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

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## INTRODUCTION

### *A. Background*

1. The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity was established by decision IV/9 of the Conference of the Parties to the Convention on Biological Diversity. It held its first meeting in Seville, Spain, from 27 to 31 March 2000. In paragraph 9 of decision V/16, the Conference of the Parties adopted the work programme on Article 8(j) and related provisions and extended the mandate of the Working Group to review progress in the implementation of the priority tasks of the programme of work and requested it to report to the Conference of the Parties. The second and third meetings of the Working Group on Article 8(j) took place in Montreal from 4 to 8 February 2002, and from 8 to 12 December 2003, respectively.

2. At its seventh meeting, the Conference of the Parties decided, in decision VII/16 A, that one meeting of the Working Group should be organized prior to the eighth meeting of the Conference of the Parties in order to ensure further advancement of the implementation of the Work Programme on Article 8(j) and Related Provisions. Accordingly, the fourth meeting of the Working Group on Article 8(j) was held from 23 to 27 January 2006, in Granada, Spain, at the kind invitation of the Government of the Kingdom of Spain, back-to-back with the fourth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing.

### *B. Attendance*

3. The meeting was attended by representatives of the following Parties to the Convention and other Governments: Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Ethiopia, European Community, Finland, France, Gabon, Germany, Ghana, Grenada, Guatemala, Guinea-Bissau, Haiti, India, Indonesia, Ireland, Jamaica, Japan, Kenya, Kiribati, Lao People's Democratic Republic, Lebanon, Liberia, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Mongolia, Morocco, Mozambique, Netherlands, New Zealand, Nicaragua, Niger, Niue, Norway, Pakistan, Palau, Panama, Philippines, Portugal, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Senegal, Seychelles, Spain, Sweden, Switzerland, Thailand, Togo, Tunisia, Tuvalu, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yemen, Zambia, Zimbabwe.

4. The following indigenous and local community organizations were also represented: African Indigenous Women Organisation, Aliansi Masyarakat Adat Nusantara, ALMACIGA, Amerindian People's Association, Andes Chinchasuyo, Asamblea Nacional Indígena Plural por la Autonomía-Umbral Axochiatl, Asia Indigenous Peoples Pact, Asociación Civil Defensa de los Derechos Aborígenes (Formosa), Asociación Ixacavaa De Desarrollo e Información Indígena, Assembly of First Nations, Association of Indigenous Peoples of the North of Republic of Buryatia, Association-Tara, Australian Institute of Aboriginal and Torres Strait Islander Studies, Baikal Buryat Center for Indigenous Cultures, Black Community Process, Brazilian Indigenous Institute for Intellectual Property, Call of the Earth Llamado de la Tierra, Canadian Indigenous Biodiversity Network, Caribbean Antilles Indigenous Peoples Caucus & the Diaspora, Centre for Indigenous Farming Systems, Centro de Estudios Multidisciplinarios Aymara, Chibememe Earth Healing Association, Comité Intertribal, Comunidad Indígena Ocumazo, Comunidad Sarayaku de Sucumbios, Confederación Indígena Tayrona, Consejo Autonomo Aymara, Consejo de Todas las Tierras, Consejo Mexicano para el Desarrollo Sustentable, A.C., Consejo Organizaciones Mayas de Guatemala, Cooperativa Ecologica das Mulheres Extrativistas do Marajo, Coord. Mapuche de Neuquen, Fundación de Médicos Tradicionales Zio-ai, Fundación Dobbo-Yala y Congreso de la Cultura Kuna, Fundación para la Promoción del Conocimiento Indígena, INBRAPI, Indigenous Information Network, Indigenous Peoples Biodiversity Information Network (IBIN), Indigenous Peoples Council on Biocolonialism, Indigenous Women's Biodiversity Network, Instituto Indígena Brasileiro para Propriedade Intelectual, Inter Mountain Peoples Education and Culture in

Thailand Association, International Indian Teatry Council, Ligue Nationale des Associations Autochtones Pygmes Du Congo (LINAPYCO), Na Koa Ikaika o Ka Lahui Hawai'i, Naga Peoples' Movement for Human Rights, Namanga Environmental Group, National Cultural Commission, Native Law Centre of Canada, Organización de Mujeres Indígenas, Pacific Indigenous Peoples Environment Coalition, Parakuiyo Community, Partners of Community Organizations, Peace and Endogenous Development Organisation, Pegsalabuhan Subanen sa Lakewood Association (Mesaligan), Quechua-Aymara Association for Sustainable Livelihoods, Red de Mujeres, Regional Network Indigenous Peoples in Southeast Asia, Rigoberta Menchu Foundation, Russian Association of Indigenous Peoples of the North, Tebtebba Foundation, Tekwip, Women's Organization-Uganda, Tinhinan, Tulalip Tribes of Washington, United Indigenous Nations of Mindanao, United Organization of Batwa Development in Uganda, Universidad de las Regiones Autonomas de la Costa Caribe Nicaragua.

5. Representatives from the following United Nations bodies, Secretariat units and specialized agencies also attended: Food and Agriculture Organization of the United Nations (FAO), Global Environment Facility (GEF), United Nations Permanent Forum on Indigenous Issues (UNPFII), United Nations Conference on Trade and Development (UNCTAD), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Institute for Training and Research (UNITAR), United Nations University (UNU), World Bank, World Intellectual Property Organization (WIPO).

6. The following other organizations were also represented: Agricultor, Arctic Center, University of Lapland, Asociacion Napguana, Centre for Economic and Social Aspects of Genomics, COP/MOP Local Committee, CropLife International, Dupont Company, Ecohealth Consulting, Federation of German Scientists, Institut du Développement Durable et des Relations Internationales, International Chamber of Commerce, International Seed Federation, Universidad de Sevilla, Universidade Federal de Santa Caterina, Universitat de Girona, University of Deusto, University of Kassel, University of Paris, University of Rome - La Sapienza, University Veba Oil Operation.

## **ITEM 1. OPENING OF THE MEETING**

7. The meeting was opened at 10.40 a.m. on Monday, 23 January 2006, by Mr. Mohamad Bin Osman (Malaysia), representing the President of the Conference of the Parties.

8. Opening statements were made by Mr. José Torr  s, Mayor of Granada, Mr. Ahmed Djoghla  f, Executive Secretary of the Convention on Biological Diversity, Ms. Fuensanta Coves, Counsellor for the Environment for Andalucia, Ms. Leire Paj  n, Secretary of State for International Cooperation, and Ms. Cristina Narbona Ruiz, Minister of the Environment of Spain.

9. Mr. Jos   Torr  s welcomed the participants to Granada, which, he said, was a historic meeting-place of peoples of different cultures and religions, who had lived peaceably together for centuries. He urged participants to enjoy the city's monuments and facilities.

10. Mr. Djoghla  f said that the past half century had seen greater degradation of the environment and greater loss of biodiversity than ever before in human history, such that the capacity of ecosystems to meet the needs of present and future generations was seriously compromised. The only way to meet the commitment to reduce the rate of biodiversity loss substantially by 2010 was for all citizens of the world to join forces to stop the loss of biodiversity. To that end, indigenous and local communities had much to offer, in view of their age-old relationship with nature. The origin of the three objectives of the Convention on Biological Diversity – environmental conservation, sustainable use of biodiversity and the sharing of nature's benefits – lay with ancient cultures and traditional societies.

11. He recalled that the first meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions had also been held in Spain, in Seville. He paid tribute to the active engagement of Ms. Cristina Narbona Ruiz, Minister of the Environment of Spain, in moving forward the objectives of the Convention. Spain had provided particular support for the promotion of activities aimed at preserving and maintaining the knowledge, innovations and practices of indigenous and local communities relevant to the three objectives of the Convention. He also thanked the Governments of Ireland, the Netherlands, Sweden and Switzerland, as well as the European Commission and the

Christensen Fund, for financial their support, which had made possible the attendance at the meeting of representatives of developing countries and of indigenous and local communities.

12. Since its first meeting in Seville in 2000, the Working Group had made great progress. The Convention was entering a new phase, in which the work achieved so far would be translated into reality. He hoped that the present meeting would be remembered as the birthplace of enhanced implementation of the Convention for the preservation and maintenance of the knowledge, innovations and practices of indigenous and local communities. As the meeting room was named on behalf of Federico García Lorca, he recalled the work of that great Granada-born poet, who had described the Earth as a lost Paradise. It was up to the meeting and, through its deliberations, the citizens of the planet to help the Earth recover its initial destiny and become Paradise again for all human beings.

13. Ms. Fuensanta Coves said that Granada was situated close to a region with huge biodiversity, the Sierra Nevada. The regional Government of Andalucía had recently adopted legislation to ensure that all benefits of research related to biodiversity conformed to the provisions of the Convention on Biological Diversity. An extension of that law was being drafted, which would cover property rights to natural resources. An ethnobotanical catalogue of medicinal and food plants had been drawn up, with restrictions on the collection of endangered species. In a project to ensure the sustainable use of mountain natural resources, the local population were to be the custodians and beneficiaries; a further project aimed to preserve wetlands biodiversity. The Andalucía region was facing threats from invasive species and had drawn up plans for their eradication. She looked forward to the outcome of the meeting, which would be very useful for the region. She emphasized that the benefits deriving from use of natural resources should serve to improve the lives of those to whom they belonged, thus meeting the goals of social justice and solidarity.

14. Ms. Leire Pajín, Secretary of State for International Cooperation, congratulated the International Indigenous Forum on Biodiversity for its work in ensuring that the priorities in reducing biodiversity loss were addressed. Spain had formulated a participative model for cooperation between the Government and indigenous groups, which was recognized as a reference for cooperative multilateralism by international organizations. Government policies for the period 2005-2008 included supporting full and effective participation of indigenous groups at local, national, regional and international levels, supporting the participation of native women as the holders of traditional knowledge and inclusion of the environmental aspects of traditional knowledge. She recalled that a group of technical experts on traditional knowledge and the clearing-house mechanism had met in Santa Cruz, Bolivia, in February 2003, where they had agreed that the clearing-house mechanism should make information on traditional knowledge available to all indigenous peoples in their own languages and that the policy of prior informed consent should be adhered to in all development and other projects.

15. She said that the main aim of the Spanish Government strategy was the eradication of poverty. The Millennium Development Goals could be met only if all aspects of human life were taken into consideration, including cultural ones. In all development activities, social cohesion must be an element of the dialogue and cultural diversity must be respected. Only in that way could the world be made more inclusive, fairer and environmentally aware. Spain would continue to support implementation of the Convention in every way it could.

16. Ms. Cristina Narbona Ruiz, Minister of the Environment of Spain, praising the work done under the Convention in recent years and promising that her Government would continue to cooperate wholeheartedly, said that the time had come to move to binding commitments. Indeed, that should be the central feature of the eighth Conference of the Parties, to be held in Curitiba, Brazil, in March 2006.

17. Spain, which possessed an astonishing wealth of biological diversity, fully understood and expressed its gratitude to those who represented some of the most valuable areas on the planet and had protected their biological diversity for the benefit of all. Biological diversity meant fighting poverty and respecting human rights. There could be no biological diversity without respecting and empowering cultural diversity in the lands occupied by indigenous and local communities, where the great wealth of biological diversity was to be found.

18. The Government of Spain worked with the country's autonomous governments to ensure that its legislation on biological diversity was as good and as relevant as it could be. For example, it had ten national strategies for conserving and protecting threatened species, and by 2010 would have a national tool to manage the issue that could be used by autonomous governments.

19. The work being undertaken during the current meetings had to follow the principles of prevention, precaution and social justice and participation. No technological advance should be incompatible with the development of cultural diversity. Technologies that might have negative environmental and social effects should be avoided. The Granada meetings had to send a clear message to the next Conference of the Parties that there had to be a binding international regime to regulate access to genetic resources and to ensure equitable benefit-sharing. The importance of moving towards binding regimes had been demonstrated by the experience of the United Nations Framework Convention on Climate Change, which had made progress because of its mandatory Kyoto Protocol.

20. Following the opening statements, a ceremony of prayer was led by four representatives of indigenous and local communities.

## **ITEM 2. ORGANIZATIONAL MATTERS**

### ***2.1. Officers***

21. The Bureau of the Conference of the Parties served as the Bureau of the Working Group for the meeting. Mr. José Cuenca (Spain) acted as presiding officer for plenary sessions. Mr. Antonio Matamoros (Ecuador) served as Rapporteur.

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

22. At the 1st plenary session of the meeting, on 23 January 2006, the Working Group adopted the following agenda, on the basis of the provisional agenda (UNEP/CBD/WG8J/4/1), prepared by the Executive Secretary in line with decisions VII/16 A-I of the Conference of the Parties and in consultation with the Bureau of the Conference of the Parties:

1. Opening of the meeting.
2. Organizational matters:
  - 2.1 Officers;
  - 2.2 Adoption of the agenda;
  - 2.3 Organization of work.
3. Progress report on the implementation of the programme of work on Article 8(j) and related provisions.
4. Progress report on the integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the thematic programmes of work under the Convention on Biological Diversity.
5. Composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities, relevant to the conservation and sustainable use of biodiversity and elements for a plan of action for the retention of such knowledge, innovations and practices.
6. International regime on access and benefit-sharing: collaboration with the Ad Hoc Working Group on Access and Benefit-Sharing.
7. Participatory mechanisms for indigenous and local communities in the work of the Convention:
  - 7.1 Criteria for the operation of the voluntary funding mechanism;

- 7.2 Role of the thematic focal point under the clearing-house mechanism.
8. Development of elements of *sui generis* systems for the protection of the knowledge, innovations and practices of indigenous and local communities.
9. Ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities.
10. Potential socio-economic impacts of genetic use restriction technologies on indigenous and local communities.
11. Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices.
12. Recommendations of the United Nations Permanent Forum on Indigenous Issues.
13. Other matters.
14. Adoption of the report.
15. Closure of the meeting.

### 2.3. *Organization of work*

23. At the 1st plenary session of the meeting, on 23 January 2006, the Working Group approved the organization of work for the meeting on the basis of the proposal contained in annex I to the revised annotations to the provisional agenda (UNEP/CBD/WG8J/4/1/Add.1/Rev.1). Accordingly, the Working Group agreed to establish two sessional sub-working groups: Sub-Working Group I, chaired by Mr. Johan Bodegård (Sweden) to consider agenda items 5 (Composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities, relevant to the conservation and sustainable use of biodiversity and elements for a plan of action for the retention of such knowledge, innovations and practices), 6 (International regime on access and benefit-sharing: collaboration with the Ad Hoc Working Group on Access and Benefit-Sharing) and 8 (Development of elements of *sui generis* systems for the protection of the knowledge, innovations and practices of indigenous and local communities); and Sub-Working Group II, chaired by Ms. Tererei Abete-Reema (Kiribati) to take up items 7 (Participatory mechanisms for indigenous and local communities in the work of the Convention), 9 (Ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities) 10 (Potential socio-economic impacts of genetic use restriction technologies on indigenous and local communities) and 11 (Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices)

24. Following an intervention by the representative of New Zealand, it was agreed that the plenary, which was to discuss items 3 (Progress report on the implementation of the programme of work on Article 8(j) and related provisions), 4 (Progress report on the integration of relevant tasks of the programme of work on Article 8(j) and related provisions into the thematic programmes of work under the Convention on Biological Diversity) and 12 (Recommendations of the United Nations Permanent Forum on Indigenous Issues) of the agenda, should not begin its discussion of the items until they had been discussed in the Sub-Working Groups. Consequently, it was decided to allocate agenda items 3 and 4 to Sub-Working Group I and item 12 to Sub-Working Group II.

25. It was agreed that the Group of Friends of the Bureau should be composed of the following participants nominated by indigenous and local community organizations attending the meeting: Mr. Vladimir Bocharnikov (Russian Association of Indigenous Peoples of the North), Mr. Fred Fortier (Indigenous Peoples Biodiversity Information Network (IBIN)) Ms. Lucy Mullenkei (Indigenous Information Network) Ms. Jennifer Corpuz (Tebtebba Foundation), Ms. Myrle Traverse (Indigenous Women's Biodiversity Network) and Ms. Leonora Zalabata Torres (Confederación Tayrona). It was further agreed that Mr. Fred Fortier (Indigenous Peoples Biodiversity Information Network (IBIN)) would act as Co-Chair of Sub-Working Group I and Ms. Lucy Mullenkei (Indigenous Information Network) would serve as Co-Chair of Sub-Working Group II.

#### **2.4. Work of the sessional sub-working groups**

26. As decided by the Working Group at its 1st plenary meeting, Sub-Working Group I met under the co-chairmanship of Mr. Johan Bodegård (Sweden) and Mr. Fred Fortier (Indigenous Peoples Biodiversity Information Network (IBIN)) to consider agenda items 3, 4, 5, 6 and 8. The Sub-Working Group held seven meetings, from 23 to 26 January 2006 and adopted its report (UNEP/CBD/WG8J/4/L.1/Add.1) at its 7th meeting, on 26 January 2006.

27. The report of Sub-Working Group I was taken up by the Working Group at the 2nd plenary session of the meeting, on 27 January 2006, and is incorporated into the present report under the relevant agenda items.

28. As decided by the Working Group at its 1st plenary meeting, Sub-Working Group II met under the co-chairmanship of Ms. Tererei Abete Reema (Kiribati) and Ms. Lucy Mulenkei (Indigenous Information Network) to consider agenda items 7, 9, 10, 11 and 12. The Sub-Working Group held seven meetings, from 23 to 26 January 2006 and adopted its report (UNEP/CBD/WG8J/4/L.1/Add.2) at its 7th meeting, on 26 January 2006.

29. The report of Sub-Working Group II was taken up by the Working Group at the 2nd plenary session of the meeting, on 27 January 2006, and is incorporated into the present report under the relevant agenda items.

#### **2.5. Statements and general comments**

30. Following the adoption of the agenda and the organization of work, statements were made by representatives of regional groups, intergovernmental organizations, and indigenous and local communities.

31. The representative of the International Indigenous Forum on Biodiversity thanked the Government of Spain, the Executive Secretary and the Secretariat for their efforts to facilitate the participation of indigenous peoples in the meeting. He said that the Forum emphasized the inherent and inalienable right of indigenous peoples to self-determination, which included their rights to their territories. Indigenous peoples reiterated once again that in order to implement the work plan of the Convention it was fundamental that their right of self-determination be recognized.

32. The process of drawing up the composite report on status and trends regarding the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity had been deficient in that not all regions had had the opportunity for consultations, and when there were consultations they had not guaranteed full and effective participation. The composite report should identify threats to new generations of traditional knowledge and its innovations and practices. It failed to address the protection of transboundary traditional knowledge. There had been no adequate consultation with indigenous peoples, yet there was a proposal to create an international registry of traditional knowledge without their free prior and informed consent and the recognition of their collective rights. The Forum looked forward to the day when the Parties to the Convention upheld their obligations to protect the rights of indigenous peoples to their territories and knowledge. Their rights were inherent, inalienable and recognized as such in international human rights law; they were not negotiable.

33. The Forum noted with deep concern that while the international regime on access and benefit-sharing had been fast-tracked, the work on protecting the knowledge of indigenous peoples through *sui generis* systems had lagged far behind. It urged Parties to recognize such systems, since true protection of indigenous knowledge was to be found within the customary laws of indigenous peoples. The Forum was also concerned about the lack of political will of the national focal points to fulfil the mandate approved at the seventh meeting of the Conference of the Parties in decision VII/16 G, and noted a lack of willingness to implement Article 8(j) and related provisions.

34. The Forum welcomed the document outlining an ethical code of conduct guiding interactions with indigenous peoples as one measure in the cultural and intellectual heritage of indigenous and local



communities, regarding the code as an important step in the protection of the rights of indigenous peoples. The Forum requested the Parties to support the adoption of the elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage indigenous and local communities relevant to the conservation and sustainable use of biological diversity, as contained in the note by the Executive Secretary (UNEP/CBD/WG8J/4/8) so as to guarantee a minimum standard of respect for the tangible, intangible and intellectual heritage of indigenous peoples.

35. Any introduction of genetic use restriction technologies (GURTs) in the territories of indigenous peoples would pose a direct threat to their welfare and their food sovereignty, and would constitute a violation of their human right of self-determination. The Forum strongly urged the Parties to ensure a lasting ban on field-testing and commercial use of GURTs and granting intellectual property rights on GURTs.

36. The Forum recommended renewing the mandate of the Working Group and developing and adopting a progressive and supportive plan of work for the future.

37. The representative of the United Nations Permanent Forum on Indigenous Issues welcomed the collaboration between his organization and the Secretariat in working to advance the objectives of the Convention, in which connection he drew attention to two workshops relating to traditional knowledge held in 2005, in Tokyo and Panama. He hoped that the Working Group would consider the recommendations produced during those workshops with a view to creating a joint mechanism for the direct involvement of indigenous peoples in the development and implementation of policy and programmes affecting their food security, traditional knowledge, agricultural diversity and food sovereignty. With reference to the Millennium Development Goals, particularly those relevant to indigenous peoples and environment, he stressed the importance of analysing the linkages between the human rights of indigenous peoples, biological and agricultural diversity, forests, poverty and sustainable development, as well as the importance of promoting the implementation of Article 8(j) as a cross-cutting issue in all programmes relating to the Convention. Respect for indigenous rights and the creation of the right environment were also essential to encouraging indigenous and local communities to pursue the conservation of biological diversity and the sustainable use of genetic resources. The fate of those communities was thus inseparable from that of States and nations. The implementation of Article 8(j) would ensure full and effective participation by those communities in decision-making under the Convention, along with their fair access to genetic resources and equitable benefit-sharing. He consequently looked forward to their full involvement in the relevant processes.

38. The representative of Austria (speaking on behalf of the European Community and its member States, with the acceding countries Bulgaria and Romania, the candidate countries Croatia and The former Yugoslav Republic of Macedonia, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina and Serbia and Montenegro aligning themselves with the statement and with statements on other agenda items) reaffirmed the significance of the fundamental heritage and role of indigenous and local communities in the conservation and sustainable use of biodiversity, as well as the correlation between biological diversity and cultural and linguistic diversity. She also reaffirmed the need for the effective protection of traditional knowledge, innovations and practices, both as an indispensable tool in the conservation and sustainable use of biodiversity and in order to ensure fair and equitable sharing of the benefits arising from the use of such knowledge, with the involvement and approval of the holders of such knowledge.

39. The representative of the Food and Agriculture Organization of the United Nations (FAO), reviewing some of the FAO activities relevant to the Working Group, said that ongoing work in such sectors as forestry and fisheries was focused in particular on assisting indigenous and local communities. He was pleased to note that the FAO report on potential impacts of genetic use restriction technologies (GURTs) on agricultural biodiversity and agricultural production systems (UNEP/CBD/COP/6/INF/1/Rev.1) had been made available to the Working Group. FAO work on the rights of indigenous and local communities in relation to biodiversity had also received significant focus in five pilot sites of the Globally Important Agricultural Heritage Systems, a cooperative initiative

producing valuable experiences used by the partners to develop a more substantial programme with an overall goal derived from Article 10(c) and probably Article 8(j) of the Convention. Lastly, he said that the FAO Livelihood Support Programme was drafting a framework towards an FAO policy and strategy on indigenous peoples.

40. The representative of Ecuador (speaking on behalf of the Latin American and Caribbean Group (GRULAC)) said that his region attached great importance to the outcome of the current meeting concerning the development of elements of *sui generis* systems and the ethical code of conduct. He hoped that, with the use of indicators, it would also be possible to assess the progress made towards achieving the biodiversity target for 2010, as well as the status of traditional knowledge, innovations and practices. His region would make the utmost efforts to achieve recognition for the peoples of Latin America and the Caribbean. He agreed, however, that, as stated by the Minister of the Environment of Spain in her statement, it was now time to move on from the stage of recommendations to that of implementation, particularly where access to genetic resources and the fair sharing of the benefits derived from their use was concerned.

41. The representative of Kiribati (speaking on behalf of the Asia and Pacific Group expressed deep appreciation for the donor assistance provided to enable representatives from developing countries to attend meetings relating to the Convention. Her regional group attached great importance to Article 8(j) and its related provisions; without the support of indigenous and local communities, many of the efforts to conserve and manage biodiversity would be futile. Various countries in her region were already working with those communities to implement provisions of the Convention by preserving traditional knowledge, innovations and practices that were just as vital as modern technology. Bearing in mind the continuing obstacles of limited resources and capacities, however, she urged continuation of the current joint initiatives in partnership with developing countries in order to ensure multilateral support in addition to that provided by the Global Environment Facility (GEF) for achieving the implementation of Article 8(j) and its related provisions. Lastly, she highlighted the importance of close coordination between the Working Group on Article 8(j) and Related Provisions and the Working Group on Access and Benefit-Sharing.

42. The representative of the United Nations Educational, Scientific and Cultural Organization (UNESCO) said that the Convention on the Protection and Promotion of the Diversity of Cultural Expression had been adopted by UNESCO in October 2005. Designed to serve as a counterpart to the Convention on Biological Diversity by encouraging dialogue among cultures and reaffirming the importance of the link between culture and development, one of its guiding principles was that of sustainable development. In addition, the Convention for the Safeguarding of the Intangible Cultural Heritage, adopted in October 2003, was expected to come into force during 2006. In its programme, UNESCO had also initiated a main line of action designed to enhance the linkages between biological and cultural diversity. Similarly, in the context of its Local and Indigenous Knowledge Systems (LINKS), UNESCO sought to maintain the vitality of local knowledge within communities by, for example, strengthening ties between elders and youth in order to reinforce the transmission of indigenous knowledge and know-how. It was also engaging in actions to better understand the process of knowledge retention and loss, as well as piloting activities aimed at maintaining the dynamism of local knowledge within local communities in such areas as Nicaragua and the Solomon Islands.

43. The representative of the World Intellectual Property Organization (WIPO) said that, since 2001, the WIPO Intergovernmental Committee had precipitated the amendment of two global patent systems with a view to enhancing their recognition of traditional knowledge and had also developed draft international principles on the protection of such knowledge. Since 2002, it had additionally worked on elements of *sui generis* protection of traditional knowledge, one outcome of which was that the WIPO member States had developed draft policy objectives and core principles on the protection of traditional cultural expressions and of all traditional knowledge, including that relevant to the conservation and sustainable use of biological diversity. The knowledge, innovations and practices covered by Article 8(j) and related provisions of the Convention were therefore within the scope of those draft Policy Objectives

and Core Principles, which specifically provided for protection against the misappropriation and misuse of traditional knowledge, as opposed to the conservation and protection of such knowledge against erosion or disappearance. The draft policy objectives and core principles also respected the diversity of traditional knowledge held by different peoples and communities in different sectors and acknowledged differences in legal contexts of national jurisdictions. They therefore allowed flexibility for national authorities to determine the appropriate means of implementing the principles within existing and specific legislative mechanisms. Furthermore, they were fully consistent with and supportive of the work being undertaken in the context of the Convention on Biological Diversity, FAO and the United Nations Permanent Forum on Indigenous Issues and recognized the importance of customary uses, practices, laws and understandings in the protection of traditional knowledge.

44. The representative of Friends of the Earth International (speaking also on behalf of the Global Forest Coalition) said that the Working Group had so far made impressive progress and that the full and effective participation of indigenous peoples had been a cornerstone of the success hitherto achieved. It was vital to translate into the Group's work the reality of indigenous peoples, the holders of traditional knowledge and the women and men who lived with, used, conserved and depended on biodiversity for their daily subsistence. That reality should form the basis of all discussions within the framework of the Convention. To that end, the Parties to the Convention should strengthen the Working Group and ensure the full and effective integration of its recommendations into all work relating to the Convention.

45. Following the statements by regional groups, intergovernmental organizations and indigenous and local communities, statements were also made by the representatives of Australia, Guatemala and Mexico.

**ITEM 3. REPORT OF PROGRESS IN THE IMPLEMENTATION OF THE  
PROGRAMME OF WORK ON ARTICLE 8(j) AND RELATED  
PROVISIONS**

**ITEM 4. REPORT ON PROGRESS IN THE INTEGRATION OF RELEVANT TASKS  
OF THE PROGRAMME OF WORK ON ARTICLE 8(j) AND RELATED  
PROVISIONS IN THE THEMATIC PROGRAMMES OF WORK OF THE  
CONVENTION ON BIOLOGICAL DIVERSITY**

46. Agenda items 3 and 4 were taken up together by Sub-Working Group I at its 5th meeting, on 25 January 2006. In considering item 3, the Sub-Working Group had before it a progress report prepared by the Executive Secretary on the implementation of the programme of work on Article 8(j) and related provisions (UNEP/CBD/WG8J/4/2) and a note by the Executive Secretary on the in-depth review of the implementation of the programme of work on Article 8(j) and related provisions (UNEP/CBD/WG8J/4/2/Add.1). In considering item 4, the Sub-Working Group had before it a progress report prepared by the Executive Secretary on the integration of relevant tasks of the programme of work for the implementation of Article 8(j) in the thematic programmes of the Convention (UNEP/CBD/WG8J/4/3).

47. Introducing item 3, the representative of the Secretariat said that delegates were invited to consider the implementation of the programme of work for Article 8(j) and to provide advice concerning the in-depth review of Article 8(j) and related provisions. Based on information from the third national reports under Article 26 of the Convention received by October 2005, the note prepared by the Executive Secretary (UNEP/CBD/WG8J/4/2) provided a sampling of initiatives taken by various Parties and attempted to establish broad trends. However, as only 30 national reports had been received by that date, the progress report provided only a limited picture of the implementation of Article 8(j) and related provisions. Delegates might wish to make recommendations to the Conference of the Parties on further action regarding programme priorities.

48. In connection with the in-depth review, the Secretariat said that decision VII/16 C provided a timely opportunity to revisit the mandate of Working Group as established by decision IV/9, as well as its effectiveness, and to re-examine and revise the programme of work as established by decision V/16,

annex, in the light of that mandate and its achievements. It also provided an opportunity to address previously neglected areas, such as the participation of local communities and to give renewed focus on outcomes and implementation. In considering the future work of the Working Group, it might be prudent to consider the role of the Working Group and the roles of indigenous and local communities in the implementation and monitoring processes of the Convention (including Article 8(j) and related provisions and throughout the thematic areas) as a further contribution to the in-depth review. Section II of the note by the Executive Secretary (UNEP/CBD/WG8J/4/2/Add.1) considered the programme of work for Article 8(j) and related provisions: achievements to date and possible future directions. Delegates might wish to revisit the mandate and provide their views on such issues as the effectiveness of the Working Group in advancing Article 8(j) and related provisions, and what elements of the work programme should be given priority in the next few years in light of progress to date. In that respect, it was hoped that the Working Group would be in a position to make recommendations to concerning the in-depth review to the Conference of the Parties.

49. Introducing item 4, the representative of the Secretariat said that the Working Group might wish to take note of the report by the Executive Secretary and consider recommendations as appropriate. In that connection, it might wish to provide advice on how the integration of relevant tasks into thematic areas could be accelerated with a renewed emphasis on implementation. In the light of the in-depth review, the Working Group might wish to consider its future role and possible working methods that could assist with that task.

50. Statements were made by the representatives of Australia, Austria (speaking on behalf of the European Union), Brazil, Chile, Ethiopia, the European Community, India, Kiribati, Mexico, New Zealand, Saint Lucia, Spain, Sweden and Thailand.

51. Statements were also made by the representatives of the International Indigenous Forum on Biodiversity and The World Conservation Union (IUCN).

52. The Co-Chair said that he would prepare a draft recommendation for consideration by the Sub-Working Group at a subsequent meeting.

53. At its 6th meeting, on 26 January 2006, the Sub-Working Group took up the draft recommendation submitted by the co-Chairs and, after an exchange of views, agreed to transmit it, as orally amended, to the plenary as draft recommendation UNEP/ CBD/WG8J/4/L.7.

#### ***Action by the Working Group***

54. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up draft recommendation UNEP/CBD/COP/WG8J/4/L.7 and adopted it as recommendation 4/1. The text of the recommendation, as adopted, is contained in annex I to the present report.

**ITEM 5. COMPOSITE REPORT ON THE STATUS AND TRENDS REGARDING THE KNOWLEDGE, INNOVATIONS AND PRACTICES OF INDIGENOUS AND LOCAL COMMUNITIES, RELEVANT TO THE CONSERVATION AND SUSTAINABLE USE OF BIODIVERSITY AND ELEMENTS FOR A PLAN OF ACTION FOR THE RETENTION OF SUCH KNOWLEDGE, INNOVATIONS AND PRACTICES**

55. Sub-Working Group I took up agenda item 5 at its 1st meeting, on 23 January 2006. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary that included an executive summary and recommendations on the revised phase one, and phase two, of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biological diversity (UNEP/CBD/WG8J/4/4) and a note by the Executive Secretary containing elements of a plan of action for the retention of traditional knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity (UNEP/CBD/WG8J/4/4/Add.1).

56. The Sub-Working Group also had before it as information documents copies of the regional reports on the second phase of the composite report compiled by a team of consultants (UNEP/CBD/WG8J/4/INF/2, 3, 4, 5, 7 and 8), which served as a basis for the second phase report and the revision of the first phase, as well as the reports of the regional workshops conducted for the African, Asian, Australian, and Latin America and the Caribbean regions (UNEP/CBD/WG8J/4/INF/1, 10, 11, 12 and 13). A note by the Executive Secretary containing the report on traditional knowledge registers (TKRs) and related traditional knowledge databases was also before the Sub-Working Group as an information document (UNEP/CBD/WG8J/4/INF/9).

57. Statements were made by the representatives of Argentina, Australia, Austria (on behalf of the European Union), Brazil, Burkina Faso, Canada, China, Colombia, Ecuador, Egypt, Finland, Haiti, India, Kiribati, New Zealand, Norway, Switzerland, Thailand, Tunisia and Tuvalu.

58. The representative of Argentina pointed out that, in section II A (Elements of the Plan of Action) of the note by the Executive Secretary (UNEP/CBD/WG8J/4/4/Add.1), point 5 concerning the duplication of mechanisms to ensure input from overseas territories and autonomous or semi-autonomous regions did not faithfully replicate point 5 of the annex to decision VII/16 in that it failed to include the footnote to the effect that the provisions contained in that decision relating to territories under sovereignty disputes recognized by the United Nations should only be implemented with the consent of all parties involved in the dispute. The footnote was integral to the text and should be included in all documents which cited point 5 of the annex to decision VII/16.

59. Statements were also made by the representatives of the International Indigenous Forum on Biodiversity and IUCN.

60. The Co-Chair said that he would prepare a draft recommendation for the consideration of the Sub-Working Group at a subsequent meeting.

61. At its 2nd meeting, on 24 January 2006, the Co-Chair introduced a draft recommendation proposed by the Co-Chairs, which was taken up by the Sub-Working Group at its 3rd meeting, on 24 January 2006. After an exchange of views, the Co-Chair said that he would prepare a revised text of the draft recommendation, incorporating amendments proposed, for the consideration of the Sub-Working Group at a subsequent meeting.

62. At its 4th meeting, on 25 January 2006, the Sub-Working Group took up the revised draft recommendation submitted by the Co-Chairs. After an exchange of views, the Co-Chair said that he would prepare a further revised text for the consideration of the Sub-Working Group at a subsequent meeting.

63. At its 6th meeting, on 26 January 2006, the Sub-Working Group took up the further revised text of the draft recommendation, submitted by the Co-Chairs, and, after an exchange of views, agreed to transmit it, as orally amended, to the plenary as draft recommendation UNEP/CBD/WG8J/4/L.3.

***Action by the Working Group***

64. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up draft recommendation UNEP/CBD/COP/WG8J/4/L.3 and adopted it as recommendation 4/2. The text of the recommendation, as adopted, is contained in annex I to the present report.

**ITEM 6. INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING:  
COLLABORATION WITH THE AD HOC WORKING GROUP ON ACCESS  
AND BENEFIT-SHARING**

65. Sub-Working Group I took up agenda item 6 at its 1st meeting, on 23 January 2006. In considering the item, the Sub-Working Group had before it the consolidated text of the comments and proposals regarding the international regime on access and benefit-sharing prepared by the Secretariat for the fourth meeting of the Ad Hoc Working Group on Access and Benefit-sharing (UNEP/CBD/WG-ABS/4/2).

66. Introducing the item, the Co-Chair said that, in paragraph 1 of decision VII/9, the Conference of the Parties had decided to mandate the Working Group on Access and Benefit-sharing, with the collaboration of the Working Group on Article 8(j), to elaborate and negotiate an international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument/instruments to effectively implement the provisions in Article 15 and Article 8(j) of the Convention and its three objectives. Furthermore, under the terms of reference contained in the annex to decision VII/19 D, the scope of the negotiation included traditional knowledge, innovations and practices in accordance with Article 8(j) (decision VII/9 D, annex, paragraph (c) (ii)). Finally, five elements listed in the annex to decision VII/19 D to be considered for inclusion in the international regime were closely related to Article 8(j). In addition, in the light of the relevance of item 8 of the agenda (Development of *sui generis* systems for the protection of traditional knowledge, innovations and practices), the results of the deliberations on item 6 could constitute a contribution to the negotiation of an international regime on access and benefit-sharing.

67. Statements were made by the representatives of Austria (on behalf of the European Union), Brazil, Canada, Kiribati, New Zealand, Norway and Mexico.

68. Statements were also made by representatives of the International Indigenous Forum on Biodiversity.

69. At the 2nd meeting of the Sub-Working Group, on 24 January 2006, statements were made by the representatives of Argentina, Australia, Austria (on behalf of the European Union), Canada, Colombia, Costa Rica, Cuba, Ethiopia (on behalf of the African Group), India, Mexico, New Zealand, Philippines, Saint Lucia and Thailand.

70. A statement was made by the representative of the International Chamber of Commerce (speaking also on behalf of the International Seed Federation and CropLife International).

71. Statements were also made by the representatives of the International Indigenous Forum on Biodiversity and of Friends of the Earth International (speaking also on behalf of Global Forest Coalition).

72. The Co-Chair said that he would prepare a draft recommendation for the consideration of the Sub-Working Group at a subsequent meeting.

73. At its 4th meeting, on 25 January 2006, the Sub-Working Group discussed a compilation of proposals from the floor prepared by the Co-Chairs.

74. The representative of Argentina, supported by the representatives of Australia, Austria (on behalf of the European Union), Brazil, Canada, China, Colombia, India, New Zealand, Venezuela (on behalf of the Latin American and Caribbean Group), said that the compilation did not adequately reflect the exchange of views which had occurred, in addition to which more time was needed in order to give it the careful consideration merited by the subject matter.

75. After a further exchange of views, the Co-Chair said that he would prepare a revised text for the consideration of the Sub-Working Group at a subsequent meeting.

76. At its 6th meeting, on 26 January 2006, the Sub-Working Group heard the introduction of a proposed draft recommendation from the representative of Venezuela (on behalf of the Latin American and Caribbean Group).

77. At its 7th meeting, on 26 January 2006, the Sub-Working Group resumed its consideration of the draft recommendation and, after an exchange of views, agreed to transmit it, as orally amended, to the plenary as draft recommendation UNEP/CBD/WG8J/4/L.10.

### ***Action by the Working Group***

78. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up draft recommendation UNEP/CBD/COP/WG8J/4/L.10.

79. The representative of Austria (speaking on behalf of the European Union), supported by the representatives of Ethiopia (on behalf of the African Group), Norway and Switzerland, expressed regret that the European Union proposals on the subject had failed to achieve consensus and were not therefore included in the draft recommendation. She consequently looked forward to the continuation of discussions in the future with a view to ensuring appropriate involvement by indigenous and local communities in work on the international regime on access and benefit-sharing.

80. The representative of the International Indigenous Forum on Biodiversity affirmed her view that the effective participation of indigenous peoples in that work should be fully recognized.

81. The Executive Secretary said that he would do his utmost to comply with the request contained in paragraph 5 of the draft recommendation by providing unedited advance copies of documentation for the meetings of the Working Group in one language only, bearing in mind that documentation for meetings of United Nations bodies was normally provided only six weeks in advance.

82. The draft recommendation was adopted as recommendation 4/3. The text of the recommendation, as adopted, is contained in annex I to the present report.

## **ITEM 7. PARTICIPATORY MECHANISMS FOR INDIGENOUS AND LOCAL COMMUNITIES IN THE WORK OF THE CONVENTION**

### ***7.1. Criteria for the operation of the voluntary funding mechanism***

83. Sub-Working Group II took up sub-item 7.1 at its 1st meeting, on 23 January 2006. In considering the sub-item, the Sub-Working Group had before it a note by the Executive Secretary providing possible criteria for the operation of the voluntary funding mechanism based on established United Nations practice regarding voluntary funds designed to facilitate indigenous participation (UNEP/CBD/WG8J/4/5).

84. Introducing the sub-item, the Secretariat said that, pursuant to paragraph 10 of decision VII/16 G, the Conference of the Parties had decided to establish a voluntary funding mechanism under the Convention to facilitate the participation of indigenous and local communities in meetings under the Convention. The funding mechanism would operate according to criteria to be developed by the Conference of the Parties in consultation with indigenous and local communities and taking into account any relevant United Nations practice.

85. The Sub-Working Group was invited to make recommendations to the Conference of the Parties based on section IV of the note by the Executive Secretary for the consideration of the eighth meeting of

the Conference of the Parties. The voluntary fund would become fully operational following the adoption of the selection criteria by the Conference of the Parties.

86. Following the introduction, statements were made by the representatives of Austria (speaking on behalf of the European Union), Brazil, Canada, Colombia, Gabon, Grenada, India, Indonesia, Mexico and Uganda (on behalf of the African Group).

87. A statement was also made by the representative of the United Nations University (UNU).

88. The representative of IUCN—The World Conservation Union made a statement.

89. Statements were made by representatives of the International Indigenous Forum on Biodiversity, the Indigenous World Association (speaking also on behalf of the Saami Council, the Foundation of Aboriginal Island Research and the Caribbean Antilles Indigenous Peoples' Caucus) and the Russian Association of Indigenous Peoples of the North.

## **7.2. *Role of the thematic focal point under the clearing-house mechanism***

90. Sub-item 7.2 was taken up by Sub-Working Group II at its 1st meeting, on 23 January 2006. In considering the sub-item, the Sub-Working Group had before it a note by the Executive Secretary on the role of the thematic focal point within the clearing-house mechanism on issues relating to Article 8(j) and related provisions (UNEP/CBD/WG8J/4/6), with particular emphasis on the development of communication mechanisms for indigenous and local communities.

91. Introducing the sub-item, the Secretariat said that in paragraph 11 of decision VII/16 G the Conference of the Parties had requested the Executive Secretary further to develop the role of the thematic focal point on Article 8(j) and related provisions of the Convention under the clearing-house mechanism. Accordingly, the Executive Secretary had prepared the document before the Sub-Working Group, which contained relevant recommendations for further development of appropriate communication mechanisms.

92. Following the introduction, statements were made by the representatives of Austria (on behalf of the European Union), Canada, Colombia, Ethiopia, Mexico, New Zealand and Uganda (on behalf of the African Group).

93. Statements were also made by representatives of the International Indigenous Forum on Biodiversity, the International Indian Treaty Council and the Russian Association of Indigenous Peoples of the North.

94. At its 4th meeting, on 25 January 2006, the Sub-Working Group took up a draft recommendation covering both sub-items, submitted by the Co-Chairs.

95. During the discussion of the draft recommendation, the representative of the Global Environment Facility (GEF) pointed out that GEF could only provide funding to eligible countries in accordance with their national priorities.

96. After an exchange of views, the Co-Chair said that she would prepare a revised text of the draft recommendation.

97. At its 6th meeting, on 26 January 2006, the Sub-Working Group took up the revised text of the draft recommendation, submitted by the Co-Chairs.

98. After an exchange of views, the Sub-Working Group agreed to transmit the draft recommendation, as amended orally, to the plenary as draft recommendation UNEP/CBD/WG8J/4/L.6.

## ***Action by the Working Group***

99. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up draft recommendation UNEP/CBD/WG8J/4/L.6 and adopted it as recommendation 4/4. The text of the recommendation, as adopted, is contained in annex I to the present report.



**ITEM 8. DEVELOPMENT OF ELEMENTS OF *SUI GENERIS* SYSTEMS FOR THE PROTECTION OF THE KNOWLEDGE, INNOVATIONS AND PRACTICES OF INDIGENOUS AND LOCAL COMMUNITIES**

100. Sub-Working Group I took up agenda item 8 at its 3rd meeting, on 24 January 2006. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary on developments of elements of *sui generis* systems for the protection of the knowledge, innovations and practices of indigenous and local communities (UNEP/CBD/WG8J/4/7). It also had before it as information documents a report of a workshop on elements of national *sui generis* systems for the protection of traditional knowledge organized by the Commonwealth and the UNCTAD Secretariat (UNEP/CBD/WG8J/INF/15) containing a compilation of views from various indigenous peoples' organizations and non-governmental organizations submitted by the International Institute for Environment and Development (IIED) (UNEP/CBD/WG8J/4/INF/18).

101. Introducing the item, the Secretariat said that the information contained in the note by the Executive Secretary (UNEP/CBD/WG8J/4/7) focused on the request made in paragraph 6 (b) of decision VII/16 H for the Working Group to further develop, as a matter of priority, elements for *sui generis* systems.

102. The Co-Chair added that the note by the Executive Secretary (UNEP/CBD/WG8J/4/7) set forth the potential elements for the development of *sui generis* systems and contained two annexes, the first dealing with national legislation, practices and experiences with respect to *sui generis* systems and customary laws practices and the second with a set of relevant definitions/glossary of terms for Article 8(j) and related provisions. It also contained proposed recommendations for future work in the area of *sui generis* systems for the protection of traditional knowledge, innovations and practices. He invited comments on the document as a whole and on the proposed recommendations.

103. Statements were made by the representatives of Argentina, Australia, Austria (on behalf of the European Union), Brazil, Canada, Cuba, Ecuador, Ethiopia (speaking on behalf of the African Group), India, Kiribati, Mexico, New Zealand, Philippines, Saint Lucia and Switzerland.

104. Statements were also made by the representatives of Friends of the Earth International (speaking also on behalf of the Global Forest Coalition) and the International Indigenous Forum on Biodiversity.

105. The Co-Chair said that he would prepare a draft recommendation for the consideration of the Sub-Working Group at a subsequent meeting.

106. At its 4th meeting, on 25 January 2006, the Sub-Working Group took up the draft recommendation submitted by the Co-Chairs. After an exchange of views, the Co-Chair said that he would prepare a revised text of the draft recommendation, incorporating amendments proposed, for the consideration of the Sub-Working Group at a subsequent meeting.

107. At its 5th meeting, on 25 January 2006, the Sub-Working Group heard from one representative a proposed reformulation of one paragraph of the existing draft recommendation that had emerged from his consultations.

108. At its 6th meeting, on 26 January 2006, the Sub-Working Group took up a revised text of the draft recommendation submitted by the Co-Chairs, incorporating the reformulation proposed.

109. At its 7th meeting, on 26 January 2006, the Sub-Working Group resumed its consideration of the revised text of the draft recommendation submitted by the Co-Chairs and, after an exchange of views, agreed to transmit it, as orally amended, to the plenary as draft recommendation UNEP/CBD/WG8J/4/L.11.

***Action by the Working Group***

110. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up draft recommendation UNEP/CBD/WG8J/4/L.11 and adopted it, as orally amended, as recommendation 4/5. The text of the recommendation, as adopted, is contained in annex I to the present report.

**ITEM 9. ETHICAL CODE OF CONDUCT TO ENSURE RESPECT FOR THE CULTURAL AND INTELLECTUAL HERITAGE OF INDIGENOUS AND LOCAL COMMUNITIES**

111. Sub-Working Group II took up agenda item 9 at its 1st meeting, on 23 January 2006. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary containing suggested elements for a draft ethical code of conduct to guide research on traditional knowledge of indigenous and local communities (UNEP/CBD/WG8J/4/8).

112. Introducing the item, the Secretariat recalled that the Conference of the Parties, following up on a recommendation of the United Nations Permanent Forum on Indigenous Issues, requested the Working Group in decision VII/16 I, paragraph 5, to develop elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities for the conservation and sustainable use of biological diversity, taking into account task 16 of the programme of work on Article 8(j) and related provisions. He invited the Working Group to consider the elements contained in the note by the Executive Secretary and to make recommendations, as appropriate, regarding further formulation of such a code.

113. Following the introduction, statements were made by the representatives of Austria (on behalf of the European Union), Brazil and Canada.

114. Sub-Working Group II continued its discussion of agenda item 9 at its 2nd meeting, on 24 January 2006.

115. Statements were made by the representatives of Australia, Colombia, Ethiopia, Grenada, Mexico, New Zealand, Norway, Thailand, Uganda (on behalf of the African Group) and Zambia.

116. A statement was also made by the representative of Te Tau Ihu O Nga Whare Wananga (speaking also on behalf of Call of the Earth-Llamado de la Tierra and the International Indigenous Forum on Biodiversity (IIFB)).

117. At the conclusion of the discussion, having noted the divergent views on future procedure, the Co-Chair proposed that a group of Friends of the Chair be set up to advise on how to move forward.

118. The Sub-Working Group accordingly established a group of Friends of the Chair, under the chairmanship of Norway, composed of representatives of Australia, Austria, Brazil, Canada, Colombia, the European Community, Mexico, Thailand and Uganda, together with two representatives of the International Indigenous Forum on Biodiversity (IIFB).

119. At the 3rd meeting of the Sub-Working Group, on 24 January 2006, the representative of Norway reported that the Friends of the Chair had agreed that the issue of an ethical code of conduct required broad consultation, particularly at the national level. She recommended that consultations on the draft recommendations and annex I to the note by the Executive Secretary (UNEP/CBD/WG8J/4/8) be started immediately in a contact group, which should also report to the Permanent Forum on Indigenous Issues.

120. The Co-Chair proposed that an open-ended contact group be set up for that purpose, under the co-chairmanship of Norway and Uganda.

121. At the 4th and 5th meetings of the Sub-Working Group, on 25 January 2006, the representative of Uganda, co-chair of the contact group, reported on the progress being made in the contact group and said that it would require more time to complete its work.

122. At its 6th meeting, on 26 January 2006, the Sub-Working Group considered a draft recommendation submitted by the Co-Chairs.

123. After an exchange of views, the Sub-Working Group agreed to transmit the draft recommendation, as orally amended, to the plenary as draft recommendation UNEP/CBD/WG8J/4/L.4.

*Action by the Working Group*

124. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up draft recommendation UNEP/CBD/WG8J/4/L.4.

125. The representative of Austria, speaking as Co-Chair of the contact group that had met to agree on wording for the draft recommendation, proposed the insertion of a footnote in relation to paragraph 2 (b).

126. After an exchange of views, the Working Group adopted the draft recommendation, as orally amended, as recommendation 4/6. The text of the recommendation, as adopted, is contained in annex I to the present report.

**ITEM 10. POTENTIAL SOCIO-ECONOMIC IMPACTS OF GENETIC USE  
RESTRICTION TECHNOLOGIES (GURTs) ON INDIGENOUS AND  
LOCAL COMMUNITIES**

127. Sub-Working Group II took up agenda item 10 at its 2nd meeting, on 24 January 2006. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary containing an analysis of submissions on potential socio-economic impacts of genetic use restriction technologies (UNEP/CBD/WG8J/4/9), together with an information document containing a compilation of those submissions (UNEP/CBD/WG8J/4/INF/6). A submission from EcoNexus and the Federation of German Scientists concerning advice on the report of the Ad Hoc Technical Expert Group on Genetic Use Restriction Technologies (GURTs) was also before the Sub-Working Group as an information document (UNEP/CBD/WG8J/4/INF/17).

128. Introducing the item, the Secretariat recalled that in paragraph 2 of decision VII/16 D, the Conference of the Parties had urged the Working Group on Article 8(j) at its next meeting to consider the potential socio-economic impacts of GURTs on indigenous and local communities, on the basis of the report of the Ad Hoc Technical Expert Group, the outcome of deliberations of the tenth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) on the issue and the study undertaken by the Food and Agricultural Organization of the United Nations (FAO), pursuant to decision V/5, on potential impacts of genetic use technologies on agricultural biodiversity and agricultural production systems.

129. In paragraph 3 of decision VII/16 D, the Conference of the Parties invited Parties and indigenous and local communities to review the recommendations of the Ad Hoc Technical Expert Group and provide comments thereon to the Executive Secretary. In paragraph 4 of the decision, the Conference of the Parties requested the Executive Secretary to compile the information provided and to submit the compilation to the fourth meeting of the Working Group on Article 8(j).

130. In considering the item, delegates were invited to take into consideration recommendation X/11 of SBSTTA. In paragraph 2 of the recommendation, SBSTTA requested that the Executive Secretary notify Parties, other Governments, indigenous and local communities, smallholder farmers' organizations, organizations and other relevant stakeholders to present new comments on the potential impacts of genetic use restriction technologies on smallholder farmers, indigenous and local communities and farmers' rights and present these directly to the next appropriate meeting of the Working Group on Article 8(j) to ensure that the widest, most recent information be considered at that meeting.

131. The report of the Ad Hoc Technical Expert Group on GURTs was to be found in documents UNEP/CBD/SBSTTA/9/INF/6 and UNEP/CBD/WG8J/3/INF/2. The report of the FAO was contained in document UNEP/CBD/COP/6/INF/1/Rev.1. Document UNEP/CBD/WG8J/4/9 included not only the analysis by the Secretariat of the submissions but also SBSTTA recommendation X/11.

132. The Working Group was invited to consider the documents and any new information presented directly to the Working Group under the agenda item and to make recommendations, as appropriate, to the Conference of the Parties at its eighth meeting regarding the potential socio-economic impacts of GURTs on indigenous and local communities.

133. Statements were made by the representatives of Argentina, Australia, Austria (on behalf of the European Union), Brazil, Canada, Egypt, India, Kenya, Mexico, New Zealand, Norway, Pakistan, Philippines and Uganda (on behalf of the African Group).

134. A statement was also made by the representative of the United States of America.

135. Statements were made by representatives of the Ban Terminator Campaign, the Federation of German Scientists, the International Indigenous Forum on Biodiversity (IIFB), the Public Research and Regulation Initiative, the Red de Cooperación Amazonica, and the Spanish Small Farmers' Union.

136. At the conclusion of the discussion, the Co-Chair said that she would prepare a Co-Chairs' text taking into account the views expressed.

137. At its 6th meeting, on 26 January 2006, the Sub-Working Group considered a draft recommendation submitted by the Co-Chairs.

138. After an exchange of views, the Sub-Working Group set up an open-ended contact group, chaired by Austria and Brazil, to prepare a revised text.

139. At the 7th meeting, on 26 January 2006, the representative of Austria, co-chair of the contact group, introduced the revised text of the draft recommendation proposed by the contact group.

140. Following an exchange of views, the Sub-Working Group agreed to transmit the draft decision, as orally amended, to the plenary as draft recommendation UNEP/CBD/WG8J/4/L.8.

#### ***Action by the Working Group***

141. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up a draft recommendation UNEP/CBD/WG8J/4/L.8 and adopted it as recommendation 4/7. The text of the recommendation, as adopted, is contained in annex I to the present report.

### **ITEM 11. INDICATORS FOR ASSESSING PROGRESS TOWARDS THE 2010 BIODIVERSITY TARGET: STATUS OF TRADITIONAL KNOWLEDGE, INNOVATIONS AND PRACTICES**

142. Agenda item 11 was taken up by Sub-Working Group II at its 3rd meeting, on 24 January 2006. In considering the item, the Sub-Working Group had before it a note by the Executive Secretariat containing an update of work undertaken so far, regarding language indicators and some possible suggestions regarding the establishment of other indicators to assess the success or failure of measures to promote or preserve traditional knowledge, innovations and practices (UNEP/CBD/WG8J/4/10).

143. Introducing the item, the Secretariat recalled that, in decision VII/30, annex II, the Conference of the Parties had adopted a method for evaluating implementation of the Strategic Plan, in which goals, sub-targets and indicators were to be identified. In paragraph 7 of decision VII/30, the Conference of Parties requested the Ad Hoc Open-ended Working Group on Access and Benefit-sharing and the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions, respectively, to explore possible indicators for access to genetic resources and, in particular, for the fair and equitable sharing of benefits arising from use of genetic resources and associated innovations, knowledge and practices of indigenous and local communities and for the protection of innovations, knowledge and practices of indigenous and local communities.

144. Annex I to decision VII/30 listed a series of indicators for assessing progress towards the 2010 biodiversity target, including an indicator on the status and trends in linguistic diversity and speakers of indigenous languages as a proxy for trends in traditional knowledge. The Executive Secretary had prepared the update contained in document UNEP/CBD/WG8J/4/10.

145. The Co-Chair invited the sub-Working Group to discuss the draft recommendations and the proposed list of indicators contained in the document, for consideration at the eighth meeting of the Conference of the Parties.

146. Statements were made by representatives of Austria (on behalf of the European Union), Canada, Colombia, Ethiopia, Mexico, New Zealand and Uganda (on behalf of the African Group).

147. A statement was also made by the representative of the United Nations Educational, Scientific and Cultural Organization.

148. A statement was made by the representative of The World Conservation Union (IUCN).

149. The representative of Terralingua made a statement.

150. Statements were also made by representatives of the International Indigenous Forum on Biodiversity, the Indigenous World Association and the Russian Association of Indigenous Peoples of the North.

151. At the conclusion of the discussion, the Co-Chair said that she would prepare a Co-Chairs' text, taking into account the views expressed.

152. At its 5th meeting, on 25 January 2006, the Sub-Working Group took up a draft recommendation prepared by the Co-Chairs.

153. After an exchange of views, the Sub-Working Group agreed to transmit the draft recommendation, as orally amended, to the plenary as draft decision UNEP/CBD/WG8J/4/L.2.

#### ***Action by the Working Group***

154. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up draft recommendation UNEP/CBD/WG8J/4/L.2 and adopted it, as orally amended, as recommendation 4/8. The text of the recommendation, as adopted, is contained in annex I to the present report.

### **ITEM 12. RECOMMENDATIONS OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES**

155. Agenda item 12 was taken up by the Sub-Working Group at its 4th meeting, on 25 January 2006. In considering the item, the Sub-Working Group had before it a note by the Executive Secretary (UNEP/CBD/WG8J/4/11) describing progress in following up requests by the United Nations Permanent Forum on Indigenous Issues.

156. Introducing the item, the Secretariat recalled that, in decision VII/16 I, the Conference of the Parties had decided to act on the Forum's request at its second session regarding the organization of a workshop on cultural, environmental and social impact assessment and the development of elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities. Section II of the document provided an update of progress in implementation of decision VII/16 I.

157. Relevant recommendations from the Permanent Forum on Indigenous Issues at its third and fourth sessions, which were addressed to the Convention and had not yet been considered by the Working Group, were reproduced in the annex to the document, comprising recommendations 6 (paragraphs 75 and 77 (f)) of the report of the third session of the Permanent Forum and paragraphs 27 and 140 of the report of the fourth session.

158. Section III contained draft recommendations that the Working Group might wish to make to the Conference of the Parties, as appropriate.

159. Statements were made by representatives of Australia, Austria (on behalf of the European Union) and New Zealand.

160. At the conclusion of the discussion, the Co-Chair said that she would prepare a Co-Chairs' text, taking into account the views expressed and the results of the deliberations of the contact group on item 9.

161. At its 6th meeting, on 26 January 2006, the Sub-Working Group considered a draft recommendation submitted by the Co-Chairs.

162. After an exchange of views, the Sub-Working Group agreed to transmit the draft decision, as orally amended, to the plenary as draft decision UNEP/CBD/WG8J/4/L.5.

***Action by the Working Group***

163. At the 2nd plenary session of the meeting, on 27 January 2006, the Working Group took up draft recommendation UNEP/CBD/WG8J/4/L.5, and adopted it as recommendation 4/9. The text of the recommendation, as adopted, is contained in annex I to the present report.

**ITEM 13. OTHER MATTERS**

164. Mr. Mohamad Bin Osman (Malaysia), representing the President of the Conference of the Parties, read a tribute to the Government and people of Spain, which he submitted on behalf of the Bureau (UNEP/CBD/WG8J/4/L.9). The tribute was adopted without amendment and is attached as annex II to the present report.

**ITEM 14. ADOPTION OF THE REPORT**

165. The present report was adopted at the 2nd plenary session of the meeting, on 27 January 2006, on the basis of the draft report prepared by the Rapporteur (UNEP/CBD/WG8J/4/L.1) and the draft reports prepared by the Co-Chairs of the two sub-working groups (UNEP/CBD/WG8J/4/L.1/Add.1 and UNEP/CBD/WG8J/4/L.1/Add.2).

**ITEM 15. CLOSURE OF THE MEETING**

166. At the 2nd (closing) plenary session of the meeting, on 27 January 2006, the representatives of regional groups extended a warm welcome to Mr. Djoghlaïf, the new Executive Secretary, and wished him every success in his complex and difficult task.

167. After the customary exchange of courtesies, the Co-Chair declared the fourth meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions closed at 12.15 p.m. on Friday, 27 January 2006.

*Annex 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 AT ITS FOURTH MEETING**

*Granada, Spain, 23-27 January 2006*

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**4/1. *Implementation and in-depth review of the programme of work for Article 8(j) and related provisions and integration of the relevant tasks of the programme of work into the thematic programmes***

*The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity*

*Recommends* that the Conference of the Parties at its eighth meeting:

*Noting* with appreciation the submission of the third national reports, which include information on the implementation of the programme of work of Article 8(j) at the national level,

*Noting* also that only a limited number of reports had been submitted in time for the fourth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions, which has limited the possibility of carrying out a full in-depth review of the programme of work,

*Requesting* those Governments that have not yet submitted information regarding the implementation of the programme of work to do so, in consultation with indigenous and local communities, in time for the fifth meeting of the Working Group,

*Noting* that tasks 6, 7, 11, 13, 14 and 15 of the programme of work have yet to be initiated,

*Noting also* that task 7 should be developed in parallel with the development of the international regime on access and benefit sharing, as appropriate,

1. *Requests* the Executive Secretary to continue to report on progress on the implementation of Article 8(j) and related provisions based on information submitted to the Executive Secretary, for consideration at the fifth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions;

2. *Underlines* that the continued implementation of the programme of work should take note of work being carried out in other relevant international bodies;

3. *Requests* the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions at its next meeting to address, as a priority, the timeframe to initiate work on the remaining tasks of the programme of work ;

4. *Requests* the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions to analyse work initiated and/or advanced on related provisions, in particular Articles 10 (c), 17.2 and 18.4 of the Convention, and based on this information to provide advice on how these related provisions may be further advanced and implemented;

5. *Decides further* that the fifth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions be organized prior to the ninth meeting of the Conference of the Parties in order to ensure further advancement of the implementation of the programme of work on Article 8(j) and related provisions;

6. *Notes* the progress made in the integration of the relevant tasks of the programme of work in the thematic programmes of the Convention;

7. *Requests* the Executive Secretary to continue reporting on progress achieved in the integration of relevant tasks of the programme of work on Article 8(j) into the thematic programmes, and to consider ways and means that the Working Group can assist in the implementation of work in the thematic programmes for the consideration of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions at its fifth meeting.



**4/2. Composite report on status and trends regarding the knowledge innovations and practices relevant to the conservation and sustainable use of biological diversity**

**A. Composite report**

*The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity*

*Recommends* that the Conference of the Parties at its eighth meeting:

1. *Takes note with appreciation* of the information prepared for the fourth meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions and in particular, the completion of phase one of the composite report, which includes the report on traditional-knowledge registers and the regional Arctic report;
2. *Also notes with appreciation* the progress in the work of phase two of the composite report;
3. *Further notes* the discussion on the composite report held at the fourth meeting of the Working Group on Article 8(j) and Related Provisions and *requests* the Executive Secretary to further develop phase two of the composite report taking into account comments made at the discussion;
4. *Recommends* to Parties and Governments to bear in mind that registers are only one approach to the protection of traditional knowledge, innovations and practices, and as such their establishment should be voluntary, not a requirement for protection. Registers should only be established with the prior informed consent of indigenous and local communities;
5. *Requests* the Executive Secretary to explore the possibility of developing technical guidelines for documenting traditional knowledge, innovations and practices, including with the full and effective participation of indigenous and local communities, and to analyse the potential threats of such documentation to the rights of holders of traditional knowledge, innovations and practices, with the full and effective participation of indigenous and local communities;
6. *Notes with concern* the specific vulnerabilities of indigenous and local communities, *inter alia*, of the Arctic, small island States and high altitudes, concerning the impacts of climate change and accelerated threats, such as pollution, drought and desertification, to traditional knowledge, innovations and practices, and *requests* further research be conducted, subject to the availability of resources, into highly vulnerable indigenous and local communities, with a focus on causes and solutions, with the outcomes of the research to be made available to the Working Group on Article 8(j) and Related Provisions for attention at its fifth meeting;
7. *Recalls* element 19 in the annex to decision VII/16 E (“Parties should establish measures to ensure respect for the rights of unprotected or voluntarily isolated communities”) and *requests* the Executive Secretary in consultation with Governments, international organizations, indigenous and local communities and all interested stakeholders, to research and prepare a report on possible measures to ensure respect for the rights of unprotected and voluntarily isolated communities taking into account their traditional knowledge and the development of access and benefit-sharing regimes;
8. *Decides* to renew the mandate of the advisory group established by decisions VI/10, annex I, paragraph 28 (b), and VII/16 E, paragraph 4 (d) and to continue to provide advice on the further development of phase two of the composite report and, in particular, element D, subject to the availability of resources.

**B. *Elements of a plan of action for the retention of traditional knowledge, innovations and practices embodying traditional lifestyles 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 of the Convention on Biological Diversity*

*Recommends* that the Conference of the Parties at its eighth meeting:

1. *Notes with appreciation* the advancement of many elements of the plan of action for the retention of traditional knowledge, innovations and practices embodying lifestyles relevant for the conservation and sustainable use of biological diversity;
2. *Urges* Parties and Governments to take appropriate measures to further advance the elements of the plan of action;
3. *Requests* the Executive Secretary to continue to report on progress on the further development of elements of the plan of action at the fifth meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions;
4. *Requests* the Executive Secretary to take into consideration comments made at the fourth meeting of the Working Group on Article 8(j) and Related Provisions, and to continue gathering and analysing information, in consultation with Parties, Governments, indigenous and local communities, with a view to further developing the plan of action, giving priority to section D, and to report on the advancement of this task to the Working Group at its fifth meeting;
5. *Requests* the Executive Secretary to convene, subject to the availability of financial resources, regional and subregional workshops to assist indigenous and local communities in capacity-building, education and training, with particular emphasis on the participation of indigenous women.

**4/3. *International regime on access and benefit-sharing: collaboration with the Ad Hoc Working Group on Access and Benefit-sharing***

*The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity,*

*Recognizing* that, in decision VII/19 D, paragraph 1, the Conference of the Parties decided to “mandate the Ad Hoc Open-Ended Working Group on Access and Benefit Sharing with the collaboration of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions, ensuring the participation of indigenous and local communities (...) to elaborate and negotiate an international regime on access and benefit-sharing with the aim of adopting an instrument/instruments to effectively implement the provisions in Article 15 and Article 8(j) of the Convention and its three objectives”,

*Recognizing further* the terms of reference of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing in decision VII/19 D,

*Recognizing further* that under the terms of reference contained in the annex to decision VII/19 D, the scope of the negotiation includes: traditional knowledge, innovations and practices in accordance with Article 8(j) (decision VII/19 D, annex, paragraph (c) (ii)),

*Recognizing further* that five elements listed in the annex to decision VII/19 D to be considered for inclusion in the international regime are closely related to Article 8(j), including:

- (x) Measures to ensure compliance with prior informed consent of indigenous and local communities holding traditional knowledge associated with genetic resources, in accordance with Article 8(j).
- (xiv) Disclosure of origin/source/legal provenance of genetic resources and associated traditional knowledge in applications for intellectual property rights.
- (xv) Recognition and protection of the rights of indigenous and local communities over their traditional knowledge associated to genetic resources subject to the national legislation of the countries where these communities are located.
- (xvi) Customary law and traditional cultural practices of indigenous and local communities,
- (xviii) Code of ethics/code of conduct/models of prior informed consent or other instruments in order to ensure fair and equitable sharing of benefits with indigenous and local communities.

*Recognizing* decision VII/19 D, paragraph 6, which encourages Parties and Governments to provide the ways and means to allow for sufficient preparation and to facilitate effective participation of indigenous and local communities in the process of the negotiation and elaboration of an international regime,

*Emphasizing* the need to avoid overlap and duplication of efforts between the Working Groups on Article 8(j) and Related Provisions and Access and Benefit-sharing on issues related to the international regime,

*Recalling* decision V/26 paragraph 11 (a) that the Working Group on Access and Benefit-sharing shall maintain communication and exchange of information with the Working Group on 8(j) and Related Provisions,

*Taking note* of the ongoing work of the Working Group on Access and Benefit-sharing to elaborate and negotiate an international regime on access and benefit-sharing,

*Recommends* that Conference of the Parties at its eighth meeting:

1. *Requests* the collaboration and contribution of the Working Group on Article 8(j) and Related Provisions to the fulfilment of the mandate of the Working Group on Access and Benefit-sharing, by providing views of the Working Group on Article 8(j) on the elements of the international regime relevant to the protection of traditional knowledge associated with genetic resources, listed above, and request the Executive Secretary to compile these views and make them available to the Working Group on Access and Benefit-sharing at a future meeting;

2. *Invites* indigenous and local communities to provide to the Secretariat comments, including case-studies, on their experience with effective measures for the protection of their traditional knowledge, innovations and practices associated to genetic resources;

3. *Requests* the Executive Secretary, where practicable, to make the necessary arrangements for the Working Group on Access and Benefit-sharing to be convened back-to-back with the Working Group on the Article 8(j) and Related Provisions;

4. *Invites* Parties, Governments, and donors organizations to contribute to provide the ways and means to facilitate sufficient preparation and participation of representatives of indigenous and local communities in the Working Group on Access and Benefit-sharing;

5. *Requests* the Executive Secretary to endeavour to make documentation for the meetings of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions available three months prior to the meeting, where possible, to facilitate consultations with indigenous and local community representatives;

6. *Urge* Parties to include indigenous and local community representatives in national delegations to the Working Group on Article 8(j) and Related Provisions and the Working Group on the Access Benefit-sharing.

**4/4. Mechanisms to promote the effective participation of indigenous and local communities in matters related to the objectives of Article 8(j) and related provisions**

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

**I. CRITERIA FOR THE OPERATION OF THE VOLUNTARY FUNDING MECHANISM**

*Cognizant of* the important contribution that indigenous and local communities, as traditional guardians of biodiversity and managers of their natural environment, can make to the attainment of the target to significantly reduce the current rate of biodiversity loss by 2010,

*Underlining* the need to further strengthen and develop mechanisms to promote the full and effective participation of indigenous and local communities in the Convention process, including the provision of adequate financial support, in particular in matters related to the objectives of Article 8(j) and related provisions,

*Noting* that capacity-building needs to be undertaken at local and national level prior to relevant meetings to ensure that the participation of indigenous and local communities in the Convention process is fully effective;

*Recalling* paragraph 10 of decision VII/16 G of the Conference of the Parties,

*Aware* that contributions to the voluntary funding mechanism established by the Conference of the Parties to facilitate the participation of indigenous and local communities are voluntary and that its establishment does not imply an increase in assessed contributions,

*Recommends* that the Conference of the Parties at its eighth meeting:

1. *Adopts* the draft criteria for the operation of the voluntary funding mechanism annexed to the present recommendation;
2. *Urges* Parties, Governments as well as relevant funding institutions and mechanisms to make voluntary contributions to the trust fund;
3. *Invites* Parties to submit to the Executive Secretary reports on progress in achieving national participation of indigenous and local communities, and associated capacity-building, and *requests* the Executive Secretary to compile these submissions and, as appropriate and with the assistance of Parties and of indigenous and local communities, prepare a statistical report thereon identifying, *inter alia*, participation in different bodies of the Convention, participation from different countries/continents, participation in government delegations as well as outside of government delegations, and those funded by voluntary mechanisms;
4. *Invites* Parties, Governments and relevant funding institutions and mechanisms to provide financial support to developing country Parties, in particular the least developed and small island developing States among them, and countries with economies in transition, where appropriate, for capacity-building and training for representatives of indigenous and local communities in meetings of the Convention;

**II. THE ROLE OF THE THEMATIC FOCAL POINT UNDER THE CLEARING-HOUSE MECHANISM**

*Recalling* decision VI/19, paragraph 12 (c), which requests the Executive Secretary to make available in the six official United Nations languages all publications in the areas of biological diversity communication, education and public awareness that have been produced by the Secretariat, subject to availability of funding, and promote the translation of those publications in the languages of indigenous and local communities,

*Recalling* decision VII/16 G requesting the Executive Secretary to further develop the role of the thematic focal point on Article 8(j) and related provisions, under the clearing house mechanism,

*Recommends* that the Conference of the Parties at its eighth meeting:

1. *Notes with appreciation* the launching of the traditional knowledge information portal and related initiatives by the Secretariat, including the provision of other communication tools that are easily accessible for indigenous and local communities;

2. *Takes note* of the need for appropriate and effective funding being made available for the translation of notifications and other information resources, including the traditional knowledge information portal, for indigenous and local communities, as appropriate, into the six official languages of the United Nations,

3. *Requests* the Executive Secretary to:

(a) Convene, subject to the availability of financial resources, regional and subregional workshops on new information and web-based technologies to assist indigenous and local communities in their use and to facilitate the establishment of communication networks;

(b) Monitor the use of the Convention website and in particular, the traditional knowledge information portal, and to consult with indigenous and local communities and their organizations, that are participating in the work of the Convention, such as the International Indigenous Forum on Biodiversity, to identify any gaps or shortcomings and to report to the fifth meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions;

(c) To launch, subject to available resources, pilot projects in developing countries, in particular the least developed and small island developing States among them, and countries with economies in transition, relating to enhancing the role of the national clearing-house mechanism in providing information to indigenous and local communities;

(d) To provide, in a timely fashion, documentation for meetings under the Convention in the six United Nations languages in order to facilitate the translation of such documentation by national authorities for indigenous and local communities;

4. *Invites* Parties, Governments and relevant funding institutions and mechanisms to provide financial support to developing country Parties, in particular the least developed and small island developing States among them, and countries with economies in transition where appropriate, to support national projects for the translation of documentation for meetings of the Convention on Biological Diversity into local languages.

### *Annex*

## **DRAFT CRITERIA FOR THE OPERATION OF THE VOLUNTARY FUNDING MECHANISM**

### *A. Administrative context, structure and processes of the fund*

The following administrative context, structure and processes are based on precedents adapted to the context of the Convention on Biological Diversity and are consistent with the Financial Regulations and Rules of the United Nations.

#### **(a) Title of trust fund**

The title of the trust fund is the Voluntary Trust Fund to Facilitate the Participation of Indigenous and Local Communities in the Work of the Convention on Biological Diversity.

#### **(b) Fund management**

The Trust Fund will be administered by United Nations Environment Programme (UNEP), as Trustee with a 13 per cent charge for administrative costs and expenditures, and shall operate in accordance with the Financial Regulations and Rules of the United Nations.

**(c) Title of programme manager**

The Executive Secretary of the Convention on Biological Diversity is the programme manager of the Fund.

**(d) Advisory Selection Committee**

In the selection of beneficiaries in accordance with the criteria for selection provided in section B below, the Executive Secretary will consult, through electronic means and long-distance communication, with an Advisory Selection Committee consisting of seven representatives of indigenous and local communities nominated by indigenous and local communities from the seven geo-cultural regions applied under the United Nations Permanent Forum on Indigenous Issues, as well as with the Bureau of the Conference of the Parties.

**(e) Legislative mandate**

The legislative mandate derives from paragraph 10 of decision VII/16 G, on participatory mechanisms for indigenous and local communities adopted at the seventh meeting of the Conference of the Parties.

**(f) Possible donor(s)**

Voluntary contributions are anticipated from various Parties and Governments, financial institutions and foundations, intergovernmental and non-governmental organizations and private entities.

**(g) Fund-raising and sources of funding**

The Executive Secretary may undertake appropriate activities and initiatives to encourage contributions, as required.

**(h) Focus/purpose of the Fund**

The primary focus of the Fund is to facilitate the participation of indigenous and local communities, in meetings under the Convention, including meetings of the indigenous and local community liaison group/advisory group/steering committee to the programme of work of Article 8(j) and Related Provisions, (hereafter referred to as the “Advisory Group”) established by decision VI/10, annex I, paragraph 28 and VII/16 E, paragraph 4 (d), and relevant meetings of ad hoc technical expert groups, and in particular but not exclusively those that are related to the objectives of Article 8(j) and Related Provisions.

**(i) Relationship to other approved or proposed trust funds**

In supporting participants from indigenous and local communities, in the work of the Convention on Biological Diversity (CBD), the Fund remains the only United Nations fund specifically for indigenous and local community participation in meetings related to the Convention.

**(j) Collaboration with other Trust Funds**

The Secretariat will remain in contact with other relevant funds to ensure complementarity, to achieve gender, age and geographic equity and to avoid overlap or duplication regarding funding arrangements and to ascertain that the level of expertise and qualifications of individual applicants is ensured and by doing so that funding is effectively allocated and used.

**B. Proposed recommendations for selection criteria for beneficiaries of the fund**

The following selection criteria for beneficiaries of the Fund are applied, in accordance with the Financial Regulations and Rules of the United Nations, to ensure an objective and transparent selection process:

(a) Special priority is given to participants from indigenous and local communities from developing countries and countries with economies in transition and small island developing States but not excluding applicants from indigenous and local communities in developed countries;

(b) Gender balance should be applied, recognizing the special role of indigenous women (in knowledge, innovations and practices) from indigenous and local communities;

(c) Age balance should be applied recognizing the important role of Elders, in the intergenerational transfer of knowledge, innovations and practices of indigenous and local communities and the role of youth;

(d) Broad geographical representation and geographic, demographic and ethnic balance should be applied according to the seven geo-cultural regions applied under the United Nations Permanent Forum on Indigenous Issues, while recognizing that issues under discussion at specific meetings may require the representation of particular indigenous and local communities.

(e) In the selection of participants from indigenous and local communities, attention should be given to include experienced individuals and new participants as appropriate, to provide both a core of experience/expertise and continuity and an opportunity for capacity-building. The Secretariat may select both applicants who have never participated in meetings and processes, and individuals who have previously participated and could develop further specialized capacity and expertise and strengthen the core group of indigenous and local community participants;

(f) The only beneficiaries of assistance from the Fund shall be participants from indigenous and local communities and their organizations:

(i) Who are so considered by the Executive Secretary in consultation with the Advisory Selection Committee and the Bureau of the Conference of the Parties, and in accordance with established practice under the Convention, or through official accreditation under other bodies;

(ii) Who would not, in the opinion of the Executive Secretary in consultation with the Advisory Committee, be able to attend the meetings without such assistance provided;

(g) Travel costs (economy air ticket and daily subsistence allowance, *not including health, accident or travel insurance – these costs should be met by the individual and/or the organization being represented*) approved by the Secretariat are given on an individual basis. An organization or beneficiary cannot request that a beneficiary be replaced by another one, except under exceptional circumstances, time permitting and upon approval by the Secretariat. Nominating bodies are strongly encouraged to ascertain the availability of individuals before they are nominated and to nominate a number of candidates in priority order taking into account geographic, age and gender equity;

(h) The participants nominated should be those nominated by the indigenous or local communities and the organizations applying for financial assistance should be indigenous or local community organizations. Indigenous and local community individuals from non-governmental organizations may also be considered where necessary and appropriate. The Secretariat will also consider indigenous and local community individuals who have the authority to speak on behalf of their communities as political representatives;

(i) The Secretariat will give priority, as appropriate, to applicants living in their own community and territory and/or country (*vis-à-vis* applicants living abroad);



(j) The Secretariat will only consider applications, which provide a letter of recommendation signed by an executive of their organization. The Secretariat will not take into account a letter of recommendations signed by the applicant herself/himself;

(k) For participants from indigenous and local communities from developing countries, including small island developing States, as well as countries with economies in transition, participating on the official delegations of Parties, the Secretariat will only consider applications which provide a letter of recommendation from the organization being represented and confirmation from their government that the participant will be included on their official delegation,

(l) The Secretariat only considers a maximum of two (2) applicants per organization and organizations submitting two names are requested to consider gender balance (and where possible, to submit both a male and a female applicant);

(m) Applicants must submit application forms and recommendation letters in one of the six official languages of the United Nations (English, French, Spanish, Russian, Chinese or Arabic). Applications in other languages will not be considered by the Secretariat;

(n) Applicants must indicate their role and/or responsibilities in their organization or community;

(o) The Secretariat's selection of an applicant to attend a specific meeting of the Convention on Biological Diversity does not exclude another recommendation to attend other relevant meetings and vice versa.

The criteria for selection are reflected in the application forms, which are available on the webpage of the Secretariat at <http://www.biodiv.org/default.shtml> . Application forms must be received by the Secretariat at least three months, as appropriate, prior to the meeting for which participation is requested. An application form is provided in the appendix hereto.

*Appendix***UNITED NATIONS CONVENTION ON BIOLOGICAL DIVERSITY VOLUNTARY FUNDING  
MECHANISM FOR INDIGENOUS AND LOCAL COMMUNITIES (THE FUND)****APPLICATION FORM FOR APPLICANTS FROM INDIGENOUS AND LOCAL  
COMMUNITIES OR ORGANIZATIONS  
TO PARTICIPATE IN THE DELIBERATIONS OF:****Photo**

\_\_\_\_\_  
 \_\_\_\_\_

**Please identify the meeting that you wish to participate in and quote the notification reference number. In the case you apply for more than one meeting, please indicate your preference/priority using the numbers 1 to 3 ( 1 being your first priority )**

**YEAR:** \_\_\_\_\_

**The application form must be completed in one of the United Nations official languages (e.g. English, French, Spanish, Russian, Chinese, and Arabic) and all questions must be answered. Please use additional pages if needed to properly answer all questions.**

- ☐ **Please mark this box if your organization/s has consultative status with the Economic and Social Council of the United Nations.**

**I. INFORMATION ON THE APPLICANT**

1. Name of the indigenous and/or local community applicant proposed for a grant. (If the organization and/or community wishes to nominate two applicants, a separate application form must be filled out for each applicant; a maximum two applicants per organization/community will be considered. The Secretariat encourages indigenous and local community organizations to propose, if possible, one woman and one man). Individuals must hold a national passport that permits them to travel internationally.

**Family name (as it appears on your passport):** \_\_\_\_\_

**First name:** \_\_\_\_\_

**Gender:** \_\_\_\_\_ **Nationality:** \_\_\_\_\_

**Date of birth (day/month/year):** \_\_\_\_\_

**Role and/or Responsibility of applicant in the organization/community:** \_\_\_\_\_

**Profession and occupation of applicant:** \_\_\_\_\_

**(Please attach a recent curriculum vitae/biography)**

/...

Indicate the name of the indigenous and local community or affiliation that you belong to **(The applicant must be an indigenous or local community person)**:

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Address of applicant: \_\_\_\_\_

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Telephone (with country and city codes): \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Languages Spoken AND Working languages:

**Please note that the official languages of the United Nations (simultaneous interpretation) are Arabic, Chinese, English, French, Russian and Spanish. Whereas it is not mandatory, it is advisable that the applicant understands and speaks one of these languages.**

2. Please provide relevant information on your experience regarding the subject matter of the meeting/s for which you have applied:

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## **II. Information on the indigenous and/or local community organization**

3. Name of the indigenous and/or local community organization submitting an application for its participant:

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Mailing address:

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Telephone (with country and city codes): \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

4. Description of the activities of the indigenous and/or local community organization:

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5. Indicate which indigenous and/or local community you will represent and what relevant information you will provide to the meeting/s for which you have applied:

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6. Please provide a brief statement indicating how you and your organization would benefit from participation in this meeting and how you plan to utilize the experience in your work.

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**7. A letter of nomination and recommendation signed by an executive official or body of the applicant's indigenous organization or community must be attached to this form. Without this signed letter, applications will not be complete and the Secretariat will not be able to consider them.**

### III. Additional Information

8. Indicate if you have already participated in other relevant United Nations meetings:

Name of meeting/s: \_\_\_\_\_ Year: \_\_\_\_\_

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9. Indicate if you have already benefited from a travel grant from the Fund or any other United Nations fund to attend relevant United Nations meetings:

Name of meeting: \_\_\_\_\_ Year: \_\_\_\_\_

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10. Please indicate the reason why you are requesting financial assistance from the Fund:

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11. Level of grant requested. Please note that the Fund's grants **do not include health, accident or travel insurance, and that these costs should be met by the individual and/or the organization being represented.**

☐ **Full** (Includes air travel in economy class and a daily stipend. **Grants do not include health, accident or travel insurance**):

☐ **Partial**: Indicate which part and amount of expenses will be covered by you/your organization:

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12. Proposed travel itinerary from your home town/city to the venue of the meeting (cities of transport, modes of transportation plane/train/bus including dates). Please note that beneficiaries are expected to take the cheapest and most direct route from their home to the meeting they are attending unless authorize by the Secretariat under exceptional circumstances:

☐ From (town/city) \_\_\_\_\_ through (city) \_\_\_\_\_ to

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13. Please indicate your closest airport of departure.

Airport: \_\_\_\_\_ Location: \_\_\_\_\_

**Would you authorize the Secretariat of the Fund to use this information for a data-base of indigenous and local community organizations and/or individuals with expertise in the various areas of the CBD and also allow other organizations, such as UNPFII (United Nations Permanent Forum on Indigenous Issues), UNITAR (United Nations Institute for Training and Research) or OHCHR (Office of the High Commissioner for Human Rights), to have access to this application form so that they may contact you to invite you to attend other events?**

Yes ☐ No ☐

\_\_\_\_\_  
Signature of the applicant

\_\_\_\_\_  
Date

**THIS APPLICATION HAS TO BE SIGNED, DATED AND ACCOMPANIED BY A LETTER OF NOMINATION/RECOMMENDATION AND RECEIVED BY THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY AT LEAST THREE (3) MONTHS PRIOR TO THE MEETING TO BE CONSIDERED FOR FUNDING :**

/...

The Executive Secretary  
Secretariat of the Convention on Biological Diversity  
*Ph. 1 514 2882220*  
*Fax 1 514 288 6588*

**UNEP - SCBD**

*United Nations Environment Programme*  
*Secretariat for the Convention on Biological Diversity*  
*413 St. Jacques Street, Suite 800,*  
*Montreal. Qc. Canada. H2Y 1NP*  
URL: <http://www.biodiv.org>  
Email: [secretariat@biodiv.org](mailto:secretariat@biodiv.org)

For more information on traditional knowledge issues, please consult the website of the Convention on Biological Diversity at <http://www.biodiv.org/default.shtml>

**Due to the large number of applications received, only beneficiaries of a grant will be notified.**

You are invited to consult the list of beneficiaries, which will be available on the CBD's Website shortly after the decisions are taken before the meeting/s in question.  
( <http://www.biodiv.org/default.shtml> )

**4/5. Development of elements of *sui generis* systems for the protection of the knowledge, innovations and practices of indigenous and local communities**

*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 eighth meeting:

*Recalling* decision VII/16 H, in particular paragraphs 6 (a) and 6 (b),

1. *Urges* Parties and Governments to develop, adopt and/or recognize, as appropriate, national and local *sui generis* models for the protection of traditional knowledge, innovations and practices with the full and effective participation and prior informed consent of indigenous and local communities and to report on these initiatives through the national reporting process and share experiences through the clearing-house mechanism, subject to Article 8(j);

2. *Invites* Parties and Governments with transboundary distribution of some biological and genetic resources and associated traditional knowledge to consider the establishment of regional *sui generis* frameworks for the protection of traditional knowledge, innovations and practices, as appropriate, with the full and effective participation and prior informed consent of indigenous and local communities;

3. *Requests* the Executive Secretary to continue gathering and analysing information, in consultation with Parties, Governments, indigenous and local communities, to further develop as a priority issue, the possible elements listed in the annex to decision VII/16 H for consideration by the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions at its fifth meeting;

4. In the spirit of mutual supportiveness and to avoid duplication of efforts, *requests* the Executive Secretary to inform other relevant organizations, such as those listed in decision VII/16 H, of the potential elements to be considered in the development of *sui generis* systems for the protection of traditional knowledge, innovations and practices;

5. *Acknowledges* the work being done at the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization on the intellectual property aspects of *sui generis* systems for the protection of traditional knowledge against misappropriation and misuse;

6. *Acknowledges* the ongoing discussions in the World Trade Organization to examine, *inter alia*, the relationship between the Agreement on Trade-related Aspects of Intellectual Property Rights and the Convention on Biological Diversity and the protection of traditional knowledge;

7. *Invites* the Parties and Governments, indigenous and local communities, and non-governmental organizations to communicate to the Secretariat their views on the definitions related to the present decision and *requests* the Executive Secretary to compile these views for consideration at the fifth meeting of the Working Group on Article 8(j) and Related Provisions.

**4/6. *Elements of an ethical code of 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***

*The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity*

*Recommends* that the Conference of the Parties at its eighth meeting:

1. *Takes note* of the draft elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant for the conservation and sustainable use of biological diversity, as contained in the note by the Executive Secretary on the subject (UNEP/CBD/WG8J/4/8);
2. *Invites* Parties, Governments, indigenous and local communities, relevant international organizations and other relevant stakeholders, after having undertaken, where appropriate, consultations, to submit written comments to the Executive Secretary, on the draft elements, at least six months prior to the fifth meeting of the Ad Hoc Working Group on Article 8(j) and Related Provisions;
3. *Requests* the Executive Secretary to transmit the present decision to the United Nations Permanent Forum on Indigenous Issues;
4. *Requests* the Executive Secretary to compile the views and comments provided and make the compilation as well as a revised draft on elements of an ethical code of conduct, available at least three months prior to the fifth meeting of the Ad Hoc Working Group on Article 8(j) and Related Provisions for its consideration;
5. *Requests* the Ad Hoc Working Group on Article 8(j) and Related Provisions to further develop the draft elements of an ethical code of conduct and submit these to the Conference of the Parties at its ninth meeting for consideration and possible adoption;
6. *Invites* Parties, Governments, relevant international organizations and relevant stakeholders to take note of the annex below.

***Annex***

1. In the further development of the draft elements of an ethical code of conduct, all relevant actors are encouraged to engage positively and in a constructive manner.
2. The following list reflects a variety of views that were raised in an initial exchange of views at the fourth meeting of the Ad Hoc Working Group on Article 8(j) and Related Provisions, which are not necessarily commonly held but which may be useful in further work:
  - (a) Consistency with the mandate of the Convention on Biological Diversity;
  - (b) Paying due respect to the work and mandates of other international organizations, in particular of the United Nations Commission on Human Rights;
  - (c) Developing a more logical structure of the document and of the sequence and location of paragraphs;
  - (d) Audiences: the draft elements of the ethical code of conduct should be targeted and useful for different audiences;
  - (e) Scope of the draft elements of the ethical code of conduct: language of the code to be reviewed;
  - (f) Respect for national legislation;



(g) Section 3 (“Ethical Principles”) of annex I to the note by the Executive Secretary on elements of an ethical code of conduct (UNEP/CBD/WG8J/4/8) offers guidance relating to the scope of the draft elements of the ethical code of conduct;

(h) Incorporation of customary law and practices;

(i) Research management tools for indigenous and local communities;

(j) Some aspects in the document UNEP/CBD/WG8J/4/8 which appear in the draft elements are more appropriate as an explanation;

(k) Relationship between different indigenous and local communities;

(l) The draft elements of the ethical code may cover not only research on sacred sites, lands and waters;

(m) Title of the draft elements of the ethical code may be revisited;

(n) The concept “indigenous communities” may be replaced by the concept “indigenous peoples”;

(o) Ethical principles: application of the draft elements of the ethical code may not be restricted to research carried out inside indigenous communities but include research on traditional knowledge carried out *ex situ*;

(p) Take into account the integrity of indigenous peoples’ collective rights;

(q) The scope of the draft elements of the ethical code may include both interaction with indigenous and local communities as well as research, access to, use, exchange, and management of information concerning traditional knowledge, innovations and practices for the conservation and sustainable use of biological diversity;

(r) The draft elements of the ethical code of conduct may take into account the need for researchers to return the results of their research to indigenous peoples and their communities and to seek the prior informed consent of the communities before applying for intellectual property rights;

(s) The draft elements of the ethical code of conduct may include the elements of ethical principles of indigenous peoples.

**4/7. *Potential socio-economic impacts of genetic use restriction technologies (GURTs) on indigenous and local communities***

*The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity,*

*Recalling* paragraph 2 of decision VII/16 D,

*Taking note* of recommendation X/11 of the Subsidiary Body on Scientific, Technical and Technological Advice,

*Taking note* of the range of views that have been compiled by the Executive Secretary (UNEP/CBD/WG8J/4/INF/6),

*Recognizing* that genetic use restriction technologies present complex issues that require further scientific research and studies as well as the evaluation of potential impacts on the basis of the precautionary approach, as outlined in principle 15 of the Rio Declaration on Environment and Development and further elaborated in the preamble to the Convention on Biological Diversity,

*Noting* the range of potential socio-economic impacts of genetic use restriction technologies on indigenous and local communities, including potential impacts on Farmers' Rights, local crop varieties, food security, indigenous biological diversity, as well as on traditional knowledge, innovations and practices, exchange of seeds and breeding,

*Noting also* the need to enhance the capacity of developing country Parties and Parties with economies in transition as well as of indigenous and local communities to address the ecological, socio-economic and cultural impacts and other aspects of genetic use restriction technologies,

*Recommends* that the Conference of the Parties at its eighth meeting:

1. *Reaffirms* its decision V/5, section III (Genetic use restriction technologies);
2. *Invites* Parties, other Governments and relevant organizations and stakeholders to:
  - (a) Respect the right of farmers and indigenous and local communities to use, save and exchange their farm-saved seeds /propagating materials; where appropriate, subject to national legislation;
  - (b) Promote cooperation and synergies between agencies and experts in order to undertake further research and studies on potential impacts and other aspects of genetic use restriction technologies, including their ecological, socio-economic and cultural impacts on indigenous and local communities, including on a case-by-case risk assessment basis with respect to different categories of genetic use restriction technologies\*, subject to the precautionary approach; and
  - (c) Disseminate relevant information, based on scientific research and studies, on ecological, socio-economic and cultural impacts of genetic use restriction technologies on indigenous and local communities, including through the clearing-house mechanism;
3. *Urges* Parties and Governments, international and regional financial institutions and development agencies, as well as other donors to promote technology transfer and support capacity-building measures, in accordance with national needs and priorities, for risk assessment and risk management, by developing countries Parties and Parties with economies in transition aimed at addressing the ecological, socio-economic and cultural aspects of genetic use restriction technologies;
4. *Also urges* Parties and Governments, international and regional financial institutions and development agencies, as well as other donors to support, *inter alia*, through capacity-building measures, smallholder farmers and indigenous and local communities in the application of section III of decision V/5;

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\* This is meant to be with respect to different variations within different categories of genetic use restriction technologies.

5. *Further urges* Parties to promote and facilitate the full and effective participation of indigenous and local communities in all future discussions on genetic use restriction technologies under the Convention on Biological Diversity;

6. *Invites* the World Intellectual Property Organization, the United Nations Educational, Scientific and Cultural Organization, and the United Nations Commission on Human Rights to undertake, within their respective mandates, studies on the factual record of patents granted, as well as any pending patent applications and related patent policies on genetic use restriction technologies and on the ethical and spiritual consequences of genetic use restriction technologies.

**4/8. Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices**

*The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity,*

*Recalling paragraph 7 of decision VII/30,*

*Recognizing* that the indicator on “status and trends of linguistic diversity and numbers of speakers of indigenous languages”, already identified for immediate testing in the table of provisional indicators for assessing progress towards the 2010 biodiversity target, provided in annex I of decision VII/30, is a useful indicator for assessing the status of traditional knowledge, innovations and practices, if used along with other indicators,

1. *Recognizes* the value of conservation, preservation and use of traditional knowledge, innovations and practices made by indigenous and local communities;

2. *Also recognizes* that further methodological and conceptual work is needed to develop a limited number of meaningful and practical indicators for assessing the status of traditional knowledge, innovations and practices, in order to assess progress towards to 2010 biodiversity target;

3. *Notes* the importance of both qualitative and quantitative indicators to help determine the status and trends of traditional knowledge;

4. *Underlines*, in accordance with the principles identified by the Expert Group on Indicators of Biological Diversity (UNEP/CBD/SBSTTA/9/10), that a limited number of meaningful and practical indicators is needed for assessing progress towards the 2010 biodiversity target, that they should be measurable and facilitate the establishment of trends, and be based on reliable and comparable data over standardized periods of time which, in order to minimize the additional reporting burden for Parties, should be currently available or be historically reproducible at low cost;

5. *Also notes* the need for, and benefits of, streamlining indicators with those developed under other international processes, such as under the Millennium Development Goals;

6. *Also notes* the need to harmonize and coordinate work on indicators within the process of the Convention on Biological Diversity;

7. *Emphasizes* that indigenous and local community-based self-administered indicators are highly significant in measuring traditional knowledge where it occurs;

8. *Takes note* of the list of possible indicators identified by the Advisory Group on Article 8(j) and Related Provisions (UNEP/CBD/WG8J/4/10);

9. *Welcomes* the ongoing work of the United Nations Educational, Scientific and Cultural Organization on testing and improving the indicator on “status and trends of linguistic diversity and numbers of speakers of indigenous languages”, and on the collection of pertinent data to make this indicator fully operational;

10. *Appreciates* the initiative of the International Indigenous Forum on Biodiversity to establish a coordination committee with a view to aid discussion on proposed indicators in a holistic way and, in particular, to develop a concept proposal including a concrete work plan with identified timelines and technical mechanisms to deliver this work in a comprehensive and coordinated manner, and *invites* the International Indigenous Forum on Biodiversity to submit this concept proposal to the Conference of the Parties at its eighth meeting for further consideration;

11. *Recommends* that the Conference of the Parties at its eighth meeting:

(a) *Considers* a more structured technical process to guide further work in the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions on further development of a limited number of meaningful and practical indicators for assessing the status of traditional knowledge, innovations and practices, for assessing progress towards the 2010 biodiversity target;

(b) *Invites* Parties, Governments and relevant organizations, in consultation with indigenous and local communities, to provide to the Executive Secretary information on activities pertaining to the development and application of indicators for assessing the status of traditional knowledge, innovations and practices, including on the testing of prototypes and pilot projects, through existing reporting mechanisms;

(c) *Requests* the Executive Secretary to compile this information and make it available through the clearing-house mechanism and, as appropriate, to the technical process referred to in subparagraph (a) above.

**4/9. Recommendations of the United Nations Permanent Forum on Indigenous Issues**

*The Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity*

*Recommends* that the Conference of the Parties at its eighth meeting:

1. *Welcomes* the close cooperation between the Convention process and the Permanent Forum on Indigenous Issues on matters pertaining to indigenous and local communities and their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity as an important initiative to avoid duplication of work and maximize synergy;
2. *Notes with appreciation* the Workshop on Cultural, Environmental and Social Impact Assessments based on the Akwé: Kon Voluntary Guidelines and aimed at the further strengthening of the understanding of the link between environment and cultural diversity, which was held in Tokyo, Japan, from 30 May to 2 June 2005, in collaboration with other United Nations agencies and relevant international organizations, with the participation of representatives of indigenous and local communities;
3. *Requests* the Executive Secretary to transmit the report of the Workshop to the Permanent Forum on Indigenous Issues;
4. *Takes note* of the request by the Permanent Forum on Indigenous Issues to the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions to advance its mandate to develop mechanisms for effective *sui generis* systems of protection based on customary laws of indigenous peoples.

*Annex II***TRIBUTE TO THE GOVERNMENT AND PEOPLE OF THE KINGDOM OF SPAIN**

1. The biodiversity of our planet—the very foundations of life on Earth—is being lost at rates unprecedented in human history. The impacts of biodiversity loss are particularly severe for indigenous and local communities. To respond to this unprecedented challenge facing humankind, the 110 Heads of State and Government attending the World Summit on Sustainable Development, held in Johannesburg, South Africa in September 2002 agreed to substantially reduce the rate of loss of biodiversity by 2010. In September 2005, the 154 Heads of State and Government gathered in New York recommitted themselves to the achievement of this strategic target when they adopted the 2005 World Summit Outcome. With only four years left before 2010, we need to redouble our efforts. Achieving this strategic target requires unprecedented efforts and the active engagement of all stakeholders and, in particular, the unique contribution that indigenous and local communities have to offer. They are an integral part of the efforts at local, national, regional and international levels to attain the 2010 target of significantly reducing the rate of loss of biological diversity.

2. *We, the participants in the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity*, express our gratitude to the Government and people of Spain for the hospitality and leadership on this key issue and invite the Minister of the Environment of the Kingdom of Spain to convey to the participants in the High-Level Segment of the eighth meeting of the Conference of the Parties of the Convention on Biological Diversity to be held in Curitiba, Brazil, on 27-28 March 2006, the results of the Granada meeting and the importance of the effective implementation of work programme on Article 8(j) for the successful implementation of the 2010 biodiversity target.

Granada, 27 January 2006

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