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AD HOC OPEN-ENDED INTER-SESSIONAL  
WORKING GROUP ON ARTICLE 8(j) AND  
RELATED PROVISIONS OF THE CONVENTION  
ON BIOLOGICAL DIVERSITY  
Tenth meeting  
Montreal, Canada, 13-16 December 2017  
Agenda item 11

### **REPORT OF THE AD HOC OPEN-ENDED INTER-SESSIONAL WORKING GROUP ON ARTICLE 8(J) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY ON ITS TENTH MEETING**

The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity held its tenth meeting in Montreal, Canada, from 13 to 16 December 2017. It adopted six recommendations concerning (a) the Rutzolijirisaaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge Relevant for the Conservation and Sustainable Use of Biological Diversity; (b) glossary of relevant key terms and concepts within the context of Article 8(j) and related provisions; (c) ways and instruments for achieving full integration of Article 8(j) and provisions related to indigenous peoples and local communities in the work of the Convention and its Protocols, with full and effective participation of indigenous peoples and local communities and aiming at enhancing efficiencies, coherence and coordination; (d) resource mobilization: assessing the contribution of collective actions of indigenous peoples and local communities and safeguards in biodiversity financing mechanisms; (e) an in-depth dialogue on thematic areas and other cross-cutting issues; and (f) recommendations from the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity. The draft decisions contained within the recommendations will be submitted to the Conference of the Parties to the Convention on Biological Diversity for consideration at its fourteenth meeting.

A summary of the in-depth dialogue on the cross-cutting issue of “contribution of the traditional knowledge, innovations and practices of indigenous peoples and local communities to the implementation of the 2030 Agenda for Sustainable Development with particular emphasis on conservation and sustainable use of biodiversity” is provided as an annex to the present report.

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**I. RECOMMENDATIONS ADOPTED BY THE AD HOC OPEN-ENDED INTER-SESSIONAL WORKING GROUP ON ARTICLE 8(J) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY**

**10/1. The Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge Relevant for the Conservation and Sustainable Use of Biological Diversity**

*The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions, Recommends* that the Conference of the Parties at its fourteenth meeting 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, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, including exchange of results of technical, scientific and socio-economic research as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge, and where feasible, the repatriation of information,

*Also recalling* Article 18 of the Convention, which requires Parties, among other things, to promote technical and scientific cooperation as well as, in accordance with national legislation and policies, to encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies,

*Emphasizing* that the objective of the Rutzolijirisaxik<sup>1</sup> Voluntary Guidelines for the Repatriation of Traditional Knowledge Relevant for the Conservation and Sustainable Use of Biological Diversity is to facilitate the recovery of traditional knowledge relevant for the conservation and sustainable use of biological diversity, as stated in [decision XIII/19](#),

*Bearing in mind* the importance of international cooperation for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity and related and/or complementary information for indigenous peoples and local communities to facilitate the recovery of traditional knowledge of biological diversity, and *taking into account* the importance of indigenous peoples and local communities' governance for restoration and management of their traditional knowledge,

*Considering* the importance of the effective implementation of the various international arrangements, instruments, programmes, strategies, standards, guidelines, reports and processes of relevance, and maintaining their mutual supportiveness, taking into account national legislation, and without prejudice to the rights of indigenous peoples and local communities,

*Also considering* the complexities involved in relation to some of the concepts addressed in the Rutzolijirisaxik Voluntary Guidelines, such as "publicly available" traditional knowledge,

*Stressing* the importance of legality, transparency and mutual respect and understanding in relations between indigenous peoples and local communities, on the one hand, and academics, the scientific community, private sector, educational, governmental and other users of traditional knowledge of indigenous peoples and local communities, 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, hereinafter referred to as "the Rutzolijirisaxik Voluntary Guidelines";

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<sup>1</sup> "Rutzolijirisaxik" means "Returning to one's place of origin" in the local traditional language, Maya Kaqchikel.

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

(a) To use the Rutzolijirisaxik Voluntary Guidelines, as appropriate, in their efforts to repatriate and restore traditional knowledge relevant for conservation and sustainable use of biological diversity to the original knowledge holders, and where applicable, facilitate the sharing of benefits arising from the use of traditional knowledge, in particular through mutually agreed terms;

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

(c) To make available through the Traditional Knowledge Information Portal and the clearing-house mechanism, 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, and the fair and equitable sharing of benefits, including community-to-community exchanges and, where appropriate, through other knowledge sharing platforms;

(d) To report on experiences gained in using the Rutzolijirisaxik Voluntary Guidelines and, with a view to promote international, regional and bilateral cooperation, share best practices on relevant measures, where they exist, relating to repatriation of traditional knowledge, including repatriation of traditional knowledge shared across borders, through national reports, the clearing-house mechanism and the Traditional Knowledge Information Portal<sup>2</sup> as a contribution 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;

3. *Invites* the United Nations Educational, Scientific and Cultural Organization to take into account the Rutzolijirisaxik Voluntary Guidelines;

4. *Requests* the Executive Secretary, in collaboration with relevant organizations, to support and facilitate, as appropriate, efforts made towards the use of the Rutzolijirisaxik Voluntary Guidelines.

#### *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 fair and 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

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<sup>2</sup> The 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.

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,<sup>3</sup> paragraph 6, and in its decision XI/14 D, annex, adopted terms of reference to advance the task clarifying that the purpose of task 15 was to develop best-practice guidelines for “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 Kuxtal Voluntary Guidelines for Traditional knowledge.<sup>4</sup> The guidelines for the repatriation of traditional knowledge build on relevant decisions of the Conference of the Parties, including paragraph 23 of the Tkarhiwaié: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,<sup>5</sup> 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.

5. The Rutzolijirisaaxik Voluntary 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,<sup>6</sup> as appropriate, and in particular the mandate of United Nations Educational, Scientific and Cultural Organization concerning cultural property, as well as the World Intellectual Property Organization, which has the mandate to deal 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 of biological diversity, to assist these communities in knowledge and cultural restoration.

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<sup>3</sup> See [decision X/43](#), annex, paragraph 1.

<sup>4</sup> The Mo’otz Kuxtal<sup>4</sup> Voluntary Guidelines for Traditional knowledge were adopted by the Conference of the Parties in [decision XIII/18](#). “Mo’otz Kuxtal” means “roots of life” in the Maya language.

<sup>5</sup> [Decision X/42](#), annex, Tkarhiwaié:ri Code of Ethical Conduct, paragraph 23.

<sup>6</sup> [General Assembly resolution 61/295](#), annex.

## **RUTZOLIJIIRISAXIK<sup>7</sup> VOLUNTARY GUIDELINES FOR THE REPATRIATION OF TRADITIONAL KNOWLEDGE RELEVANT FOR THE CONSERVATION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY**

### **I. OBJECTIVES**

7. The objective of the Rutzolijirixaxik Voluntary 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,<sup>8</sup> and without limiting or restricting its ongoing use and access,<sup>9</sup> unless under mutually agreed terms.

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 Rutzolijirixaxik 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 communities<sup>10</sup> to where it originated or was obtained for the recovery, revitalization, and protection of knowledge on biological diversity”.<sup>11</sup>

10. The guidelines are intended to be practical guidance to Parties, Governments,<sup>12</sup> international and regional organizations, museums, universities, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, libraries, archives and information services, private collections, private sector and other entities holding, 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.

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<sup>7</sup> “Rutzolijirixaxik” means “Returning to one’s place of origin” in the local traditional language, Maya Kaqchikel.

<sup>8</sup> [Decision XI/14 D](#), annex, terms of reference for repatriation guidelines.

<sup>9</sup> This paragraph does not preclude the application of any provision of the Nagoya Protocol, as appropriate.

<sup>10</sup> The traditional knowledge in question may include related or complementary information.

<sup>11</sup> See 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.

<sup>12</sup> 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.

14. The guidelines should enable those working on repatriation, including information professionals,<sup>13</sup> to make sound judgments regarding appropriate responses to any relevant 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, revitalization and protection of their traditional knowledge related to conservation and sustainable use of biological diversity.

### III. SCOPE

16. The Rutzolijirisaxik Voluntary 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 the conservation and sustainable use of 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 and other instruments, as appropriate;<sup>14</sup>

(c) Respect for traditional knowledge implies respect for, inter alia, the values, practices, world views, customary laws, community protocols, rights and interests of indigenous peoples and local communities, consistent with international obligations and national circumstances;

(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;<sup>15</sup>

(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, storing or housing traditional knowledge and related or complementary information relevant for conservation and sustainable use of biological

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<sup>13</sup> 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.

<sup>14</sup> 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.

<sup>15</sup> See paragraph 32 on the principle of reciprocity in the Tkarihwaï: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>

diversity, 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 knowledge<sup>16</sup> 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 Tkarihwaí: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;<sup>17</sup>

(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 may include efforts to restore indigenous peoples and local communities governance of their traditional knowledge, and may involve prior and informed consent, free prior and informed consent or approval and involvement, as appropriate, mutually agreed terms and benefit sharing arrangements, when appropriate;

(l) 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 use of traditional knowledge that is publicly available in the Party, institution or entity that decides to repatriate it.

## **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, stored or housed 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, private sector, museums, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, libraries, archives, private collections 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 Rutzolijir isaxik Voluntary Guidelines may wish to consider these, as they see fit, taking into account the unique circumstances of each Party, institution or entity.

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<sup>16</sup> And related or complementary information.

<sup>17</sup> See [decision X/42](#).

## 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, while, at the same time, indigenous peoples and local communities could also play a role in training various other actors to ensure cultural sensitivities and requirements involved in repatriation processes are taken into account. Training may also 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, storing or housing 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.<sup>18</sup>

24. Training could take into account experiences gained and lessons learned in other repatriation processes, as appropriate.<sup>19</sup>

### 3. *Identification of collections that hold, store or house 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 content<sup>20</sup> for possible repatriation.

26. It is for each institution or entity holding, storing or housing 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

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<sup>18</sup> Which is complementary to Procedural consideration 7 on "preparedness to receive".

<sup>19</sup> Note that tangible cultural heritage, such as artefacts, as well as human remains, fall under the mandate of UNESCO.

<sup>20</sup> Traditional knowledge and related or complementary information.

wish to assist such institutions or entities holding, storing or housing traditional knowledge in identifying content for possible repatriation, and initiate requests to examine collections of information or knowledge 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, including, where feasible, 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, how 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.<sup>21</sup> Such information may assist in identifying the original knowledge holders.

29. Related or complementary information could also include information, such as 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", such as when the traditional knowledge in question was acquired, where, how, from whom and in what form as well as 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.

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.

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, how, from whom and in

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<sup>21</sup> 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.

what form, should be established.<sup>22</sup> 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, stored or housed; 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 or using traditional knowledge.

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

37. Government departments, institutions and entities holding, storing or housing traditional knowledge should work in partnership with the relevant indigenous peoples and local communities and ensure their full and effective participation in identifying the original knowledge holders.<sup>23</sup>

#### 6. *Agreements for repatriation*

38. In order to clarify a repatriation process, indigenous peoples and local communities may wish to identify their customary procedures or develop community protocols that address repatriation of traditional knowledge.<sup>24</sup>

39. In general, agreements to repatriate should recognize any rights that the original traditional knowledge holders may have, including the right to prior and informed consent, free, prior and informed consent or approval and involvement, to the repatriation process for the traditional knowledge concerned, and aim to develop mutually agreed terms for a repatriation process.

40. Institutions and entities<sup>25</sup> 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.

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.

43. Any agreement may consider the inclusion, where appropriate, of provisions for the use of dispute resolution processes in cases of disputes concerning repatriation.

#### 7. *Preparedness to receive*

44. 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 and restore 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, in accordance with national legislation.

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<sup>22</sup> May include traditional knowledge held in other countries (such as loans or collections), or in transboundary situations.

<sup>23</sup> This can be achieved through step one, "Establish a team, inclusive of representatives of the relevant indigenous peoples and local communities".

<sup>24</sup> The traditional knowledge being repatriated may include "related or complementary information".

<sup>25</sup> These may include Parties, other Governments and other entities, including international organizations, museums, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, etc.

45. 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 infrastructure,<sup>26</sup> as needed, for holding and safe-keeping of returned traditional knowledge.

46. Those Parties, Governments, institutions and entities interested or engaged in repatriation are encouraged to support indigenous peoples and local communities to be prepared and to provide assistance, including through technology transfer, as appropriate, in building their capacities, to receive traditional knowledge and related or complementary information that is returned to them.

8. *Recording, documenting and digitization<sup>27</sup> of traditional knowledge – consideration of formats that enable repatriation*

47. While digitization may be useful, a number of issues have been raised under the Convention<sup>28</sup> 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 full and 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 publicly available.

48. 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.<sup>29</sup> 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, storing or housing traditional knowledge, such as museums, routinely provide for the free access to publicly available traditional knowledge related to biodiversity.

49. Additionally, the publication of the World Intellectual Property Organization (WIPO), *Documenting Traditional Knowledge – A Toolkit*<sup>30</sup> 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.

50. Those making collections and data on traditional knowledge relevant to the conservation and sustainable use of biological diversity freely available online should consider the need to do so with the effective participation of indigenous peoples and local communities, according to prior and informed consent, free, prior and informed consent or approval and involvement, as appropriate, and mutually agreed terms when appropriate, fully cognizant of both the challenges and benefits of making traditional knowledge freely available.

51. 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

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<sup>26</sup> Such as secure databases.

<sup>27</sup> 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.

<sup>28</sup> 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.

<sup>29</sup> For example, see: <http://aiatsis.gov.au/about-us>

<sup>30</sup> Available at: [http://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_1049.pdf](http://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf).

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.<sup>31</sup>

## **B. Special considerations**

### *1. Publicly available traditional knowledge relevant for the conservation and sustainable use of biological diversity and ongoing use and benefit-sharing*

52. Where there is ongoing use of traditional knowledge, the user should consider special measures to address benefit-sharing, when appropriate. These measures may include: (a) compensation or fair and equitable benefit-sharing for ongoing use; (b) encouragement for ongoing users to seek prior and informed consent, free, prior and informed consent or approval and involvement, and enter into mutually agreed terms for the equitable sharing on benefits; (c) the return of rights to the original knowledge holders, where feasible and in accordance with applicable laws; or (d) the development of mechanisms for fair and 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. Fair and equitable benefit-sharing should also be encouraged whenever traditional knowledge has been accessed and is used for either commercial or non-commercial purposes unless waived under mutually agreed terms.<sup>32</sup>

53. 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.

54. Further to the issue of access to and the use of publicly available traditional knowledge, the Mo'otz Kuxtal Voluntary Guidelines for Traditional Knowledge contain advice related to the "prior and informed consent", "free, prior and informed consent" or "approval and involvement" relevant for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity.

55. Recalling that the nature of the Rutzolijirisaxik Voluntary 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 fair and equitable 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*

56. Special considerations are needed for secret or sacred or gender specific knowledge by both repatriating institutions and entities and receiving communities, as some secret or sacred knowledge may only be seen or accessed by particular individuals. Therefore, the full and effective participation of indigenous peoples and local communities in the identification of the original holders of this information is important. For instance, some materials in libraries, archives and information services are confidential or sensitive which may require certain restrictions on access

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<sup>31</sup> This principle is also embedded in the principle of Reciprocity in the Tkarihwaié:rii 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>

<sup>32</sup> See [UNEP/CBD/WG8J/8/5](https://www.cbd.int/doc/publications/ethicalconduct-brochure-en.pdf), para. 72.

for regulatory, commercial, conservation, security or community reasons.<sup>33</sup> Suitable management practices will depend on both the materials and the communities served by the organizations. Gender specific traditional knowledge and related information should be accessed by culturally appropriate persons and advice can be provided about this from the receiving communities.<sup>34</sup>

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

### 1. Community-to-community exchanges

57. 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.

58. 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 biodiversity management systems, including sustainable hunting and gathering 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.

59. 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. Supporting community-to-community exchanges and learning to repatriate and restore traditional knowledge should be encouraged.

60. 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.

61. 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

62. 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, taking into account customary laws, including community-based observation programmes aimed at improving the sustainable management of natural resources. These can assist communities that share ecosystems and natural

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<sup>33</sup> Secret or sacred or sensitive indigenous peoples' and local communities' information should not be confused with material that may be considered offensive to indigenous peoples and local communities.

<sup>34</sup> For instance, it may be culturally appropriate that women's knowledge is only accessible to women.

and biological resources in having a common understanding of the relevant customary laws and traditional knowledge in order to ensure sustainable use.

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

64. 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.

65. 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 biological resources.

**10/2. Glossary of relevant key terms and concepts within the context of Article 8(j) and related provisions**

*The Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions*

*Recommends* that the Conference of the Parties adopt a decision along the following lines:

*The Conference of the Parties,*

*Noting* that clarity in the use of terms and concepts within the context of Article 8(j) and related provisions can contribute to a common understanding and assist in their implementation in order to achieve Aichi Biodiversity Target 18 by 2020,

*Also noting* that a common understanding of key terms and concepts within the context of Article 8(j) and related provisions in meetings held under the Convention may assist the Parties in achieving consensus in future decisions and directions taken under the Convention, including in developing post-2020 arrangements,

*Emphasizing* that the use of the glossary is without prejudice to the terminology used in the Convention and does not constitute an interpretation of the Convention or the application of its provisions in accordance with the Vienna Convention on the Law of Treaties,<sup>35</sup> and is without prejudice to further discussions on terminology under other international forums,

1. *[Adopts][Takes note of]* the voluntary glossary of key terms and concepts within the context of Article 8(j) and related provisions as contained in the annex to the present decision, taking into account that the terms and the concepts are subject to national legislation and the diverse national circumstances of each Party or Government, and that many Parties have specific understandings of terms and concepts that may already apply within their jurisdiction;

2. *Encourages* Parties, other Governments and observers, with the full and effective participation of indigenous peoples and local communities, to disseminate and make use of the glossary to support the implementation of Article 8(j) and related provisions, in accordance with national legislation and circumstances, as appropriate, and to take it into account in future work under the Convention;

3. *Requests* the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions to keep the glossary in mind in its future work, as a living resource and reference, and to revisit and update the glossary at regular intervals, as may be appropriate as part of the post-2020 arrangement.

*Annex*

**VOLUNTARY GLOSSARY OF KEY TERMS AND CONCEPTS WITHIN THE CONTEXT OF ARTICLE 8(j) AND RELATED PROVISIONS**

The present glossary provides descriptions of a number of terms and concepts used in the context of Article 8(j) and related provisions. It is not intended to provide formal definitions, nor is it intended to be exhaustive. The glossary is intended for use on a voluntary basis.

The use of the glossary is without prejudice to the terminology used in the Convention and may not be interpreted as implying for any Party a change in rights or obligations under the Convention.

The glossary is intended to facilitate a common understanding of terms and concepts used in the context of Article 8(j) and related provisions, in meetings held under the Convention.

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<sup>35</sup> United Nations, *Treaty Series*, vol. 1155, No. 18232.

Concerning national use, terms and concepts are subject to national legislation and the diverse national circumstances of each Party or Government, noting that many Parties have specific understandings of terms and concepts that they may already apply within their jurisdiction.

Terms and concepts described below complement the terms contained in the Convention and the Nagoya Protocol.

Terms and concepts contained in the Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities, endorsed in decision VII/16 F, and the Mo'otzkuxtal Voluntary Guidelines adopted and welcomed in decision XIII/18 are included, as they are directly related to Article 8(j) and related provisions.

The glossary is made available as a resource to be considered and used, as appropriate, in the context of Article 8(j) and related provisions, in meetings held under the Convention.

The glossary is complementary to the Tkarihwaïé:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities, adopted in decision X/42.

| <b>Section I</b>   |   |
|--|---|
| <b>Terms and concepts derived from the text of the Convention on Biological Diversity or decisions made under the Convention</b> |   |
| <b>Term or concept</b>   | <b>Understanding of the term or concept within the context of the Convention</b>  |
| Traditional knowledge  | The knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. <sup>36</sup>  |
| Customary sustainable use  | Uses of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements. <sup>37</sup>   |
| Indigenous and local communities or<br>Indigenous peoples and local communities <sup>38</sup>                                    | The Convention on Biological Diversity does not define the terms “indigenous and local communities” or “indigenous peoples and local communities.” The United Nations Declaration on the Rights of Indigenous Peoples does not adopt a universal definition for “indigenous peoples”, and a definition is not recommended. <sup>39,40</sup> |

<sup>36</sup> Derived from Article 8(j) and endorsed in paragraph 6(h) of the annex to [decision VII/16 F](#) on the Akwe: Kon Guidelines.

<sup>37</sup> Derived from Article 10(c).

<sup>38</sup> In [decision XII/12 F](#), the Conference of the Parties decided to use the term “indigenous peoples and local communities” in future decisions under the Convention, without affecting in any way the legal meaning of Article 8(j) and related provisions of the Convention. Similar decisions were subsequently made by the Parties to the Cartagena and Nagoya Protocols, in December 2016, in decisions [BS-VIII/19](#), and [NP-2/7](#), respectively.

<sup>39</sup> Note: The [United Nations Declaration on the Rights of Indigenous Peoples](#) does not adopt a universal definition for “indigenous peoples”; therefore, a definition is not recommended. However, the United Nations Permanent Forum on Indigenous Issues, as an expert body, provides advice on the “concept of indigenous peoples” by referring to the report of the Special Rapporteur, Mr. José Martínez Cobo, on the study of the problem of discrimination against indigenous populations (E/CN.4/Sub.2/1982/2/Add.6), available at: [http://www.un.org/esa/socdev/unpfii/documents/MCS\\_v\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/MCS_v_en.pdf)

<sup>40</sup> Advice on local communities is available in decision XI/14, paragraphs 17-21, on local communities, and the report of the Expert Group Meeting of Local Community Representatives within the Context of Article 8(j) and Related Provisions of the Convention on Biological Diversity ([UNEP/CBD/WG8J/7/8/Add.1](#)).

| <b>Section II</b>   |   |
|---|---|
| <b>Terms and concepts derived from outputs of the programme of work on Article 8(j) and related provisions and adopted or endorsed by the Conference of the Parties to the Convention on Biological Diversity</b>   |   |
| <b>A. Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities (Decision VII/16 F, annex)</b> |   |
| <b>Term or concept</b>  | <b>Understanding of the term or concept within the context of the Convention</b>  |
|   | <i>*Note that the following terms and concepts were endorsed by the Conference of the Parties in decision VII/16 F on the Akwe: Kon Guidelines and should be applied also within the context of Article 14 of the Convention on Impact Assessment and Minimizing Adverse Impacts.<sup>41</sup></i>  |
| Cultural impact assessment  | Is a process of evaluating the likely impacts of a proposed development on the way of life of a particular group or community of people, with full involvement of this group or community of people and possibly undertaken by this group or community of people: a cultural impact assessment will generally address the impacts, both beneficial and adverse, of a proposed development that may affect, for example, the values, belief systems, customary laws, language(s), customs, economy, relationships with the local environment and particular species, social organization and traditions of the affected community. <sup>42</sup> |
| Cultural heritage impact assessment   | Is a process of evaluating the likely impacts, both beneficial and adverse, of a proposed development on the physical manifestations of a community's cultural heritage including sites, structures, and remains of archaeological, architectural, historical, religious, spiritual, cultural, ecological or aesthetic value or significance. <sup>43</sup>   |
| Customary law   | Law consisting of customs that are accepted as legal requirements or obligatory rules of conduct; practices and beliefs that are so vital and intrinsic a part of a social and economic system that they are treated as if they were laws. <sup>44</sup>  |
| Environmental impact assessment   | Is a process of evaluating the likely environmental impacts of, and proposing appropriate mitigation measures for, a proposed development, taking into account interrelated socioeconomic, cultural and human health impacts, both beneficial and adverse. <sup>45</sup>  |

<sup>41</sup> Article 14 of the Convention on Biological Diversity (“Impact Assessment and Minimizing Adverse Impacts”).

<sup>42</sup> Endorsed in paragraph 6(a) of the annex to [decision VII/16 F](#) on the Akwe: Kon Guidelines.

<sup>43</sup> Endorsed in paragraph 6(b) of the annex to [decision VII/16 F](#) on the Akwe: Kon Guidelines. The definition of cultural heritage impact assessment and cultural heritage included in section 3 of this glossary should be considered in conjunction.

<sup>44</sup> Endorsed in paragraph 6(c) of the annex to [decision VII/16 F](#) on the Akwe: Kon Guidelines.

<sup>45</sup> Endorsed in paragraph 6(d) of the annex to [decision VII/16 F](#) on the Akwe: Kon Guidelines.

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| Sacred site   | May refer to a site, object, structure, area or natural feature or area, held by national Governments or indigenous communities to be of particular importance in accordance with the customs of an indigenous or local community because of its religious and/or spiritual significance. <sup>46</sup>  |
| Social impact assessment  | Is a process of evaluating the likely impacts, both beneficial and adverse, of a proposed development that may affect the rights, which have an economic, social, cultural, civic and political dimension, as well as the well-being, vitality and viability, of an affected community – that is, the quality of life of a community as measured in terms of various socio-economic indicators, such as income distribution, physical and social integrity and protection of individuals and communities, employment levels and opportunities, health and welfare, education, and availability and standards of housing and accommodation, infrastructure, services. <sup>47</sup> |
| Strategic environmental assessment  | Is a process of evaluating the likely environmental impacts of proposed policies, plans or programmes to ensure that they are fully included and addressed at an early stage of decision-making, together with economic, social and cultural considerations. <sup>48</sup>   |
| <b>B. Mo’otz Kuxtal Voluntary Guidelines (Decision XIII/18, annex)<sup>49</sup></b> |  |
| <b>Term or concept</b>  | <b>Understanding of the term or concept within the context of Article 8(j) of the Convention</b><br><i>Note these terms are understood in the context of access to traditional knowledge within the mandate of the Convention on Biological Diversity</i>  |

<sup>46</sup> Endorsed in paragraph 6(e) of the annex to [decision VII/16](#) F on the Akwe: Kon Guidelines.

<sup>47</sup> Endorsed in paragraph 6(f) of the annex to [decision VII/16](#) F on the Akwe: Kon Guidelines.

<sup>48</sup> Endorsed in paragraph 6(g) of the annex to [decision VII/16](#) F on the Akwe: Kon Guidelines.

<sup>49</sup> 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.

|   |   |
|---|---|
| <p>“Prior and informed consent” or “free, prior and informed consent” or “approval and involvement”</p> | <p>Free implies that indigenous peoples and local communities are not pressured, intimidated, manipulated or unduly influenced and that their consent is given, without coercion;</p> <p>Prior implies seeking consent or approval sufficiently in advance of any authorization to access traditional knowledge respecting the customary decision-making processes in accordance with national legislation and time requirements of indigenous peoples and local communities;</p> <p>Informed implies that information is provided that covers relevant aspects, such as: the intended purpose of the access; its duration and scope; a preliminary assessment of the likely economic, social, cultural and environmental impacts, including potential risks; personnel likely to be involved in the execution of the access; procedures the access may entail and benefit-sharing arrangements;</p> <p>Consent or approval is the agreement of the indigenous peoples and local communities who are holders of traditional knowledge or the competent authorities of those indigenous peoples and local communities, as appropriate, to grant access to their traditional knowledge to a potential user and includes the right not to grant consent or approval;</p> <p>Involvement refers to the full and effective participation of indigenous peoples and local communities, in decision-making processes related to access to their traditional knowledge. Consultation and full and effective participation of indigenous peoples and local communities are crucial components of a consent or approval process.<sup>50</sup></p> |
| <p>Community protocols</p>  | <p>Covers a broad array of expressions, articulations, rules and practices generated by communities to set out how they expect other stakeholders to engage with them. They may reference customary as well as national or international laws to affirm their rights to be approached according to a certain set of standards. Articulating information, relevant factors, and details of customary laws and traditional authorities helps other stakeholders to better understand the community’s values and customary laws. Community protocols provide communities an opportunity to focus on their development aspirations vis-à-vis their rights and to articulate for themselves and for users their understanding of their biocultural heritage and therefore on what basis they will engage with a variety of stakeholders. By considering the interconnections of their land rights, current socioeconomic situation, environmental concerns, customary laws and traditional knowledge, communities are better placed to determine for themselves how to negotiate with a variety of actors.<sup>51</sup></p>  |

<sup>50</sup> Endorsed in paragraphs 7 and 8 of the annex to [decision XIII/18](#) on the Mo’otz Kuxtal Voluntary Guidelines.

<sup>51</sup> Endorsed in paragraph 19 of the annex to [decision XIII/18](#) on the Mo’otz Kuxtal Voluntary Guidelines.

| <b>Section III</b>  |  |
|---|--|
| <b>Terms and concepts developed by the Working Group<sup>52</sup></b> |  |
| <b>Term or concept</b>  | <b>Understanding of the term or concept within the context of the Convention</b>   |
| Biocultural diversity   | <i>Biocultural diversity</i> is considered as biological diversity and cultural diversity and the links between them.  |
| Biocultural heritage  | <i>Biocultural heritage</i> reflects the holistic approach of many indigenous peoples and local communities. This holistic and collective conceptual approach also recognizes knowledge as “heritage”, thereby reflecting its custodial and intergenerational character. The cultural landscapes inscribed under the World Heritage Convention are examples of biocultural heritage.   |
| Cultural heritage   | Includes the physical (tangible) and/or non-physical (intangible) manifestation of an indigenous peoples and local communities’ cultural heritage, in accordance with the traditional inheritance and transmission. Tangible cultural heritage includes but is not limited to cultural landscapes, sites, structures, and remains of archaeological, architectural, historical, religious, spiritual, cultural, or aesthetic value or significance, human remains. Intangible cultural heritage includes but is not limited to traditional knowledge, including for medicine, traditional food preparation and diets, as well as species and ecosystem management, and traditional cultural expressions’ including songs, dances, artistic expressions, stories, beliefs, relationships and associated values and histories. These constitute both in oral and written form their traditional history, cosmology and culture.<br><br>The concept can also include gender specific heritage values. |
| Sacred species  | A plant or animal that indigenous peoples and local communities deem to be of particular importance in accordance with the traditions and/or customs because of its religious or spiritual significance.   |
| Traditional custodian   | The group, clan or community of people, or an individual who is recognized by a group, clan or community of people, in whom the custody or protection of traditional knowledge and the expressions of culture are entrusted in accordance with the customary law and practices of that group, clan or community.   |
| Traditional biological resources                                      | Biological resources as defined by Article 2 of the Convention and used traditionally by indigenous peoples and local communities[, in accordance with national legislation, as appropriate].  |
| Traditional territories   | Lands and waters traditionally occupied or used by indigenous peoples and local communities. <sup>53</sup>   |

<sup>52</sup> These terms and concepts are derived from a document on possible elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices of indigenous and local communities issued for the eighth meeting of the Working Group ([UNEP/CBD/WG8J/8/6/Add.1](#), annex, section II).

<sup>53</sup> This language is commonly used in the Tkarihwaï:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities, which was adopted by the Conference of the Parties to the Convention on Biological Diversity in [decision X/42](#).

| <b>Section IV. Other relevant terms and concepts</b>                      |  |
|---|--|
| <b>Term or concept</b>  | <b>Understanding of the term or concept within the context of the Convention</b>   |
| Indigenous peoples' and community conserved territories and areas (ICCAs) | <p>Indigenous peoples' and community conserved territories and areas are natural and/or modified ecosystems containing significant biodiversity values, ecological services and cultural values, voluntarily conserved by indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means.<sup>54</sup></p> <p>Areas conserved by indigenous peoples and local communities could potentially be recognized as protected or conserved areas, subject to their "prior informed consent" or "free prior informed consent" or "approval and involvement" or request, according to the national circumstances.</p> |

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<sup>54</sup> As per the ICCA Consortium at <https://www.iccaconsortium.org/index.php/discover/>

**10/3. Ways and instruments for achieving full integration of Article 8(j) and provisions related to indigenous peoples and local communities in the work of the Convention and its Protocols, with full and effective participation of indigenous peoples and local communities and aiming at enhancing efficiencies, coherence and coordination**

*The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions*

1. *Requests* the Executive Secretary to make available to the Subsidiary Body on Implementation at its second meeting:

(a) A preliminary analysis of existing and possible future institutional arrangements of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions, including financial and governance implications;

(b) Experiences and lessons learned from other related intergovernmental organizations and conventions;

2. *Invites* Parties, Governments, indigenous peoples and local communities and relevant international organizations to submit views to the Executive Secretary on possible elements of a future programme of work on Article 8(j) and related provisions as part of the post-2020 biodiversity framework as well as possible institutional arrangements and their modus operandi;

3. *Requests* the Executive Secretary to compile the views and make them available to the Conference of the Parties at its fourteenth meeting;

4. *Invites* the Subsidiary Body on Implementation at its second meeting to consider the following elements of a draft decision for the Conference of the Parties at its fourteenth meeting:

*The Conference of the Parties,*

*Recalling* [decision V/16](#), in which it established the programme of work on Article 8(j) and related provisions, and [decision X/43](#),<sup>55</sup> in which it revised the multi-year programme of work for 2010-2020,

*Noting* that postponed tasks 6, 11, 13, 14 and 17 of the multi-year programme of work have been addressed through the completion of other tasks under the work programme on Article 8(j) and related provisions,

*Recognizing* the need for a more holistic, forward-looking and integrated programme of work, taking into account recent developments, including the 2030 Agenda for Sustainable Development, the Sustainable Development Goals<sup>56</sup> and the Paris Agreement<sup>57</sup> as well as the future post-2020 biodiversity framework,

*Taking into account* the results of the “Múuch’tambal Summit on Indigenous and Local Experiences – Traditional Knowledge, Biological and Cultural Diversity – Mainstreaming the contribution of Traditional Knowledge, Innovations and Practices across Agriculture, Fisheries, Forestry and Tourism Sectors for the conservation and sustainable use of Biodiversity for Well-being”,<sup>58</sup>

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<sup>55</sup> In [decision X/43](#), the Conference of the Parties adopted a revised multi-year programme of work on Article 8(j), retiring completed or superseded tasks 3, 5, 8, 9 and 16.

<sup>56</sup> See [General Assembly resolution 70/1](#), entitled “Transforming our world: the 2030 Agenda for Sustainable Development”.

<sup>57</sup> United Nations Framework Convention on Climate Change, Conference of the Parties, twenty-first session, decision 1/CP.21 (see [FCCC/CP/2015/10/Add.1](#)).

<sup>58</sup> The “Múuch’tambal” Summit on Indigenous and Local Experiences was held on the margins of the thirteenth meeting of the Conference of the Parties. Its declaration was issued as [UNEP/CBD/COP/13/INF/48](#).

*Building on* the composite report on the status and trends of traditional knowledge and the guidelines and other tools and standards already developed by the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions, including:

(a) 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 on lands and waters traditionally occupied or used by indigenous and local communities;<sup>59</sup>

(b) The Tkarihwaïé ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities;<sup>60</sup>

(c) The Mo'otz kuxtal<sup>61</sup> 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<sup>62</sup> 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;<sup>63</sup>

[(d) 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;]<sup>64</sup>

(e) The global Plan of Action on the Customary Sustainable Use of Biological Diversity;<sup>65</sup>

*Taking into account* the joint programme of work between the Secretariat of the Convention on Biological Diversity and the United Nations Educational, Scientific and Cultural Organization on the links between biological and cultural diversity,<sup>66</sup>

*[Welcoming* the completion of work on task 15 by the adoption 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,]<sup>67</sup>

*Noting* that tasks 1, 2, 4, as well as the implementation of the above-mentioned guidelines and standards adopted by the Conference of the Parties, represent ongoing responsibilities of Parties,

*Emphasizing* the need for the effective implementation of the guidelines and standards related to Article 8(j) and related provisions at the national level in order to achieve progress towards Aichi Biodiversity Target 18 of the Strategic Plan for Biodiversity 2011-2020,

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<sup>59</sup> [Decision VII/16](#).

<sup>60</sup> [Decision X/42](#), annex.

<sup>61</sup> Meaning “roots of life” in the Maya language.

<sup>62</sup> The use and interpretation of the term “indigenous peoples and local communities” in these Guidelines should refer to [decision XII/12 F](#), paragraph 2 (a), (b) and (c).

<sup>63</sup> [Decision XIII/18](#).

<sup>64</sup> Due to be adopted by the Conference of the Parties at its fourteenth meeting, in response to tasks 7, 10 and 12 of the revised programme of work on Article 8(j) and related provisions.

<sup>65</sup> [Decision XII/12 B](#), annex.

<sup>66</sup> See [decision X/20](#) on cooperation with other conventions and international organizations and initiatives, in paragraph 16 of which the Conference of the Parties welcomed the Joint Programme of Work.

<sup>67</sup> Due to be adopted by the Conference of the Parties at its fourteenth meeting, in response to tasks 7, 10 and 12 of the revised programme of work on Article 8(j) and related provisions.

1. *Decides* to complete the current programme of work on Article 8(j) and related provisions no later than the fifteenth meeting of the Conference of the Parties;

2. *Also decides* to consider the development of a fully integrated programme of work on Article 8(j) and related provisions within the post-2020 biodiversity framework on the basis of achievements to date, also taking into account the 2030 Agenda for Sustainable Development,<sup>56</sup> the Sustainable Development Goals and the Paris Agreement as well as gaps identified;

3. *Invites* Parties to gather experience in the implementation of the guidelines and standards related to Article 8(j) and related provisions at the national level and, in the light of those experiences, to consider the need for further work on these issues in the development of a fully integrated programme of work;

4. *Encourages* Parties to engage with indigenous peoples and local communities in the implementation of the Convention, including by recognizing, supporting and valuing their collective actions, including their efforts to protect and conserve their territories and areas, for the goals of the Convention, and fully engage them in the preparation of national reports, the revision and implementation of national biodiversity strategies and action plans, and the process for developing the post-2020 biodiversity framework for the Convention;

5. *Invites* Parties and other Governments to report on the implementation of the programme of work on Article 8(j) and related provisions, in particular, tasks 1, 2 and 4 and the implementation of the Plan of Action on customary sustainable use, as well as the application of the various guidelines and standards developed under the aegis of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions and adopted by the Conference of the Parties, through the national reports or the clearing-house mechanism in order to determine progress made and inform the development of the post-2020 biodiversity framework;

6. *Requests* the Executive Secretary to facilitate an online forum inviting Parties, other Governments, indigenous peoples and local communities, other relevant organizations and interested stakeholders to have an initial exchange of views and information, as appropriate, on possible elements of a programme of work on Article 8(j) and related provisions as part of the post-2020 biodiversity framework, as well as on possible institutional arrangements, lessons learned and pros and cons of current arrangements;

7. *Also requests* the Executive Secretary to prepare and make available a summary of the exchange of views received during the online forum to the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions at its eleventh meeting;

8. *Invites* Parties, Governments, indigenous peoples and local communities, relevant international organizations, in particular other biodiversity related conventions, and interested stakeholders to submit views to the Executive Secretary on possible elements of a fully integrated programme of work as part of the post-2020 biodiversity framework;

[9. *Invites* Parties, Governments and indigenous peoples and local communities to submit views to the Executive Secretary on possible institutional arrangements and their modus operandi for the implementation of Article 8(j) and related provisions, such as but not limited to the following:

(a) Establishing a subsidiary body on Article 8(j) and related provisions with a mandate to provide advice to the Conference of the Parties, other subsidiary bodies, and, subject to their approval, the Conference of the Parties serving as the meeting of the Parties to the respective Protocols, on matters that are relevant to indigenous peoples and local communities and are within the scope of the Convention;

(b) Continuing the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions with an updated mandate;

(c) Applying the enhanced participation mechanisms used by the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions for the participation of representatives of indigenous peoples and local communities, as appropriate, when addressing matters of direct relevance to indigenous peoples and local communities in the subsidiary bodies, in order to ensure their effective participation and to fully integrate them into the work of the Convention;]

10. *Requests* the Executive Secretary to compile and analyse the information received with a view to proposing possible elements of a fully integrated programme of work as part of the post-2020 biodiversity framework as well as possible institutional arrangements and their modus operandi for the consideration of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions at its eleventh meeting;

11. *Requests* the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions to develop, at its eleventh meeting, proposals for possible future work, including proposals for a second phase of work on the Plan of Action on Customary Sustainable Use, as well as institutional arrangements and their modus operandi for consideration by the Subsidiary Body on Implementation at its third meeting in order to inform the development of a fully integrated programme of work as part of the post-2020 biodiversity framework which takes into account developments in other relevant international forums and organizations;

12. *Requests* the Executive Secretary, subject to the availability of resources, to extend appropriate assistance that enables representatives of indigenous peoples and local communities to participate effectively in broader discussions and processes under the Convention, including through regional consultations, which will determine the post-2020 biodiversity framework, in order to facilitate the integration of any further work on Article 8(j) and related provisions into the work of the Convention.

**10/4. Resource mobilization: assessing the contribution of collective actions of indigenous peoples and local communities and safeguards in biodiversity financing mechanisms**

*The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions,*

*Recalling* the guiding principles on assessing the contribution of collective action by indigenous peoples and local communities, contained in the annex to [decision XIII/20](#), and the voluntary guidelines on safeguards in biodiversity financing, contained in [decision XII/3](#), annex III,

*Also recalling* the request in decision XIII/20, paragraph 21, to consider elements of methodological guidance for identifying, monitoring, and assessing the contribution of indigenous peoples and local communities to the achievement of the Strategic Plan for Biodiversity 2011-2020<sup>68</sup> and the Aichi Biodiversity Targets, with a view to finalizing the methodological guidance at the second meeting of the Subsidiary Body on Implementation and adopting it at the fourteenth meeting of the Conference of the Parties,

*Further recalling* the request in decision XIII/20, paragraph 27, to develop recommendations, for consideration by the Subsidiary Body on Implementation at its second meeting, on how the application of safeguards can ensure that the potential effects of biodiversity financing mechanisms on the social and economic rights and livelihoods of indigenous peoples and local communities are addressed effectively,

*Taking note* of the documents entitled “Elements of methodological guidance for identifying, monitoring, and assessing the contribution of indigenous peoples and local communities to the achievement of the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets”<sup>69</sup> and “Taking the voluntary guidelines on safeguards in biodiversity financing mechanisms into account when selecting, designing and implementing biodiversity financing mechanisms and when developing instrument-specific safeguards”<sup>70</sup>,

*Emphasizing* the particular importance of the views of indigenous peoples and local communities on this agenda item,

1. *Invites* Parties, other Governments, stakeholders, and indigenous peoples and local communities to submit views to the Executive Secretary on the notes prepared by the Executive Secretary;<sup>71</sup>

2. *Requests* the Executive Secretary:

(a) To compile the submissions received and make them available through the clearing-house mechanism of the Convention;

(b) To revise the documents,<sup>72</sup> and the draft recommendations therein, on the basis of the submissions received and the views of indigenous peoples and local communities as already expressed at the tenth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions and provided in the annex to the present recommendation;

(c) To make the revised documents, including draft recommendations, available to the Subsidiary Body on Implementation at its second meeting for its consideration.

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<sup>68</sup> [Decision X/2](#), annex.

<sup>69</sup> [CBD/WG8J/10/5](#).

<sup>70</sup> [CBD/WG8J/10/6](#).

<sup>71</sup> “Elements of methodological guidance for identifying, monitoring, and assessing the contribution of indigenous peoples” ([CBD/WG8J/10/5](#)) and “Taking the voluntary guidelines on safeguards in biodiversity financing mechanisms into account when selecting, designing and implementing biodiversity financing mechanisms and when developing instrument-specific safeguards” ([CBD/WG8J/10/6](#)).

<sup>72</sup> [CBD/WG8J/10/5](#) and [CBD/WG8J/10/6](#).

*Annex*

**VIEWS EXPRESSED BY THE INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY**

The International Indigenous Forum on Biodiversity expresses its thanks to the Secretariat for the preparation of document CBD/WG8J/10/5 on elements of methodological guidance for identifying, monitoring, and assessing the contribution of indigenous peoples and local communities to the achievement of the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets.

Indigenous peoples and local communities practice holistic collective action in our daily lives with the participation of men, women, children, youth and elders to achieve a good life for indigenous peoples and the well-being and conservation of Mother Earth and all of her ecosystems. This collective action is carried out within the framework of customary laws and governance, with the security of tenure of our lands, territories and waters, and in the defence of our collective rights, such as self-determination, the right to consultation and free, prior and informed consent.

Through indigenous collective systems, we revitalize our social and spiritual relationships through the practice of traditional knowledge and such values as reciprocity, solidarity, care, support, respect, trust, flexibility, harmony, balance and resilience.

The International Indigenous Forum recommends the inclusion of a new paragraph in the suggested recommendations in document CBD/WG8J/10/5 after paragraph 1 with the following text:

*Recognizes* the importance of the holistic collective action of indigenous peoples and local communities in achieving the objectives of the Strategic Plan for Biodiversity 2011-2020<sup>73</sup> and the Aichi Biodiversity Targets within a framework of rights, ethical principles and values, governance and differentiated roles as indigenous men and women;

The International Indigenous Forum on Biodiversity expresses its thanks to the Secretariat for the preparation of document CBD/WG8J/10/6 on taking the voluntary guidelines on safeguards in biodiversity financing mechanisms into account when selecting, designing and implementing biodiversity financing mechanisms and when developing instrument-specific safeguards.

Indigenous peoples and local communities live in harmony and brotherhood with Mother Earth. We are her guardians and protectors, we take care of resources to bequeath them to the generations that come after us; however, the activities associated with modern progress are leading to the loss of biodiversity, and ecosystems, with socio-economic consequences that affect indigenous peoples and local communities, humanity and Mother Earth.

The safeguards of biodiversity financing mechanisms must take into account national and international laws and policies, the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention No. 169 and the customary laws of indigenous peoples and local communities.

The safeguards must be transparent and robust, and must recognize indigenous peoples as having rights and be in line with the three objectives of the Convention on Biological Diversity, with Articles 8(j) and 10(c), with the Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities, and with the Tkarihwaíé: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. In addition, there must be political will and a decision of the Parties for their effective implementation. It is important to have the full and effective participation of indigenous peoples and local communities, especially women, in the selection, design and implementation of biodiversity financing mechanisms and in the introduction of safeguards through consultation processes, to grant or deny free and prior informed consent through culturally appropriate methodologies and instruments.

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<sup>73</sup> [Decision X/2](#), annex.

The International Indigenous Forum recommends the creation of a new paragraph after paragraph 4 of the suggested recommendations in document CBD/WG8J/10/6 with the following text:

*Recognizes* the importance of tenure over traditional lands, territories and waters of indigenous peoples and local communities for their survival and ways of life, and that holistic, solid safeguards backed by transparent accountability and constant vigilance are therefore required in line with international obligations and frameworks, such as the United Nations Declaration on the Rights of Indigenous Peoples,<sup>74</sup> with their own standards, with the instruments and decisions and guidelines of the Convention on Biological Diversity and with the full and effective participation of indigenous peoples and local communities and their free, prior and informed consent.

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<sup>74</sup> [General Assembly resolution 61/295](#), annex.

**10/5. In-depth dialogue on thematic areas and other cross-cutting issues**

*The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions*

*Recommends* that the Conference of the Parties at its fourteenth meeting adopt a decision along the following lines:

*The Conference of the Parties,*

*Noting* that the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions at its tenth meeting conducted an in-depth dialogue on the topic “Contribution of the traditional knowledge, innovations and practices of indigenous peoples and local communities to the implementation of the 2030 Agenda for Sustainable Development with particular emphasis on conservation and sustainable use of biodiversity”,

*Recognizing* the important contribution that traditional knowledge, innovations and practices, and the customary use of biodiversity by indigenous peoples and local communities to the conservation and sustainable use of biodiversity can make to the achievement of most of the Sustainable Development Goals,

1. *Invites* Parties, when implementing the 2030 Agenda for Sustainable Development,<sup>75</sup> to mainstream traditional knowledge, innovations and practices, including those on customary sustainable use of biodiversity, into the implementation of all relevant Sustainable Development Goals with the full and effective participation of indigenous peoples and local communities;

2. *Decides* that the topic for the in-depth dialogue to be held at the eleventh meeting of the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions shall be: “Contribution of the traditional knowledge, innovations and practices of indigenous peoples and local communities, and cultural diversity to the post-2020 global biodiversity framework”.

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<sup>75</sup> [General Assembly resolution 70/1 of 25 September 2015 entitled “Transforming our world: the 2030 Agenda for Sustainable Development”](#), annex.

**10/6. Recommendations from the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity**

*The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions*

*Recommends* that the Conference of the Parties at its fourteenth meeting adopt a decision along the following lines:

*The Conference of the Parties,*

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

## II. ACCOUNT OF PROCEEDINGS

### Introduction

#### 1. *Background*

1. The tenth meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity was held in Montreal, Canada, at the Palais des Congrès, from 13 to 16 December 2017, concurrently with the twenty-first meeting of the Subsidiary Body on Scientific, Technical and Technological Advice.

#### 2. *Attendance*

2. The meeting was attended by representatives of the following Parties and other Governments:

|                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| Angola                              | Dominican Republic                  | Niger  |
| Antigua and Barbuda                 | Ecuador                             | Norway   |
| Argentina                           | Egypt                               | Oman   |
| Australia                           | Estonia                             | Palau  |
| Austria                             | Ethiopia                            | Peru   |
| Bangladesh                          | European Union                      | Philippines  |
| Barbados                            | Finland                             | Republic of Korea  |
| Belarus                             | France                              | Saint Kitts and Nevis                                      |
| Belgium                             | Gambia                              | Saint Lucia  |
| Benin                               | Germany                             | Sao Tome and Principe                                      |
| Bhutan                              | Guatemala                           | Senegal  |
| Bolivia (Plurinational State<br>of) | Guinea-Bissau                       | Seychelles   |
| Bosnia and Herzegovina              | Haiti                               | Solomon Islands  |
| Botswana                            | Honduras                            | Somalia  |
| Brazil                              | India                               | South Africa   |
| Bulgaria                            | Indonesia                           | South Sudan  |
| Burkina Faso                        | Jamaica                             | Sudan  |
| Burundi                             | Japan                               | Sweden   |
| Cabo Verde                          | Kiribati                            | Switzerland  |
| Cambodia                            | Lao People's Democratic<br>Republic | Syrian Arab Republic                                       |
| Cameroon                            | Madagascar                          | Thailand   |
| Canada                              | Malawi                              | Timor-Leste  |
| Central African Republic            | Malaysia                            | Togo   |
| Chad                                | Maldives                            | Tonga  |
| China                               | Mali                                | Tunisia  |
| Colombia                            | Mauritania                          | Turkmenistan   |
| Comoros                             | Mexico                              | Uganda   |
| Costa Rica                          | Morocco                             | Ukraine  |
| Cuba                                | Namibia                             | United Kingdom of Great<br>Britain and Northern<br>Ireland |
| Denmark                             | Nepal                               | United Republic of Tanzania                                |
| Djibouti                            | Netherlands                         | United States of America                                   |
| Dominica                            | New Zealand                         |  |

3. Observers from the following United Nations bodies, specialized agencies, convention secretariats and other bodies also attended: Global Environment Facility; Intergovernmental Platform on Biodiversity and Ecosystem Services; International Treaty on Plant Genetic Resources for Food and Agriculture; United

Nations Educational, Scientific and Cultural Organization; United Nations Environment Programme; United Nations Office for Project Services; World Intellectual Property Organization.

4. The following organizations were also represented by observers:

|  |  |
|--|--|
| Aichi Prefecture   | Intergovernmental Platform on Biodiversity and Ecosystem Services          |
| American Museum of Natural History   | International Development Law Organization                                 |
| Andes Chinchasyo   | International Forestry Students Association                                |
| Asia Indigenous Peoples Pact Foundation  | International Partnership for the Satoyama Initiative                      |
| Bern Convention, Council of Europe   | International Treaty on Plant Genetic Resources for Food and Agriculture   |
| CBD Alliance   | International University Network on Cultural and Biological Diversity      |
| Center for Indigenous Peoples Research and Development   | Inuit Circumpolar Council  |
| Center for Support of Indigenous Peoples of the North/Russian Indigenous Training Centre                     | IUCN - International Union for Conservation of Nature                      |
| Centro para la Investigación y Planificación del Desarrollo Maya   | Jabalbina Yalanji Aboriginal Corporation                                   |
| Chibememe Earth Healing Association  | Japan Biodiversity Youth Network   |
| Community Development Centre   | Japan Civil Network for the United Nations Decade on Biodiversity          |
| Community Resource and Development Center  | Japan Wildlife Research Center   |
| Concordia University   | Mohawk Nation  |
| Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica  | Naga Women's Union   |
| Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH (German International Cooperation Agency) | Natural Justice (Lawyers for Communities and the Environment)              |
| Disaster Reduction Nepal   | Neighbour Organization Nepal   |
| EcoHealth Alliance   | OGIEK Peoples Development Program (OPDP)                                   |
| EcoNexus   | Plenty Canada  |
| ECOROPA  | Red de Mujeres Indígenas sobre Biodiversidad de America Latina y el Caribe |
| Environment and Climate Change Canada  | Red Indígena de Turismo de México (RITA)                                   |
| Environmental Development Action in the Third World  | Reforestamos México, A.C.  |
| ETC Group  | Saami Council  |
| Federation of German Scientists  | Society for Ecological Restoration   |
| Forest Peoples Programme   | Stockholm Resilience Centre  |
| Freetown Community Group   | Sustainable Development Institute  |
| Friends of the Earth International   | Tamalpais Trust  |
| Fundación para la Promoción del Conocimiento Indígena  | Te Kopu - Pacific Indigenous and Local Knowledge Centre of Distinction     |
| German Research Foundation (DFG)   | Tebtebba Foundation  |
| Global Biodiversity Information Facility   | Torres Strait  |
| Global Forest Coalition  | United Organization of Batwa Development in Uganda                         |
| Global Youth Biodiversity Network  | Université de Lausanne   |
| Greenpeace International   | Université de Montréal   |
| Heinrich Böll Foundation   | University of British Columbia   |
| ICCA Consortium  | University of Turku  |
| Indigenous Information Network   | World Intellectual Property Organization                                   |
| Indigenous Knowledge and Peoples Network   | WWF International  |
| Institute for Biodiversity Network   |  |

## ITEM 1. OPENING OF THE MEETING

5. The meeting was opened at 10.15 a.m. on Wednesday, 13 December 2017, by Ms. Edda Fernández Luiselli (Mexico) on behalf of Mr. Cuauhtémoc Ochoa Fernández (Mexico), the representative of the President of the thirteenth meeting of the Conference of the Parties to the Convention on Biological Diversity. She invited Mr. Alex Diabo, Elder of the Mohawk Community from Kahnawake, Canada, to give a traditional blessing. Mr. Diabo welcomed the representatives to the traditional territory of his people and performed a ceremonial prayer of welcome during which he spoke “the words that come before all things” and said that it was important to respect Mother Earth and not to abuse her blessings.

6. The Chair said that the Working Group should be proud of its accomplishments. Since it had been established in Bratislava in 1998, it had developed various sets of guidelines to assist Parties in respecting and promoting traditional knowledge and customary sustainable use. It had also contributed to the adoption of the Nagoya Protocol, and, most importantly, it had given a voice to indigenous peoples and local communities in the work of the Convention. At the current meeting, the Working Group would make recommendations on the draft Rutzolijirisaxik<sup>76</sup> Voluntary Guidelines and the draft voluntary glossary of relevant key terms and concepts, as well as on the collective actions of indigenous peoples and local communities and safeguards in biodiversity financing mechanisms. It would also consider the recommendations of the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity, the progress made towards achieving Aichi Biodiversity Target 18 and the finalization of tasks 7, 10 and 12 of the revised multi-year programme of work. She hoped that all the representatives could work together in the spirit of teamwork to make the meeting a success.

7. An opening statement was made by Ms. Cristiana Paşca Palmer, Executive Secretary of the Convention on Biological Diversity.

8. The Executive Secretary of the Convention on Biological Diversity welcomed the representatives and thanked Mr. Diabo for his blessing, and for reminding the Working Group of the important connection between nature and culture. She also expressed thanks to the Governments of Australia, Finland, Germany, Norway and Sweden for their generous contributions, which had ensured the presence of the representatives of indigenous peoples and local communities at the meeting.

9. As ecosystems reached tipping points and teetered on the brink of collapse, the future of the world seemed uncertain. Biodiversity, and related ecosystems, were the infrastructure that supported all life on Earth; if actions were not taken to save biodiversity and use it sustainably, it would not be possible to achieve the Sustainable Development Goals or successfully combat climate change.

10. A transformative global effort was required to address the crisis, which required political leadership and strong partnerships. It also required the inversion of the top-down decision-making paradigm used to address the sixth extinction crisis, wherein those most dependent upon, and knowledgeable about, biodiversity remained marginalized. Ambition was required when discussing the process and content of the post-2020 agenda. The work of the Convention had to be relevant to, and supportive of, other global arrangements. There was no need for a trade-off between “protecting the environment” and “development”. By combining traditional knowledge and science, innovative solutions could be found to steer humanity towards sustainable lifestyles.

11. It was a propitious moment to work with indigenous peoples and local communities. On 13 September 2017, during the celebration of the tenth anniversary of the United Nations Declaration on the Rights of Indigenous Peoples, the city of Montreal had added a white pine tree to the centre of its coat of arms, symbolizing indigenous peoples and standing for peace and harmony. It represented the circle of life and the council fire, a place for meeting and dialogue. The Parties should be inspired by that act when considering the post-2020 arrangements for the Convention. She encouraged States to recognize conservation areas, sacred sites and conservation efforts by indigenous peoples and local communities, as

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<sup>76</sup> “Rutzolijirisaxik” means “Returning to one’s place of origin” in the local traditional language, Maya Kaqchikel.

well as their collective actions on ecosystem services, conservation and sustainable development. The effective participation of indigenous peoples remained central for assessing progress and for developing new enhanced arrangements to save and preserve the global diversity of plants and animals for future generations.

12. Although indigenous peoples and local communities constituted a small portion of the world's population, they represented the largest portion of linguistic and cultural diversity on Earth. Their traditional lands and waters contained the greatest remaining reserves of biodiversity. The time had come to consider the linkages between biological and cultural diversity and to reverse the trends for biodiversity loss and the weakening of cultural diversity. Innovative approaches were required to bridge the artificial divide between biological and cultural diversity and a robust discussion was needed on possible elements of a fully integrated post-2020 programme of work to help the Convention become more relevant in broader global processes, such as the Sustainable Development Goals and climate action.

13. Indigenous peoples paid a heavy price for protecting life on Earth. Environmental defenders were being killed at a rate of almost four a week; many, if not most, of those were indigenous peoples, and, in particular, women. Thousands more faced attacks, harassment, stigmatization and arbitrary arrest. The United Nations Environment Programme and its family of organizations, including the Convention, needed to immediately take a stand against the abuse suffered by environmental defenders and the impunity with which that abuse was perpetrated. The Secretariat was working with the United Nations Environment Programme and the Office of the United Nations High Commissioner for Human Rights on the policy "promoting greater protection for environmental defenders" as its contribution to addressing the growing crisis.

14. Following the statements, the Working Group paused in memory of Mr. Johan Bodegård (Sweden) and Mr. Damaso Luna (Mexico), both of whom had passed away recently and both of whom had made significant contributions to the work of the Convention on traditional knowledge.

## **ITEM 2. ORGANIZATIONAL MATTERS**

### **2.1. Election of officers**

15. In accordance with established practice, the Bureau of the Conference of the Parties acted as the Bureau of the Working Group. The Bureau designated Mr. Sergei Melnov, the Bureau member from Belarus, to act as Rapporteur.

16. In keeping with past practice, representatives of indigenous peoples and local communities were also invited to designate seven "Friends of the Bureau" to participate in Bureau meetings and to act as co-chairs of possible contact groups. The following were elected by acclamation, from the seven regional groupings recognized by the United Nations Permanent Forum on Indigenous Issues, as "Friends of the Bureau":

*Africa:*

Ms. Lucy Mulenkei

*Arctic:*

Mr. Aslak Holmberg

*Asia:*

Ms. June Cadalig Bantang-ay

*Central and Eastern Europe and the Caucasus:*

Ms. Polina Shulbaeva

*Latin America and the Caribbean:*

Ms. Yeshing Upùn

*North America*

Ms. Whahi Diome

*Pacific:*

Ms. Christine Teresa Grant

17. At the same time, it was also agreed that Ms. Upùn would serve as Co-Chair of the Working Group.

## **2.2. Adoption of the agenda**

18. At the 1st session of the meeting, on 13 December 2017, the Working Group adopted the following agenda on the basis of the provisional agenda (CBD/WG8J/10/1):

1. Opening of the meeting.
2. Organizational matters.
3. 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 (task 15 of the multi-year programme of work).
4. Glossary of relevant key terms and concepts to be used within the context of Article 8(j) and related provisions.
5. Finalization of tasks 7, 10 and 12 of the multi-year programme of work.
6. Resource mobilization: assessing the contribution of collective actions of indigenous peoples and local communities and safeguards in biodiversity financing mechanisms.
7. Progress towards Aichi Biodiversity Target 18, implementation of the plan of action on customary sustainable use, and integration of Article 8(j) and provisions related to indigenous peoples and local communities in the work of the Convention and its Protocols.
8. Recommendations of the United Nations Permanent Forum on Indigenous Issues.
9. In-depth dialogue on thematic areas and other cross-cutting issues.
10. Other matters.
11. Adoption of the report.
12. Closure of the meeting.

## **2.3. Organization of work**

19. At the 1st session of the meeting, the Working Group approved the organization of work for the meeting on the basis of the proposal contained in annex II to the annotated provisional agenda (CBD/WG8J/10/1/Add.1).

20. It was agreed that the Working Group would work in plenary and, in order to ensure a more coherent draft recommendation on future work, would consider agenda items 7 and 5 together.

### **ITEM 3. 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 (TASK 15 OF THE MULTI-YEAR PROGRAMME OF WORK)**

21. The Working Group took up item 3 at the 1st session of the meeting, on 13 December 2017. In considering the item, the Working Group had before it a note by the Executive Secretary on the Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge Relevant for the

Conservation and Sustainable Use of Biological Diversity (CBD/WG8J/10/2) and, as an information document, a compilation of views and information received on the draft of the Rutzolijirisaxik Voluntary Guidelines (CBD/WG8J/10/INF/1).

22. Statements were made by representatives of Argentina, Australia, Bolivia (Plurinational State of), Brazil, Cambodia, Canada, China, Colombia, Ecuador, Estonia (on behalf of the European Union and its 28 member States), India, Japan, Mexico, Morocco, Norway, the Philippines, the Republic of Korea, South Africa and Switzerland.

23. Statements were also made by the representative of the International Indigenous Forum on Biodiversity (IIFB), the Red de Mujeres Indígenas sobre Biodiversidad de América Latina y el Caribe (RMIB-LAC) and the World Intellectual Property Organization (WIPO).

24. Following an exchange of views, the Co-Chair proposed the establishment of a contact group, facilitated by Mr. Basile Van Havre (Canada) and Ms. Lucy Mulenkei (IIFB) to continue the discussion on the issue of repatriation.

25. At the 2nd session of the meeting, on 14 December 2017, the Working Group considered a revised draft recommendation on the Rutzolijirisaxik Voluntary Guidelines. Following an exchange of views, the revised draft recommendation, as orally amended, was approved for formal adoption by the Working Group as draft recommendation CBD/WG8J/10/L.2.

26. At the 4th session of the meeting the Working Group adopted CBD/WG8J/10/L.2 as recommendation 10/1. The text of the recommendation, as adopted, is contained in section I of the present report.

#### **ITEM 4. GLOSSARY OF RELEVANT KEY TERMS AND CONCEPTS TO BE USED WITHIN THE CONTEXT OF ARTICLE 8(J) AND RELATED PROVISIONS**

27. The Working Group took up item 4 at the 1st session of the meeting, on 13 December 2017. In considering the item, the Working Group had before it a note by the Executive Secretary on a glossary of relevant terms and concepts within the context of Article 8(j) and Related Provisions (CBD/WG8J/10/3) and, as an information document, a compilation of the views received on the draft glossary (CBD/WG8J/10/INF/2).

28. Statements were made by representatives of Argentina, Australia, Bolivia (Plurinational State of), Canada, Colombia, Ecuador, the European Union, Guatemala, India, Japan, Mexico, Morocco, New Zealand, Norway, the Philippines, South Africa, Switzerland and Timor-Leste.

29. An additional statement was made by the representative of the ICCA Consortium (also on behalf of the Global Forest Coalition) and IIFB.

30. Following an exchange of views, the Co-Chair said that she would prepare a revised text for the consideration of Working Group, taking into account the views expressed orally and the comments received in writing.

31. At the 2nd session of the meeting, on 14 December 2017, the Working Group considered a revised draft recommendation on the glossary of relevant key terms and concepts to be used within the context of Article 8(j) and related provisions.

32. The representative of Mexico requested that the report of the Working Group reflect his view that the preambular paragraphs would be better balanced if the third preambular paragraph also “noted”, rather than “emphasized”, that the use of the glossary was without prejudice to the terminology used in the Convention and did not constitute an interpretation of the Convention or the application of its provisions and was without prejudice to further discussions on terminology under other international forums.

33. Following an exchange of views, the revised draft recommendation, as orally amended, was approved for formal adoption by the Working Group as draft recommendation CBD/WG8J/10/L.3.

34. At the 4th session of the meeting the Working Group adopted CBD/WG8J/10/L.3, as orally amended, as recommendation 10/2. The text of the recommendation, as adopted, is contained in section I of the present report.

**ITEM 5. FINALIZATION OF TASKS 7, 10 AND 12 OF THE MULTI-YEAR PROGRAMME OF WORK**

35. Agenda item 5 was taken up together with agenda item 7 (“progress towards Aichi Biodiversity Target 18, implementation of the plan of action on customary sustainable use, and integration of Article 8(j) and provisions related to indigenous peoples and local communities in the work of the Convention and its Protocols”) in order to ensure a more coherent draft recommendation on future work.

**ITEM 6. RESOURCE MOBILIZATION: ASSESSING THE CONTRIBUTION OF COLLECTIVE ACTIONS OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES AND SAFEGUARDS IN BIODIVERSITY FINANCING MECHANISMS**

36. The Working Group took up item 6 at the 1st session of the meeting, on 13 December 2017. In considering the item, the Working Group had before it notes by the Executive Secretary on elements of methodological guidance for identifying, monitoring, and assessing the contributions of indigenous peoples and local communities to the achievement of the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets (CBD/WG8J/10/5) and taking the voluntary guidelines of safeguards in biodiversity financing mechanism into account when selecting, designing and implementing biodiversity financing mechanisms and when developing instrument-specific safeguards (CBD/WG8J/10/6). It also had before it, as information documents, a summary of safeguard-related provisions and principles, guidelines and other tools under the Convention on Biological Diversity (CBD/WG8J/10/INF/7) and a compilation of views on resource mobilization: assessing the contribution of collective actions of indigenous peoples and local communities and safeguards in biodiversity financing mechanisms (CBD/WG8J/10/INF/10).

37. Statements were made by representatives of Australia and Estonia (on behalf of the European Union and its 28 member States).

38. The Working Group continued its deliberations at the 2nd session of the meeting, on 14 December 2017.

39. Further statements were made by representatives of Argentina, Bolivia (Plurinational State of), Canada, Colombia, Estonia (on behalf of the European Union and its 28 member States), India, Morocco and the Philippines.

40. An additional statement was made by the representative of the Global Forest Coalition (also on behalf of USC Canada, Natural Justice, the ICCA Consortium and Ecoropa), ICCA Consortium (also on behalf of Natural Justice, USC Canada, Global Forest Coalition, Ecoropa, Uusi Tuuli and the Mexican Alliance for Biodiversity) and IIFB.

41. Following an exchange of views, the Co-Chair said that he would prepare a revised text for the consideration of Working Group, taking into account the views expressed orally and the comments received in writing.

42. At the 3rd session of the meeting, on 15 December 2017, the Working Group considered a revised draft recommendation on resource mobilization. Following an exchange of views, the revised draft recommendation, as orally amended, was approved for formal adoption by the Working Group as draft recommendation CBD/WG8J/10/L.4.

43. At the 4th session of the meeting, the Working Group adopted CBD/WG8J/10/L.4 as recommendation 10/4. The text of the recommendation, as adopted, is contained in section I of the present report.

**ITEM 7. PROGRESS TOWARDS AICHI BIODIVERSITY TARGET 18, IMPLEMENTATION OF THE PLAN OF ACTION ON CUSTOMARY SUSTAINABLE USE, AND INTEGRATION OF ARTICLE 8(J) AND PROVISIONS RELATED TO INDIGENOUS PEOPLES AND LOCAL COMMUNITIES IN THE WORK OF THE CONVENTION AND ITS PROTOCOLS**

**ITEM 5. FINALIZATION OF TASKS 7, 10 AND 12 OF THE MULTI-YEAR PROGRAMME OF WORK**

44. The Working Group took up items 7 and 5 at the 2nd session of the meeting, on 14 December 2017. In considering the item, the Working Group had before it the following notes by the Executive Secretary: (a) progress towards Aichi Biodiversity Target 18 on traditional knowledge and customary sustainable use of biodiversity (CBD/WG8J/10/7); (b) integration of Article 8(j) and provisions related to indigenous peoples and local communities in the work of the Convention and its Protocols (CBD/WG8J/10/8); (c) finalization of tasks 7, 10 and 12 of the revised multi-year programme of work (CBD/WG8J/10/4); and (d) sustainable wildlife management: guidance for a sustainable wild meat sector (CBD/SBSTTA/21/3). The Working Group also had before it, as information documents, a compilation of views on the finalization of tasks 7 and 12 of the revised multi-year programme of work on Article 8(j) and related provisions (CBD/WG8J/10/INF/3), a compilation of views on the integration of Article 8(j) and provisions related to indigenous peoples and local communities in the work of the Convention and its Protocols (CBD/WG8J/10/INF/4), an update on the programme of work on Article 8(j) and related provisions (CBD/WG8J/10/INF/8) and a progress report on the SCBD-UNESCO Joint Programme on the Links between Biological and Cultural Diversity (CBD/WG8J/10/INF/9).

45. Statements were made by representatives of Australia, Canada, China, the Dominican Republic, Ecuador, Estonia (on behalf of the European Union and its 28 member States), Guatemala, India, Japan, Mexico, Morocco, New Zealand, Norway, the Philippines and South Africa.

46. Statements were also made by the Forest Peoples Programme, the Global Forest Coalition, (also on behalf of the ICCA Consortium and CBD Women's Caucus) IIFB, Indigenous Women on Biodiversity Network, Te Kopu – Pacific Indigenous and Local Knowledge Centre of Distinction and WIPO.

47. Following an exchange of views, the Co-Chair proposed the establishment of a contact group, facilitated by Ms. Tone Solhaug (Norway) and Ms. June Cadalig Bantang-ay (IIFB) to continue the discussion on a draft recommendation for agenda items 5 and 7.

48. At the 4th session of the meeting, on 16 December 2017, the Working Group considered the revised draft recommendation proposed by the facilitators. The facilitators thanked the contact group for their hard work and noted that there were brackets around some of the text. Those brackets did not necessarily represent disagreement with the text but, rather, a desire to leave the text open so that it could be discussed in the Subsidiary Body on Implementation in the light of any new information received.

49. Several representatives were of the view that some of the text could be agreed at the current meeting. It would not be desirable for the Subsidiary Body to reopen the discussions, and, in any case, any new information received was more likely to be discussed by the Conference of the Parties and not the Subsidiary Body.

50. In response to a query about the online forum, the representative of the Secretariat explained that it would address both the programme of work on Article 8(j) and related provisions and possible institutional arrangements and their modus operandi.

51. The Working Group approved the draft recommendation, as orally amended, for formal adoption as draft recommendation CBD/WG8J/10/L.7. The Working Group adopted CBD/WG8J/10/L.7 as recommendation 10/3. The text of the recommendation, as adopted, is contained in section I of the present report.

## **ITEM 8. RECOMMENDATIONS OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES**

52. The Working Group took up item 8 at the 2nd session of the meeting, on 14 December 2017. In considering the item, the Working Group had before it a note by the Executive Secretary on recommendations of the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity (CBD/WG8J/10/9). The representative of the Secretariat explained that, during the period 2016-2017, the Permanent Forum had not addressed any specific recommendation to the Convention, and so, it was being recommended that the Secretariat continue to inform the Permanent Forum on developments of mutual interest.

53. Statements were made by representatives of Canada, Estonia (on behalf of the European Union and its 28 member States), India, Mexico and the Philippines.

54. Statements were also made by representatives of the Global Forest Coalition (also on behalf of USC Canada, Natural Justice, the ICCA Consortium and Ecoropa), the ICCA Consortium (also on behalf of Natural Justice, USC Canada, Global Forest Coalition, Ecoropa, Uusi Tuuli and Mexican Alliance for Biodiversity) and IIFB.

55. The representative of IIFB drew the attention of the Working Group to the important and complex role of Ms. Maria Eugenia Choque, from Bolivia, who, in her capacity as indigenous expert of the Permanent Forum and as focal point for the Indigenous Women's Network on Biodiversity from Latin America and the Caribbean, had made several efforts to include issues related to biodiversity in the annual meetings of the Permanent Forum. She had also been tasked by the Permanent Forum with conducting a study on traditional knowledge in the framework of the post-2015 development agenda, bearing in mind that indigenous cultures and traditional practices contribute to sustainable development and environmental management, including rights respecting lands, territories and resources, food sovereignty and culture.<sup>77</sup>

56. The representative of the ICCA Consortium expressed alarm at the trend of killings of environmental defenders, particularly indigenous peoples and local communities who were defending their territories, lands and waters, and said that the Inter-agency Support Group on Indigenous Issues (IASG) should be requested to take up the issue of environmental defenders, including indigenous defenders, as part of the action plan on the United Nations Declaration on the Rights of Indigenous Peoples.

57. The representative of the Secretariat clarified that the mandate of the Permanent Forum was to make recommendations to Parties and United Nations agencies, programmes and funds, including the Convention on Biological Diversity and its Secretariat, not vice versa. Additionally, the terms of reference of IASG were to provide coordinated support to the Permanent Forum. IASG produced an annual progress report for the Permanent Forum, and that report could be made available to the Working Group as an information document. He also informed the Working Group that the Executive Secretary was working with the United Nations Environment Programme and the Office of the United Nations High Commissioner for Human Rights on the policy of "promoting greater protection for environmental defenders".

58. The representative of the Philippines requested that the report reflect his support for the statement of the ICCA Consortium and his view that its recommendation should be adopted by the Working Group.

59. Following an exchange of views, the Co-Chair said that he would prepare a revised draft recommendation for the consideration of the Working Group, taking into account the views expressed orally and the comments received in writing.

60. At the 3rd session of the meeting, on 15 December 2017, the Working Group considered a revised draft recommendation on recommendations of the United Nations Permanent Forum on Indigenous Issues.

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<sup>77</sup> For the text of the study, which was submitted to the Permanent Forum at its fourteenth session, see [E/C.19/2015/4](#). For the action taken by the Permanent Forum, see *Official Records of the Economic and Social Council, 2015, Supplement No. 23 (E/2015/43-E/C.19/2015/10)*, chap. I, sects. A-B.

61. Following an exchange of views, the Working Group approved the revised draft recommendation for formal adoption as draft recommendation CBD/WG8J/10/L.5.

62. At the 4th session of the meeting the Working Group adopted CBD/WG8J/10/L.5 as recommendation 10/6. The text of the recommendation, as adopted, is contained in section I of the present report.

#### **ITEM 9. IN-DEPTH DIALOGUE ON THEMATIC AREAS AND OTHER CROSS-CUTTING ISSUES**

63. The Working Group took up item 9 at the 3rd session of the meeting, on 15 December 2017. In considering the item, the Working Group had before it a note by the Executive Secretary on the in-depth dialogue on thematic areas and other cross-cutting issues: “Contribution of the traditional knowledge, innovations and practices of indigenous peoples and local communities to the implementation of the 2030 Agenda for Sustainable Development with particular emphasis on conservation and sustainable use of biodiversity” (CBD/WG8J/10/10). It also had before it, as an information document, a compilation of views on the in-depth dialogue on thematic areas and other cross-cutting issues (CBD/WG8J/10/INF/5).

64. The Chair asked the Working Group for its views on the proposal contained in the document that the next in-depth dialogue address the “contribution of the traditional knowledge, innovations and practices of indigenous peoples and local communities to the post-2020 global biodiversity framework”.

65. Statements were made by representatives of Canada, Estonia (on behalf of the European Union and its 28 member States) and South Africa.

66. A statement was also made by the representative of IIFB.

67. At the 4th session of the meeting the Working Group discussed a draft recommendation on the in-depth dialogue and approved it, as orally amended, for formal adoption as draft recommendation CBD/WG8J/10/L.6. The Working Group adopted CBD/WG8J/10/L.6 as recommendation 10/5. The text of the recommendation, as adopted, is contained in section I of the present report.

#### **In-depth dialogue**

68. At the 4th session of the meeting, on 16 December 2017, the Working Group also engaged in an in-depth dialogue on the contribution of the traditional knowledge, innovations and practices of indigenous peoples and local communities to the implementation of the 2030 Agenda for Sustainable Development with particular emphasis on conservation and sustainable use of biodiversity.

69. Panel presentations were made by: (a) Ms. Gloria Marina Apén Gonzalez, Director of Unidad de Pueblos Indígenas y Comunidades Locales, Consejo Nacional de Áreas Protegidas, Guatemala; (b) Ms. Yoko Watanabe, Global Manager, GEF Small Grants Programme, United Nations Development Programme; (c) Ms. Mrinalini Rai, advisor on indigenous issues and gender for the Global Forest Coalition; and (d) Mr. Zsolt Molnár, Centre for Ecological Research, Hungary.

70. A summary of the panel presentations, and the statements made after the presentations, is contained in the annex to the present report.

#### **ITEM 10. OTHER MATTERS**

71. No other matters were raised.

#### **ITEM 11. ADOPTION OF THE REPORT**

72. The present report was adopted, as orally amended, at the 4th session of the meeting, on 16 December 2017, on the basis of the draft prepared by the Rapporteur (CBD/WG8J/10/L.1).

## ITEM 12. CLOSURE OF THE MEETING

73. The Executive Secretary congratulated the representatives on a successful conclusion to their deliberations. The 10 meetings of the Working Group since its inception and the 10-year anniversary of the United Nations Declaration on the Rights of Indigenous Peoples were milestones that presented an opportunity to draw attention to the contributions of indigenous peoples and local communities to conservation and the sustainable use of the world's biodiversity. The proceedings of the Working Group demonstrated that indigenous peoples and local communities remained at the very heart of the Convention. The effective participation of communities remained central for assessing progress on the ground, and for developing new enhanced arrangements to save and preserve the global biodiversity of plants and animals for future generations. In closing, she observed that the December solstice was a day that had great cultural and religious significance for many peoples throughout the world, with as many as 27 religions having celebrations at that time of the year. One act that they shared was the lighting of a candle, one of the most profound rituals for the human soul. She said that the Convention provided a light for humanity in its darkest times; it was a light that could reassure humanity of a bright future: "Living in Harmony with Nature".

74. The Chair invited the Working Group to pause in memory of Mr. Calestous Juma, former Executive Secretary of the Convention, who had just passed away and who had made significant contributions to the work of the Convention.

75. Following the customary exchange of courtesies, the Chair declared the tenth meeting of the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions closed at 1.20 p.m. on Saturday, 16 December 2017.

*Annex*

**IN-DEPTH DIALOGUE ON THE CROSS-CUTTING ISSUE OF THE “CONTRIBUTION OF THE TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES TO THE IMPLEMENTATION OF THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT WITH PARTICULAR EMPHASIS ON CONSERVATION AND SUSTAINABLE USE OF BIODIVERSITY”**

1. On 16 December 2017, the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions held an in-depth dialogue on the contribution of traditional knowledge, innovations and practices of indigenous peoples and local communities to the implementation of the 2030 Agenda for Sustainable Development with a particular emphasis on conservation and sustainable use of biodiversity. This in-depth dialogue was mandated by the Conference of the Parties in decision X/43, paragraph 12, as a new agenda item at future meetings of the Working Group and the current topic set by decision XIII/19 A. The dialogue began with presentations by four panellists: Ms. Yoko Watanabe, Global Manager, Global Environment Facility (GEF) Small Grants Programme, presenting on the contribution of Traditional Knowledge to the Sustainable Development Goals; Ms. Mrinalini Rai, from Chiang Mai University, Thailand, presenting on gender in development and biodiversity; Ms. Gloria Marina Apén Gonzalez, Director, Unidad de Pueblos Indígenas y Comunidades Locales, Consejo Nacional de Áreas Protegidas, Guatemala, presenting on ideas for boosting the contribution of indigenous peoples and local communities to national development and achievement of the Sustainable Development Goals; and Mr. Zsolt Molnár, from the Centre for Ecological Research, Hungary, presenting on traditional knowledge for better conservation of global biodiversity. After the presentations, various questions were taken from delegates and other participants.

**Panel presentations**

2. Ms. Yoko Watanabe, Global Manager, GEF Small Grants Programme (SGP), presenting on the contribution of Traditional Knowledge to the Sustainable Development Goals, noted that planetary boundaries were being reached and that business-as-usual scenarios could no longer be tolerated if the Sustainable Development Goals were to be achieved. While all 17 Goals were important, those relating to conservation and the protection of the environment, for which traditional knowledge was significant, were the basis for all the others. SGP provided local solutions and supported community-based initiatives. It had provided a total of 21,600 grants, or approximately \$1 billion — with a focus on biodiversity, climate change mitigation and adaptation, and land degradation — to civil-society organizations and community-based organizations and had worked in 125 countries, of which 37 were small island developing States and 40 were least developed countries. SGP had been supporting the traditional knowledge of indigenous peoples and local communities and the customary use of biodiversity since 1992, with over 15 per cent of its portfolio devoted to indigenous peoples, supporting over 650 projects on traditional knowledge in 110 countries through country-level projects, support for local community conserved territories and areas, fellowships for indigenous peoples and South-South cooperation.

3. As examples of the type of projects supported, Ms. Watanabe reported on projects from Indonesia (Awig Awig, a system of traditional rules, was used by the Teluk Jor community in East Lombok as a customary system to govern the sustainable use of coastal and marine fisheries by the community) and the Western Atlas mountains of Morocco (Agdal, a traditional practice that regulated access to grazing lands, had been used in Oukaïmeden, and had contributed to biodiversity conservation and pasture management).

4. The presentation emphasized how the integration of traditional knowledge, by the engagement of youth and elders in the planning and implementation of the Sustainable Development Goals, and conservation and the systematic documentation of traditional knowledge based on free, prior and informed consent could strengthen the use of traditional knowledge in achieving the Sustainable Development Goals.

5. Ms. Mrinalini Rai, from Chiang Mai University, Thailand, presenting on gender in development and biodiversity, and began by noting that, while Sustainable Development Goal 5 was specifically about achieving gender equality and empowering women and girls, it was a cross-cutting issue applicable to all

the Goals. A number of targets, notably 1.4, 2.3 and 5a, made specific reference to women, while others referred to broader issues, such as women's participation in decision-making and the need for sound policies and legislation to promote gender equality. Of particular interest for biodiversity, indicator 15.9.1 under target 15.9 of Goal 15, measured progress towards national targets established in accordance with Aichi Biodiversity Target 2, which called for the integration of biodiversity values into national and local development and poverty reduction strategies and planning processes no later than 2020.

6. In that context, Ms. Rai gave four examples of how women in Nepal were involved in the preservation and transmission of traditional knowledge and cultural practices. Those examples, she said, indicated that transformative change with respect to gender would be achieved through four pillars: (a) gender-integrative and focused research; (b) gender-positive organizational change; (c) capacity strengthening and women's leadership; and (d) impact through gender-inclusive policies and partnerships of capacity strengthening and women's leadership. Gender transformative change went beyond identifying and exploring the symptoms of gender equality to address the socially constructed norms, attitudes, and relations of power that underlay them. It was committed to rigorous gender analysis, organizational change, capacity and institutional strengthening, and ensuring a gender-positive impact through the meaningful participation of women and men in leadership, policy and decision-making processes and institutions. She closed her presentation by suggesting a way forward that included disaggregation of data on indigenous peoples and local communities, strengthening of synergies between gender policies and forest policies, better integration of the contributions of women in both Sustainable Development Goal reporting and national reports under the Convention, and the recognition of women as stewards of biodiversity conservation.

7. Ms. Gloria Marina Apén Gonzalez, Director, Unidad de Pueblos Indígenas y Comunidades Locales, Consejo Nacional de Áreas Protegidas, Guatemala, explained that the goal of her presentation was to generate ideas on how to boost the contribution of indigenous peoples and local communities to national development and achievement of the Sustainable Development Goals. Guatemala, in Central America, was home to many indigenous peoples who were the guardians of a dynamic culture and the wealth of biodiversity to be found in the country. There were more than 370 million indigenous people in over 90 countries around the world who could contribute to biodiversity management on the basis of their experience. In terms of measures that could be taken to manage and strengthen the use of traditional knowledge for biological diversity, she proposed the adoption of legal and political frameworks allowing for the full and effective participation of indigenous peoples and local communities in decision-making related to protected areas and biodiversity management, as well as free, prior and informed consent; she also proposed allowing indigenous peoples and local communities to set their own development priorities and participate in the formulation, implementation and assessment of national and regional development plans. Turning to the question of how science and traditional knowledge could be combined to reap the benefits of both when dealing with global issues, such as biodiversity loss, climate change and unsustainable development, she suggested that the two systems of knowledge could complement each other. The key was to acknowledge the equal merit of both systems and seek a linkage between them to define models for ensuring biodiversity sustainable use and conservation. Ms. Gonzalez illustrated her ideas with an example from Guatemala, and then closed by underscoring that indigenous peoples and local communities were aware of the existing threats and the loss of biodiversity and should be considered strategic allies for achieving the Sustainable Development Goals. Their models of biodiversity management and governance merited recognition.

8. Mr. Zsolt Molnár of the Centre for Ecological Research, Hungary, presenting on traditional knowledge for better conservation of global biodiversity, said that scientists and holders of traditional knowledge could work together for knowledge co-production. Biocultural landscapes had long been shaped by people but they were facing the challenge of global change and a change in the way people learned. Traditional knowledge was a hybrid of the old and the new ways of knowing as people adapted to change, as demonstrated by *The Art and Science of Shepherding: Tapping the Wisdom of French*

*Herders*,<sup>78</sup> which recorded not only the wisdom of traditional practitioners but also the experiences of those who had left urban life to take up shepherding.

9. A sheep's bell could be a work of art, a product of science or just an example of wisdom; what was clear was that herds did better if the sheep had bells. Order was an important concept for traditional land management; when land was abandoned, it was seen as disordered. Ordered meadows were among the most biologically diverse of grasslands and were highly valued by ecologists and conservationists, who did not always appreciate the role of people in shaping and maintaining that landscape; conservationists were shocked by the burning of trees to clear land, but that practice was important both for the grass quality and the debris harvested with the hay as it contained viable seeds, in one case yielding as much as 12,000 seeds per litre from over 50 species.

10. Treating fields with the debris enriched them, something that ecologists themselves reinvented in the 1980s through the restoration of grasslands with seed mixtures. Diversity could be promoted by creating multi-habitat landscapes and by purposefully developing new semi-natural ecosystems. Diverse ecosystems could be developed with new combinations of wild and domestic species and the ecological resilience of ecosystems enhanced through traditional practices. The process was locally based, regionally manifested and globally relevant.

#### *Discussion section*

11. During the ensuing discussion, representatives asked the panellists a number of questions and made several statements.

12. In response to a query about microfinancing at the country level and capacity-building, Ms. Watanabe said that SGP accepted video proposals from indigenous peoples and provided support to help them draft their project proposals for submission. With respect to access and benefit sharing, she said that the Nagoya Protocol was still relatively new for SGP but that SGP would work to address it.

13. With respect to the dialogue between science and traditional knowledge, Mr. Molnár said the largest issue was the need to develop trust between the two systems. The first step was to work locally to build a common understanding with local partners so that each could understand what the other was doing. He said that there was a problem of the burden of proof for each side. Neither system could be validated in terms of the other, although they could share evidence. Traditional knowledge had evolved over a very long time and would continue to evolve as it was dynamic. The problem was that changes were now so rapid that it was not possible to adapt to them; but science found itself in a similar situation: it had to adapt to change, but that change was coming too rapidly. There was a need for both systems to work together to co-produce knowledge so that better solutions could be developed, solutions that did not necessarily represent the truth but simply provided the most reasonable solution of the moment. It was known that biodiversity was important for human well-being, and the survival of other animals and plants, but what was not known was how much biodiversity had to be saved.

14. A representative of the Sami people and member of the Finnish delegation spoke about the negative impact of climate change on reindeer herding and other Sami traditional practices. Noting that natural resource-based economic activities would increase climate change, he said that it was essential for Sami traditional knowledge to be used for climate change mitigation and adaptation policies. The Akwé: Kon guidelines had proven to be a good tool for both indigenous peoples and the State in planning the use of natural resources on land and water, and their use should be extended to transboundary work in areas inhabited by indigenous peoples. The Sami Parliament and Metsähallitus, the State-owned enterprise that managed Finnish State-owned land and water resources, had used the guidelines cooperatively since 2011 with good results, and both parties were now trying to expand their use. There was also an Article 8(j) national working group in Finland chaired by the Sami Parliament, with members from all relevant ministries and authorities. He argued for support for the Sami language, which carried traditional knowledge about nature, as well as for traditional livelihoods and relationships with areas used by the Sami's ancestors. Tourism was both an opportunity and a threat: with Sami culture being used as an

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<sup>78</sup> Michel Meuret and Fred Provenza (Eds.), Acres U.S.A., Incorporated, 2014.

attraction, ethical guidelines were needed for socially, culturally and ecologically sustainable tourism to define which cultural aspects, such as Sami handicraft, were the property of the Sami community.

15. A representative of Bolivia shared that, in its national legislation, the law on Mother Earth and Integral Development, Bolivia acknowledged biodiversity not only for conservation but also for its contribution to production and to climate change adaptation and mitigation. Bolivia had, in that sense, moved away from a “conservationist” perspective to a more “integrated and sustainable management of life systems” perspective whereby it recognized that human and non-human systems had co-evolved and would continue to do so. In that co-evolution, indigenous knowledge and the dialogue between different types of wisdoms and knowledge systems were very important. The speaker emphasized that Bolivia believed in and aimed to work through sustainable biodiverse systems in order to meet objectives under both the Convention on Biological Diversity and the Sustainable Development Goals.

16. A representative speaking on behalf of International Indigenous Forum for Biodiversity expressed appreciation for the choice of topic and the recognition of the significance of traditional knowledge for the realization of 2030 Agenda for Sustainable Development and the Sustainable Development Goals. He proposed a number of actions to strengthen the use of traditional knowledge in biodiversity conservation and sustainable use, including: (a) using science, technology and innovation forums as a space for sharing experiences regarding the role of traditional knowledge and the innovations and practices of indigenous peoples and local communities; (b) linking work on Article 8(j) and the future proposed body with the High-level Political Forum as an interactive space for sharing experiences on the implementation of the Sustainable Development Goals; (c) encouraging the domestication of protocols related to the protection of traditional knowledge in order to provide a conducive national environment for mainstreaming such knowledge in national planning processes; and (d) sharing knowledge and fostering cooperation between scientific bodies and holders of traditional knowledge in aspects related to biodiversity conservation and customary sustainable use, including in forums supporting the implementation of the Sustainable Development Goals.

17. Responding to a question regarding which steps were key to breaking down barriers and building trust between indigenous peoples and state governments, Ms. Gonzalez said that small steps should be taken to build trust gradually. In Guatemala, the goal had been to foster a consensus-based process and raise the government’s awareness of indigenous peoples’ rights and objectives. Consequently, indigenous peoples had needed to be very clear about their objectives for biodiversity. Another key aspect was to have territorial leaders speak on their own behalf rather than through a non-indigenous representative, which was the best way to communicate demands and demonstrate that those demands were in line with national biodiversity goals.

18. A representative of the Sami people from the Swedish part of Sápmi, the Sami land, spoke about how traditional knowledge, science and modern technology had been integrated in the practice of reindeer herding. Faced with the dual threat of industrial development and climate change, Sami communities had developed a reindeer husbandry plan as part of their efforts to revitalize lost traditional knowledge and the Sami language, ensure participation in decision-making, and document, communicate and strengthen traditional knowledge, including cultural expressions. After developing the content of their reindeer husbandry plan and deciding what knowledge to share with external actors, the communities used a technological mapping tool based on geographical information systems to document physical, biological and intangible cultural heritage and correlate it with geographical locations. The traditional knowledge was then combined with satellite pictures, maps and descriptions of other land uses and public data on biodiversity related to ecosystem services and biological cultural heritage.

19. The in-depth dialogue was a reminder of the important contribution of the traditional and customary knowledge, innovations and practices of indigenous peoples and local communities to the conservation of biodiversity and of the many opportunities and benefits to be reaped from enhanced collaboration between those knowledge systems and conventional science. It was reiterated that trust needed to be built among scientists and indigenous peoples and local communities that often did not understand one another and rarely had opportunities to interact and collaborate.

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