

Agenda item 14
Implementation of Article 8(j) and related provisions
Working Group I

Development of a new programme of work and institutional arrangements on Article 8(j) and other provisions of the Convention related to indigenous peoples and local communities

Non-paper

[A. Programme of work on Article 8(j) and other provisions of the Convention on Biological Diversity related to indigenous peoples and local communities to 2030

The Conference of the Parties,

Recalling its decision V/16 of 26 May 2000, by which it endorsed the programme of work on the implementation of Article 8(j) and related provisions of the Convention on Biological Diversity¹ annexed to that decision, and decision X/43 of 29 October 2010, by which it revised said programme of work for the period 2010–2020,

Recognizing the need for a more holistic, forward-looking and integrated programme of work that is aligned with and supports the implementation of the Kunming-Montreal Global Biodiversity Framework,²

Recognizing also and respecting the scope and the mandate of the Convention on Biological Diversity,

Building on the composite report on the status and trends regarding traditional knowledge, innovations and practices of indigenous peoples and local communities, as well as the guidelines³ and other tools already developed by the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity and adopted by the Conference of the Parties,

Emphasizing the need for the effective implementation of the guidelines and other tools related to Article 8(j) and other provisions of the Convention adopted by the Conference of the Parties at the national level to support the implementation of the relevant goals and targets of the Framework,

Noting that a number of tasks of the programme of work on Article 8(j) and related provisions as adopted by decision V/16 are ongoing for Parties,

1. [Decides to adopt a programme of work on Article 8(j) and other provisions of the Convention on Biological Diversity related to indigenous peoples and local communities to 2030, as contained in the annex to the present decision prioritizing those tasks that contribute directly to the timely, full and effective implementation of the Kunming-Montreal Global Biodiversity Framework;]

2. *Requests* Parties and invites other Governments to report on progress on the implementation of the programme of work on Article 8(j) and other provisions related to indigenous peoples and local communities, including the application of existing and relevant guidelines and standards in their national reports.;

* The draft decision in section A and paragraphs 1 (b), 2 to 6 and 15 to 17 in the annex to section B were neither considered nor discussed during the contact group sessions.

¹ United Nations, *Treaty Series*, vol. 1760, No. 30619.

² Decision 15/4, annex.

³ For the purpose of the present decision, ‘guidelines’ refer to voluntary guidelines

3. *Reiterates* its invitation to Parties in paragraph 7 of decision X/40 B of 29 October 2010 to consider designating national focal points for Article 8(j) and related provisions to facilitate communications with indigenous peoples and local communities and to promote the effective implementation of the programme of work on Article 8(j) and other provisions;

4. *Encourages* Parties to engage with indigenous peoples and local communities [, including women and girls, children and youth, persons with disabilities and environmental human rights defenders] as on-the-ground partners in the implementation of the Convention, including by recognizing, supporting and valuing their collective actions and respecting their indigenous and traditional territories and their efforts in applying, preserving and maintaining their traditional knowledge, innovation and practices in relation to promoting the conservation and sustainable use of biodiversity;

5. *Urges* Parties to enable the full and effective participation of indigenous peoples and local communities, [including women and girls, children and youth, persons with disabilities and environmental human rights defenders] in the preparation of national reports and in the development, revision, update and implementation of national biodiversity strategies and action plans.;

6. *Invites* Parties to increase the funding provided to the voluntary funding mechanism to support the effective participation of indigenous peoples and local communities in processes of relevance to the Convention and its Protocols;

7. *Requests* all Parties and stakeholders and invites other governments to continue efforts to mobilize financial resources from all sources and provide non-financial resources for indigenous peoples and local communities in order to enhance collective actions to implement national biodiversity strategies and action plans;

7 bis. *Also requests* the Executive Secretary, subject to the availability of resources to establish and support a global network of national focal points on Article 8(j) and related provisions to support the implementation of the Convention and its Protocols at the national and international levels;

[8. In consultation with the Inter-agency Support Group on Indigenous Issues including the office of the United Nations High Commission on Human Rights and the United Nations mandate holders, working on the rights of indigenous peoples, and further to decision CBD/COP/15/21, facilitate an analysis on the status of the rights of indigenous peoples and the rights of local communities in relation to the implementation of the Convention, and report to an upcoming meeting of the Conference of the Parties.]

Annex

Draft programme of work on Article 8(j) and other provisions of the Convention on Biological Diversity related to indigenous peoples and local communities to 2030

I. Objective

1. The objective of the present programme of work is to promote, in line with the mandate and within the framework of the Convention on Biological Diversity, the implementation of Article 8(j) and other provisions of the Convention related to indigenous peoples and local communities, as well as the Kunming-Montreal Global Biodiversity Framework, at the local, national, subregional, regional and international levels and to ensure the full and effective participation of indigenous peoples and local communities at all stages and levels of its implementation, thereby ensuring an ongoing recognition of the close association that indigenous peoples and local communities have with biological diversity and the Convention and its Protocols.

II. General principles

2. The full, equitable, inclusive, effective and gender-responsive participation of indigenous peoples and local communities, in particular women, girls and youth from indigenous peoples and local communities, should be ensured, from the local to the global level, at all stages of the identification, implementation and monitoring of the elements of the programme of work. Partnerships with indigenous peoples and local communities should be ethical, equitable and based on mutual respect and good faith.
3. [The present programme of work is aimed at addressing the specific challenges faced by developing countries and the need to ensure the appropriate and regionally balanced representation of indigenous peoples and local communities, in particular those from developing countries, in the work of the Convention.]
4. The traditional knowledge, innovations, practices and technologies of indigenous peoples and local communities should be valued, considered essential and given the same respect and consideration as other forms of knowledge. Genuine collaborations and the co-production of knowledge in ways that respect the knowledge-generation processes and the integrity of each knowledge system should be promoted. The inclusion of knowledge from diverse systems and practices should be mainstreamed into the development and implementation of policies on biodiversity conservation, sustainable use and benefit-sharing.
5. A holistic approach consistent with the spiritual and cultural values and customary practices of indigenous peoples and local communities should be adopted, recognizing all of their relations, including to their territories, lands and resources, as well as their rights, in accordance with relevant national legislation and international instruments, to have control over their traditional knowledge, innovations, practices and technologies.
6. The ecosystem approach is a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable manner.
7. The traditional knowledge, innovations, practices and technologies of indigenous peoples and local communities should only be accessed with their free, prior and informed consent⁴, in accordance with national legislation and relevant international obligations. Indigenous peoples and local communities should receive the fair and equitable sharing of benefits from the use of the traditional knowledge associated with genetic resources that they hold.
8. The implementation of the programme of work should follow a gender-responsive approach, the Gender Plan of Action⁵ and a human rights-based approach respecting, protecting, promoting and fulfilling human rights. The Framework contains an acknowledgment of the human right to a clean, healthy and sustainable environment and a commitment to ensuring access to justice and information and the full protection of environmental human rights defenders. Nothing in the present programme of work may be construed as diminishing or extinguishing the rights that indigenous peoples currently have or may acquire in future, as also stated in the United Nations Declaration on the Rights of Indigenous Peoples.⁶

⁴ All references to “free, prior and informed consent” refer to the tripartite terminology of “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”.

⁵ Decision 15/11, annex.

⁶ General Assembly resolution 61/295, annex.

III. Elements

[Decides to implement the programme of work on Article 8(j) and other provisions of the Convention on Biological Diversity related to indigenous peoples and local communities giving priority to tasks #, #, #, subject to availability of resources.

The programme of work on Article 8(j) and other provisions of the Convention on Biological Diversity related to indigenous peoples and local communities is intended to have a timely and step wise implementation, with some tasks to be selected for implementation as priority as indicated with an asterisk. The programme of work on Article 8(j) and other provisions of the Convention on Biological Diversity related to indigenous peoples and local communities will be reviewed, revised and updated after 2030 to align with any post-2030 framework under the Convention.

The issues set out herein including matters to be addressed according to the reprioritization of tasks within elements in decision 15/10, which are indicated with an asterisk (*). The [Secretariat] [SB8J] will [further consider the progress] ensure that matters to be addressed by the indicated actors, as expressly set out in this annex, are given priority in the work of the [Secretariat SB8J], as appropriate. [The [SB8J] may exchange views and information on the progress of any other issues without an asterisk.]]

<i>Tasks</i>	<i>Actors</i>	<i>Level of priority</i>
Element 1. Conservation and restoration		
<i>To promote and support the conservation, protection and restoration of biological diversity led by indigenous peoples and local communities, thereby contributing to the implementation of relevant goals and targets of the Kunming-Montreal Global Biodiversity Framework.</i>		
1.1 Develop guidelines, ⁷ with the full and effective participation ⁸ of indigenous peoples and local communities, to strengthen the legal and policy framework for the implementation of Targets 2 and 3, including on indigenous and traditional territories, to support the protection and restoration practices led by indigenous peoples and local communities.	[SB8j]	High priority
1.2 Identify and promote best practices to secure land tenure and governance by indigenous peoples and local communities and develop guidelines for the inclusion and consideration of traditional lands and of resource use in spatial planning processes and environmental impact assessments, in accordance with national legislation and international obligations.	[SB8j],Parties	High priority
1.3 Promote the rights of indigenous peoples and local communities without formal access to land, including in urban areas, and partner with them in the conservation, protection and restoration of biodiversity and in creating and maintaining blue and green spaces.	Parties	Low priority
1.4 Engage and collaborate with indigenous peoples and local communities to improve the outcomes of	Parties	High priority

⁷ For the purpose of the present programme of work, “guidelines” refer to voluntary guidelines.

⁸ For the purpose of the present programme of work, “participation” should be understood as being full, equitable, inclusive, effective and gender-responsive.

management actions addressing the direct drivers of biodiversity loss ⁹		
Element 2. Sustainable use of biological diversity		
<i>To promote, encourage and ensure the sustainable use of biological diversity, inter alia, to respect and protect the customary sustainable use by indigenous peoples and local communities, thereby contributing to the implementation of Article 10(c) of the Convention, the Plan of Action on Customary Sustainable Use of Biological Diversity¹⁰ and relevant goals and targets of the Kunming-Montreal Global Biodiversity Framework.</i>		
2.1 Incorporate customary sustainable use practices or policies, in accordance with the Plan of Action on Customary Sustainable Use of Biological Diversity and with the full and effective participation and leadership of indigenous peoples and local communities, as appropriate, into national biodiversity strategies and action plans.	Parties	High priority
2.2 Promote and strengthen community-based initiatives developed by indigenous peoples and local communities, including in collaboration with other actors, that support and contribute to the sustainable use of biological diversity and to the respect and protection of the customary sustainable use of biological diversity.	Parties	High priority
2.3 Support initiatives led by indigenous peoples and local communities that address the interlinkages between biodiversity and climate change, based on their traditional knowledge, innovations, technologies and practices of customary sustainable use of biodiversity.	Parties	High priority
2.4 Support the livelihoods of indigenous peoples and local communities through activities that promote the customary sustainable use of biodiversity.	Parties	Low priority
Element 3. Sharing of benefits from the utilization of genetic resources and digital sequence information on genetic resources, as well as traditional knowledge associated with genetic resources		
<i>To promote the fair and equitable sharing of benefits arising from the utilization of genetic resources, traditional knowledge associated with genetic resources and digital sequence information on genetic resources, thereby contributing, inter alia, to the implementation of relevant goals and targets of the Kunming-Montreal Global Biodiversity Framework.</i>		
3.1 Develop a plan of action to support the implementation of the Convention and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity [DSI placeholder] in relation to genetic resources and traditional knowledge associated with the genetic resources held by indigenous peoples and local communities. Such a plan of action should include	[SB8j]	High priority

⁹ As identified by the IPBES Global Assessment on Biodiversity and Ecosystem Services (2019)

¹⁰ Decision XII/12 B, annex.

capacity-building activities and support the development and use of existing biocultural community protocols, knowledge exchange platforms, technical and legal support, dialogue and collaboration between users and providers with the framework of biocultural community protocols, and the implementation of the Mo'otz Kuxtal Voluntary Guidelines and technical and legal assistance, taking into account the Mo'otz Kuxtal Voluntary Guidelines. ¹¹		
3.2 Undertake studies on best practices and lessons learned on experiences of indigenous peoples and local communities on access and benefit-sharing cases [including access to traditional knowledge associated with genetic resources in databanks and databases, as well as those containing digital sequence information] [and experiences of indigenous peoples and local communities].	Secretariat	High priority
Element 4. Knowledge and culture		
<i>To support the transmission and protection of traditional knowledge, including to future generations, and ensure that traditional knowledge and other knowledge systems are valued equally, thereby contributing to the implementation of Article 8(j) of the Convention and relevant goals and targets of the Kunming-Montreal Global Biodiversity Framework.</i>		
4.1 Support efforts by indigenous peoples and local communities to strengthen the intergenerational transmission, use and revitalization, and enhancement of their languages and traditional knowledge, including in formal and informal education settings and in cultural and education centres in particular with respect to the roles and needs of women, girls and youth.	Parties	High priority
4.2 Promote the implementation, strengthening and dissemination of the Joint Programme of Work on the Links between Biological and Cultural Diversity. ¹²	Secretariat	Low priority
4.3 Promote the inclusion of traditional knowledge, innovation and practices in all bodies of the Convention, in particular the Subsidiary Body on Scientific, Technical and Technological Advice, taking into account the work of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.	[SB8j]	High priority
4.4 Undertake capacity-building and development and awareness-raising activities, on the basis of the Long-term Strategic Framework for Capacity-building	Secretariat	Low priority

¹¹ Voluntary guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure the “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, of indigenous peoples and local communities for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge (decision XIII/18, annex).

¹² UNEP/CBD/COP/10/INF/3, annex I. In accordance with decision 15/22, the Joint Programme of Work is led by the Secretariat, the United Nations Educational, Scientific and Cultural Organization, the International Union for Conservation of Nature and other partners.

and Development and the knowledge management component ^{13,14} of the Framework to promote the role of traditional knowledge in guiding the management of biodiversity.		
4.5 Create, strengthen and support a global network of national focal points on Article 8(j) and related provisions to support the implementation of the Convention at national and international levels including the participation of indigenous peoples and local communities.	Secretariat	High priority
4.6 Organize the exchange of knowledge and learning platforms to promote the implementation of the tasks in the programme of work.	Secretariat, Parties, civil society organizations, in collaboration with indigenous peoples and local communities and relevant actors	Low priority
4.7 Promote the co-production of new knowledge by indigenous peoples and local communities, scientists and other stakeholders necessary for the resilience, adaptation and continuation of customary sustainable use and biodiversity conservation practices under rapid environmental change, such as climate change, land- and sea-use change, invasive alien species and pollution.	Secretariat Parties	Low priority
4.8 Develop communication, education and public awareness materials with indigenous peoples and local communities relevant to all elements and tasks of the present programme of work, including the languages of indigenous peoples and local communities.	[SB8j] Parties	Low priority
Element 5. Strengthening implementation and monitoring progress		
<i>To contribute to the implementation of the Kunming-Montreal Global Biodiversity Framework through the full and effective implementation of decisions, principles and guidelines of relevance for indigenous peoples and local communities, and to strengthen the integration of Article 8(j) and other provisions of the Convention in the work undertaken under the Convention and its Protocols.</i>		
5.1 Promote the wider application, implementation and monitoring at the national level of adopted plans of action, guidelines and principles, such as: (a) The Voluntary Glossary of Key Terms and Concepts Within the Context of Article 8(j) and Related Provisions; (b) The Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessments Regarding Developments Proposed to Take Place on, or Which Are Likely to Impact on, Sacred Sites and Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities;	Parties, national focal points on Article 8(j) and related provisions	High priority

¹³ Pending the outcomes of the sixteenth meeting of the Conference of the Parties.

¹⁴ Decision 15/8, annex I.

<p>(c) The Tkarihwaié:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities;</p> <p>(d) The Plan of Action on Customary Sustainable Use of Biological Diversity;</p> <p>(e) The Mo’otz Kuxtal Voluntary Guidelines;</p> <p>(f) The Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge Relevant for the Conservation and Sustainable Use of Biological Diversity;</p> <p>(g) Voluntary guidelines on safeguards in biodiversity financing mechanisms;</p> <p>(h) Gender Plan of Action;</p> <p>(i) Guiding principles on assessing the contribution of collective action by indigenous peoples and local communities.</p>		
<p>5.2 Develop guidelines for the establishment of innovative incentive schemes for indigenous peoples and local communities to preserve and maintain their traditional knowledge, innovations and practices for the application thereof in programmes for the conservation and sustainable use of biological diversity.</p>	[SB8j] Parties and other actors	Low priority
<p>5.3 Further operationalize, with a view to promoting the continuous monitoring of the implementation of the programme of work on Article 8(j) and other provisions, the four traditional knowledge indicators, in line with the Joint Programme of Work on the Links between Biological and Cultural Diversity.</p>	[SB8j] Parties	High priority
<p>[5.4 Review and update, as needed, the Voluntary Glossary of Key Terms and Concepts Within the Context of Article 8(j) and Related Provisions¹⁵ in light of the adoption of the KM-GBF.]</p>	[SB8j]	[High] [Low] priority
<p>[Element 6. Full and effective participation of indigenous peoples and local communities</p>		
<p><i>To enable the full and effective participation of indigenous peoples and local communities, including women, girls and youth from indigenous peoples and local communities, in decision-making related to biodiversity and the implementation of the Kunming-Montreal Global Biodiversity Framework.</i></p>		
<p>6.1 Implement and further develop the enhanced participation mechanisms used by the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions of the Convention</p>	[SB8j]	Low priority
<p>6.2 Ensure the full and effective participation of indigenous peoples and local communities in the development, revision and implementation of national biodiversity strategies and action plans and national reports, and strengthen partnerships and collaboration with indigenous peoples and local communities, recognizing their collective actions and contributions for the implementation of the Convention.</p>	Parties	High priority

¹⁵ Decision 14/13, annex.

<p>[[Consider discussing][Discuss][consider] the recommendations of the United Nations Permanent Forum on Indigenous Issues [and its possible implications for indigenous peoples and local communities] in relation to the implementation of Article 8j and other provisions related to indigenous peoples and local communities, and report on an analysis to COP17 on this matter.]]</p>	<p>[[Secretariat][SB8j]]</p>	<p>Low priority</p>
<p>Element 7. Human rights-based approach</p>		
<p><i>To contribute to the enhancement of the rights of indigenous peoples and local communities for the conservation and sustainable use of biodiversity, in line with a human rights-based approach, in accordance with the Kunming-Montreal Global Biodiversity Framework.</i></p>		
<p>7.1 In collaboration with the relevant United Nations bodies as well as indigenous peoples and local communities, develop guidelines to contribute to the enhancement of the rights of indigenous peoples and local communities for the conservation and sustainable use of biodiversity, in line with a human rights-based approach, consistent with relevant international obligations and instruments.</p>	<p>[SB8j]</p>	<p>High priority</p>
<p>7.1 <i>bis</i> Support and promote, as appropriate, traditional land tenure¹⁶ and securing land tenure for indigenous peoples and local communities for the conservation and sustainable use of biodiversity, in accordance with national legislation.</p>	<p>Parties</p>	<p>High priority</p>
<p>7.2 Develop guidelines on the implementation of Target 22, including on the full protection of environmental human rights defenders, in particular women from all forms of gender based discrimination and violence, in particular, in relation to control ownership, and access to sustainable use and conservation of biodiversity as reflected in the Gender Plan of Action.</p>	<p>[SB8j]Secretariat</p>	<p>High priority</p>
<p>[Element 8. Access, including direct access, to funding for indigenous peoples and local communities for the conservation, restoration and sustainable use of biodiversity]</p>		
<p><i>To promote the implementation of the relevant targets of the Kunming-Montreal Global Biodiversity Framework, in particular by supporting access, including direct access, to funding for indigenous peoples and local communities in the context of national policies, plans, projects, programmes or systems, as appropriate</i></p>		

¹⁶ References to “traditional tenure” include lands and waters.

<p>8.1 Support efforts for the mobilization of financial resources for indigenous peoples and local communities, in line with and including within the scope of the [placeholder revised Strategy for Resource Mobilization.]</p>	<p>[GBFF, Secretariat and donors][GEF] [Parties and Secretariat]</p>	<p>High priority</p>
<p>8.2 Further explore options for the development or improvement of existing policies, mechanisms and other appropriate initiatives and measures to enhance access, including direct access to funding for collective actions on biodiversity conservation and sustainable use by indigenous peoples and local communities.</p>	<p>[SB8j] Parties, GEF, and other relevant organizations</p>	<p>High priority</p>
<p>[8.3 Identify good practices and gaps regarding mechanisms or instruments for the mobilization of resources to enhance finance for collective actions on biodiversity conservation and sustainable use by indigenous peoples and local communities, including actions to be led by women and youth.]]</p>	<p>Secretariat</p>	<p>Low priority</p>

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

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

The Conference of the Parties

Acknowledging the unique role of indigenous peoples and local communities, their innovations, practices and traditional knowledge in the implementation of the Convention, its Protocols, and the Kunming-Montreal Global Biodiversity Framework and the work of the ad hoc Working Group on Article 8(j), and recognizing the need for the full and effective participation of indigenous peoples and local communities through a permanent subsidiary body,

[1. *Decides* to establish a [subsidiary body] on Article 8(j) and other provisions of the Convention on Biological Diversity, the *modus operandi* of which is contained in the annex to the present decision, with a mandate to provide advice to the Conference of the Parties, other subsidiary bodies and, subject to their request, the Conference of the Parties serving as the meetings of the Parties to the Cartagena Protocol on Biosafety¹⁷ and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity,¹⁸ on all matters of relevance to indigenous peoples and local communities that are within the scope of the Convention and its Protocols];

[2. *Takes note* of the note by the Secretariat¹⁹ which states that a change from the current working group to a subsidiary body would have zero or minimal impact on the budget;]

[3. *Invites* SBI and SBSTTA to support the work of [SB8j] by further incorporating and promoting the work of Article 8j and other provisions on matters related to indigenous peoples and local communities while avoiding duplication of work;]

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

[Annex

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

I. Functions

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

The [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention on Biological Diversity related to indigenous peoples and local communities shall carry out its functions taking

¹⁷ United Nations, *Treaty Series*, vol. 2226, No. 30619.

¹⁸ United Nations, *Treaty Series*, vol. 3008, No. 30619.

¹⁹ INF 35

into account the roles and functions of the Subsidiary Body on Scientific, Technical and Technological Advice and the Subsidiary Body on Implementation, with a view to ensuring complementarity with their work and avoiding overlaps. The functions of the [Subsidiary Body] on Article 8(j) and Other Provisions are:

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

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

II. Operating principles

2. In carrying out its functions, the [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention shall align its work with the Convention's strategic plan and/or framework.

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

III. Procedural matters

4. In line with paragraph 5 of rule 26 of the rules of procedure for meetings of the Conference of the Parties, the rules of procedure for meetings of the Conference of the Parties apply, *mutatis mutandis*, to the meetings of the [Subsidiary Body] on Article 8(j) and Other Provisions, with the exception of rule 18.

5. When the [Subsidiary Body] on Article 8(j) and Other Provisions serves a Protocol of the Convention, decisions under the Protocol shall be taken only by the Parties to the Protocol.

6. The [Subsidiary Body] on Article 8(j) and Other Provisions should undertake any tasks that fall within the scope of its programme of work and those that are referred to it by the Conference of the Parties or the Conference of the Parties serving as the meeting of the Parties to the respective Protocol and should report on its work to those bodies.

IV. Bureau and co-chairs

7. The Bureau of the Conference of the Parties will serve as the Bureau of the [Subsidiary Body] on Article 8(j).

8. The [Subsidiary Body] will have two co-chairs elected by the Conference of the Parties, one nominated by Parties of the regional group that exercises its turn, in a rotation among United Nations regional groups,²⁰ and the other nominated by representatives of indigenous peoples and local

²⁰ Following the practice of rotation in the chairing of the Subsidiary Body on Scientific, Technical and Technological Advice and the Subsidiary Body on Implementation, and with a view to avoiding that, at any one time, a regional group provides the chairs of more than one subsidiary body, the order of the regions from which the Chair of the Subsidiary Body on Article 8(j) and Other

communities. At least one of the co-chairs will be selected from a developing country, taking into account gender balance. The co-chairs shall take office from the end of the meeting of the Conference of the Parties at which they have been elected and remain in office until their successors take office at the end of the following ordinary meeting of the Conference of the Parties. The number and length of the meetings and activities of the Subsidiary Body and its organs should be reflected in the budget adopted by the Conference of the Parties or other sources of extra budgetary funding.

9. Candidates for the co-chairing of the [Subsidiary Body] should have experience in the processes of the Convention and competence in matters related to indigenous peoples and local communities in the context of the Convention. The regional groups, when identifying a candidate, should take into account the availability of time that the candidates have for the work of the [Subsidiary Body] on Article 8(j) and Other Provisions of the Convention on Biological Diversity related to indigenous peoples and local communities. In the event that the co-chair nominated by Parties and elected by the Conference of the Parties is from a country that is not a Party to one or both Protocols, a substitute would be assigned from among members of the Bureau representing a Party to the Protocol to chair items related to one or the other Protocol. The co-chairs of the [Subsidiary Body] will be ex officio members of the Bureau of the Conference of the Parties. The President of the Conference of the Parties will invite the co-chairs of the [Subsidiary Body] to the sessions of the Bureau on matters related to the [Subsidiary Body].

10. Further to the established and effective practice of the Ad Hoc Working Group on Article 8(j) and Related Provisions of the Convention, the Bureau of the Conference of the Parties serving as the Bureau of the [Subsidiary Body] will continue to invite representatives of indigenous peoples and local communities to designate at the beginning of each meeting of the [Subsidiary Body] one representative each from the seven sociocultural regions identified by the Permanent Forum on Indigenous Issues to participate in the work of the [Subsidiary Body], as friends of the Bureau.

V. Budgetary matters

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

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

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

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

VI. Focal points

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

VII. Documentation

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

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

]

Note: new proposed draft decision

[The role of [communities and] people of African descent in the implementation of the Convention

The Conference of the Parties,

[Recognizing the crucial role that the efforts, and actions, and [territories] of [communities and] people of African descent²¹, embodying traditional lifestyles, play in conserving biodiversity and implementing the Convention [in some countries,] [with positive global repercussions,] and [highlighting the need for inclusive and transparent implementation of Article 8(j) and related provisions,] ensuring their [that all relevant groups, including these communities and people], active contribution to National Biodiversity Strategies and Action Plans, as appropriate,]

1. [Urges][Invites] Parties, [as appropriate], in line with national circumstances and national legislation, to [recognize the contributions of] [communities and] people of African descent [embodying traditional lifestyle from local communities], [their traditional knowledge and their territories] in the implementation of the Kunming-Montreal Global Biodiversity Framework [while ensuring that nothing in such recognition may be construed as diminishing or extinguishing the rights that indigenous peoples currently have or may acquire in the future];

2. Encourages Parties, [as appropriate] in line with national circumstances and [national] legislation, to facilitate the full and effective participation of [communities and] people of African descent [from local communities] in implementing the [Convention and the Kunming-Montreal

²¹ [References to communities and people of African descent within this decision [references to communities and people of African descent] is taken to mean those [collectives] embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, and is not intended to modify the text of the Convention or other relevant instruments.]

Global Biodiversity Framework] [programme of work on Article 8(j)] and to collaborate with [them] [these communities and people][of African descent] to protect and promote their [traditional food systems and][bio] cultural [diversity][heritage], that support sustainable [cultural] practices and are relevant for biodiversity conservation;

[3. *Invites*] Parties, other governments and other relevant organizations on a voluntary basis, to consider providing financial support and [enhancing] capacity building to protect their traditional knowledge and practices;]

[4. *Requests* the Executive Secretary to compile relevant information and experiences submitted by Parties on the contributions of [communities and] people of African descent [from local communities] to the Convention for [consideration] [information to Parties] at the first meeting of [the Subsidiary Body on Article 8(j) and other provisions,] [with a view of recognizing and integrating these contributions in the implementation of the Convention].

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