and local communities to preserve and maintain their traditional knowledge, innovations and practices for the application thereof in programmes for the conservation and sustainable use of biological diversity.	[SB8j][Parties and other actors]	Low priority
5.3 Further operationalize, with a view to promoting the continuous monitoring of the implementation of the programme of work on Article 8(j) and other provisions, the four traditional knowledge indicators, in line with the Joint Programme of Work on the Links between Biological and Cultural Diversity.	SB8j and Parties	High priority
[5.4 Review and update, as needed, the Voluntary Glossary of Key Terms and Concepts Within the Context of Article 8(j) and Related Provisions ⁹ to ensure continued alignment with [international standards and practices and] terminology used under the Convention, taking into account the language of the United Nations Declaration on the Rights of Indigenous Peoples.] ¹⁰	[SB8j]	[High] [Low] priority
Element 6. Full and effective participation of indigenous peoples and local communities		
<i>To enable the full and effective participation of indigenous peoples and local communities, including women, girls and youth from indigenous peoples and local communities, in decision-making related to biodiversity and the implementation of the Kunming-Montreal Global Biodiversity Framework.</i>		
6.1 Implement and further develop the enhanced participation mechanisms used by the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions of the Convention	[SB8j]	Low priority
6.2 Ensure the full and effective participation of indigenous peoples and local communities in the development, revision and implementation of national biodiversity strategies and action plans and national reports, and strengthen partnerships and collaboration with indigenous peoples and local communities, recognizing their collective actions and contributions for the implementation of the Convention.	Parties	High priority
[6.3 Carry out a legal and political analysis of issues related to the implementation of the recommendations from the three United Nations mechanisms on the rights of indigenous peoples, namely, the Permanent Forum on Indigenous Issues, the Special Rapporteur on the Rights of Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples,	[[Secretariat][SB8j]]	Low priority

⁹ Decision 14/13, annex.

¹⁰ For the record and greater clarity, Indonesia and the Russian Federation strongly considered that paragraph 5.4 was without mandate, should not be considered and, as such, should not only be bracketed but should have been deleted.

related to the differentiated treatment between indigenous peoples and local communities.]		
[6.3 <i>Alt.1</i> Organize international dialogues with indigenous peoples and local communities on their similarities and distinctions to consider and reflect on the recommendations from the three United Nations mechanisms on the rights of indigenous peoples.]		
[6.3 <i>Alt.2</i> Facilitate a legal and technical analysis of the distinct rights of indigenous peoples, and the rights of local communities, in consultation with the Office of the United Nations High Commissioner for Human Rights and the United Nations mandate holders working on the rights of indigenous peoples, and report at the seventeenth meeting of the Conference of the Parties.] j ¹¹		
Element 7. Human rights-based approach		
<i>To contribute to the enhancement of the rights of indigenous peoples and local communities for the conservation and sustainable use of biodiversity, in line with a human rights-based approach, in accordance with the Kunming-Montreal Global Biodiversity Framework.</i>		
7.1 In collaboration with the relevant United Nations bodies as well as indigenous peoples and local communities, develop guidelines to contribute to the enhancement of the rights of indigenous peoples and local communities for the conservation and sustainable use of biodiversity, in line with a human rights-based approach, consistent with relevant international obligations and instruments.	[SB8j]	High priority
7.1 <i>bis</i> Support and promote, as appropriate, traditional land tenure ¹² and securing land tenure for indigenous peoples and local communities for the conservation and sustainable use of biodiversity, in accordance with national legislation.	Parties	High priority
[7.1 <i>ter</i> Support grievance and redress mechanisms to contribute to the application of a human rights-based approach in the implementation of the Framework.]		Low priority
[7.2 [Develop guidelines on] the [implementation of Target 22, including on the] full protection of	[SB8j][Secretariat]	High priority (7.2 <i>Alt</i>)

¹¹ For the record and greater clarity, Indonesia and the Russian Federation strongly considered that paragraph 6.3 was without mandate, should not be considered and, as such, should not only be bracketed but should have been deleted.

¹² References to “traditional tenure” include lands and waters.

environmental human rights defenders, in particular women from all forms of violence]. [7.2 <i>Alt.</i> Develop guidelines on the implementation of Target 22 and compile submissions from Parties, indigenous peoples and local communities and relevant stakeholders on good practices in the full protection of environmental human rights defenders and access to justice, as well as supportive information related to biodiversity, in the context of the Convention, the Framework and the Gender Plan of Action in collaboration with OHCHR.]		
Element 8. [Direct access to] funding for indigenous peoples and local communities for the conservation, restoration and sustainable use of biodiversity		
<i>To promote the implementation of the relevant targets of the Kunming-Montreal Global Biodiversity Framework, in particular by [supporting direct access to funding by][leveraging new and additional funding for] indigenous peoples and local communities.</i>		
8.1 Support efforts for the mobilization of financial resources for indigenous peoples and local communities, in line with and within the scope of the Strategy for Resource Mobilization.	All actors [GBFF, Secretariat and donors] [Parties and Secretariat]	High priority
8.2 Further explore options for the development or improvement of existing policies, mechanisms and other appropriate initiatives and measures to enhance [direct] access to funding [through existing national policies, programmes or systems] for collective actions on biodiversity conservation and sustainable use by indigenous peoples and local communities.	[SB8j] [Parties and GEF]	High priority
[8.2 <i>bis</i> Monitor and report on the level of resources that are directed or given access to for biodiversity conservation and sustainable use by indigenous peoples and local communities, in particular women and youth, and their terms and modalities]	Parties, Global Environment Facility and other relevant organizations	Low priority
[8.3 Identify [and promote, including through studies,] good practices [and gaps] regarding [[direct] funding][innovative financial mechanisms]] [[innovative financial mechanisms][to enhance finance]] for collective actions on biodiversity conservation and sustainable use by indigenous peoples and local communities, including actions to be led by women and youth.]	[Secretariat]	Low priority

Abbreviation: SB8j, Subsidiary Body on Article 8(j) and Other Provisions of the Convention.