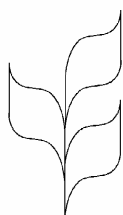




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PROTECTED AREAS: THEIR ROLE IN THE MAINTENANCE OF BIOLOGICAL AND CULTURAL DIVERSITY

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I. INTRODUCTION

1. Indigenous and local communities (also referred to in much of the literature concerning protected areas as “indigenous and traditional peoples”) are owners and co-managers of considerable areas of land designated as protected areas, while constituting in many cases very small percentages of the national population. In many countries they are significant managers of the nation’s biodiversity. For this reason, particular attention should be paid to the policies and process involved in the selection, designation and management of protected areas that involve lands and waters traditionally occupied or used by indigenous and local communities (also referred to as “traditional lands”).
2. The purpose of the present note is to further amplify many of the issues raised with respect to indigenous and local communities in the note by the Executive Secretary prepared for the first meeting of the Expert Group (UNEP/CBD/AHTEG-PA/1/2) in situations where protected areas overlap, or impact, lands and waters traditionally occupied or used by such communities. These issues are particularly relevant to the implementation of Article 8(j) and its related provisions – Articles 10(c), 17.2 and 18.4 – of the Convention on Biological Diversity and may also need to be addressed by the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions (the Ad Hoc Working Group on Article 8(j)). This note therefore contains, in the final section, a number of suggested recommendations which the Ad Hoc Technical Expert Group on Protected Areas may wish to consider and which primarily fall under the mandate of the Ad Hoc Working Group on Article 8(j), but which may also involve the SBSTTA.
3. Section II of the note provides an overview of the nature and extent of the involvement of indigenous and local communities/indigenous and traditional peoples with protected areas, and the effects – both positive and negative – that protected areas can have when they overlap lands and waters traditionally occupied or used by such communities. In addition to the issues raised in the principal document, the Note draws much on work carried out under the auspices of the World Conservation Union (IUCN), the World Commission on Protected Areas (WCPA) and the World Wide Fund for Nature (WWF), and that of Gonzalo Oviedo in particular.
4. Key policy issues are addressed in section IV, and some additional perspectives on issues raised in the principal document are provided with respect to threats to protected areas (section V), co-management of protected areas (section VI), and the financing of protected areas that overlap lands and waters traditionally occupied or used by indigenous and local communities (section VII).
5. In section VIII, the Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas (IUCN/WCPA and WWF, 1999) are briefly examined with a view to their possible endorsement by the Conference of the Parties to the Convention on Biological Diversity. The Principles and Guidelines reflect many of the requirements of Article 8(j) and related provisions, and address many of the policy issues, the successful resolution of which provide the sound base for the establishment of protected areas and their management arrangements on lands and waters traditionally occupied or used by indigenous and local communities. Given the nature and extent of indigenous and local community involvement in protected areas, section IX briefly draws attention to the debate about whether the IUCN Protected Areas Management Categories (1994) should be extended or otherwise modified to include a special category or sub-category which more accurately reflects circumstances in which protected areas overlap lands and waters traditionally occupied or used by indigenous and local communities.

II. INDIGENOUS AND LOCAL COMMUNITY INVOLVEMENT IN PROTECTED AREAS - OVERVIEW

6. Many of the world’s most biodiverse areas are also the most culturally diverse. Indigenous and local communities around the world have developed complex cultures and lifestyles in response to the many rich and diverse ecosystems on which they depend for their livelihoods. In doing so, they have also modified these ecosystems to suit their own needs and purposes over many generations to the extent that both the people and the ecosystems have become mutually dependent. Effectively, what has been created are “biocultural landscapes” in which humans should to be considered as necessary components of the

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ecosystems which comprise such landscapes. Ecosystem changes, such as those induced by clearing of vegetation, unsustainable harvesting of bushmeat, and poaching can create changes in the lifestyles of the people that depend on them. Likewise, removal of the traditional inhabitants and their traditional ways of managing their local environments can precipitate changes in local ecosystems, for example, through changes in species composition, unchecked pest infestations, and relationships between species.

7. Indigenous peoples and local communities comprise most of the world's cultural diversity. Indigenous peoples are culturally distinct with ways of life that vary considerably from one locality to another. Of the estimated 6,000 cultures in the world, between 4,000 and 5,000 are indigenous, which means that indigenous peoples make up between 70 and 80 percent of the world's cultural diversity. If language is taken as an indicator of cultural diversity, it is estimated that about three quarters of the world's 6,000 languages are spoken by indigenous peoples. Yet human cultural diversity, as measured by the rate of language extinction, is threatened on an unprecedented scale. In one century, the world has lost about 600 languages. Nearly 2,500 languages are in danger of immediate extinction; and an even higher number are losing the "ecological contexts" that keep them as vibrant languages. At current rates, 90 percent will be lost in the 21st century (Maffi 1999). The majority of these languages are spoken by indigenous and traditional peoples. They—and their associated ecological knowledge—are being lost at an accelerating rate because of a range of factors operating at global, regional, national and local levels. At the local level, conversion of traditional biodiversity-rich lands for agriculture, pasture and plantation forests, for example, has destroyed the subsistence base of local peoples and rendered many of their traditional practices redundant.

8. Many indigenous cultures, in particular, only survive with their traditions intact because of the remoteness or inaccessibility of the areas they inhabit, their inhospitable climates, and because they lack resources (minerals, land suitable for farming, particular plant and animal species) useful to mainstream society. This also makes many of these areas, with their ecosystems relatively untouched by radical development, suitable candidates for protected area status. Thus it would appear that declaring such areas protected, with the approval of the communities concerned, would have great potential to serve the twin purposes of protecting biological and cultural diversity.

9. As yet no systematic, complete data exist on how many protected areas around the world overlap with traditional lands and resources of indigenous and traditional peoples (Oviedo 2002:3-4). Nevertheless, it is estimated that perhaps more than 50% of existing protected areas have been established on the ancestral domains of indigenous and local communities. Millions of indigenous people live within protected area boundaries. This is particularly the case in the developing world. One review concluded that 86% of protected areas in Latin America, 69% in India, and 70% worldwide are inhabited, and the great majority of these inhabitants are indigenous or traditional peoples practising subsistence economies. In South America, 80% of the protected areas, and 85% in Central America have indigenous peoples living inside them. This situation is also true in a number of countries in the developed world, such as Canada, the United States, Australia and New Zealand.

10. Indigenous peoples are owners and co-managers of considerable areas of land designated as protected areas, while constituting in many cases very small percentages of the national population. For example, excluding the United States and Canada where they constitute 2.20% and 0.80% of the total population respectively, indigenous people of the Americas represent approximately 7.72% of the total population of the region (Ortega 2000:129). With the notable exceptions of such countries as Guatemala (66%), Bolivia (63%), Ecuador (40%) and Peru (40%), indigenous peoples for the most part account for 5% or less of the national populations. In Brazil, for example, indigenous people are 0.20% of the population (Ortega 2000: 128-9). In Australia, the indigenous population is less than 2.00% of the total, but has title to about 15% of the continental land area, much of which is gazetted as national park. Thus, in many countries, indigenous people are significant managers of national biodiversity. For this reason, particular attention should be paid to the policies and processes involved in the selection, designation and management of protected areas that involve lands and waters traditionally occupied or used by indigenous and local communities.

11. However, the establishment of protected areas has often been carried out with little regard for the situation of the indigenous and local communities that inhabit them. Traditional customary land and resource rights have often been sacrificed to the narrow conservation objectives of protected areas, and newly-imposed management and control systems have frequently overridden traditional authorities and institutions, and in some instances have led to confrontation and violence (see Oviedo 2002:3-4). As a result, many indigenous and local communities have been left in a situation in which the establishment of protected areas has very often aggravated their conditions of deprivation, poverty, marginalization, social exclusion and cultural erosion, not only because of the restrictions or loss of access to natural resources, but also because of disadvantages when relocated to other marginal lands or moving to cities as migrants (Oviedo and Sylva 1994; Oviedo 2002:4).

12. The irony of this situation cannot be ignored. Indigenous and local communities in many parts of the world traditionally set aside and restricted access to certain areas, for example, for religious, ceremonial and conservation purposes, in effect creating their own systems of protected areas. These predate by many centuries, if not millennia, the Yellowstone model which has dominated national and international legislation and policies on protected areas throughout most of the last century. The strategy behind the establishment of protected areas based on the Yellowstone model lies in setting aside lands and waters and forbidding or strictly regulating human access and uses of them. The groves, mountains, rivers and lakes held sacred by indigenous and local communities, or areas subject to seasonal closures because of their importance as nesting, breeding or spawning grounds, were often particularly important for biological, ecological, landscape, or fragility reasons. In other words, very much the same criteria were often applied for the identification of protected areas as underwrite the declaration of contemporary protected areas by national and sub-national governments. Similarly, areas of particular traditional significance would normally be under the authority of traditional institutions or spiritual leaders vested with “statutory” powers, and a body of customary regulations and norms would usually be defined and enforced to ensure compliance with rules governing traditional access to and use of the resources of such areas (Oviedo 2002:4, see in particular footnote 8).

13. Protected areas are one of the primary tools for *in situ* biodiversity conservation, yet in situations where they overlap lands and waters traditionally occupied or used by indigenous and local communities, they face conflicts that could seriously threaten their effectiveness. However, the protected-areas model is experiencing rapid and profound evolution, and there is nowadays growing support for a new protected-areas paradigm of social sensitivity and inclusiveness, flexibility in approaches, and integration with local development aspirations (Oviedo 2002:1-2). Properly planned and managed, and with the participation and involvement of the traditional inhabitants at all stages of planning, implementation and management, such protected areas can have mutually beneficial outcomes for both the people themselves, and the ecosystems targeted for protection.

14. While recognizing the need to expand existing national and regional protected area networks to ensure that all ecosystem types are adequately represented, it appears, however, that there are few “empty” lands remaining in the world with valuable biodiversity to designate as protected areas. In the developing world, in particular, many of these lands are owned, occupied or otherwise used by traditional communities. This is particularly true for areas considered high in natural value such as tropical forests, freshwater catchment areas, and coastal zones. Any significant expansion of protected areas in the world, therefore, should also accommodate the needs of the traditional inhabitants (Oviedo 2002:6-7).

15. In the establishment and management of protected areas, governments might therefore consider constructing alliances with the indigenous and local communities inhabiting them to solve existing problems, improve management effectiveness, secure the very survival of those areas as valuable receptacles of biodiversity, and expand national protected area networks to include ecosystem types so far under-represented (Oviedo 2002:7). This will help to serve the twin objectives of both biodiversity and cultural maintenance.

III. KEY POLICY ISSUES

16. When protected areas have been established on lands and waters they have traditionally occupied or used, indigenous and traditional communities have generally encountered a number of problems. These have been summarized by Oviedo (2002:7-8) as follows:

(a) Despite the contribution of indigenous and local communities to maintaining healthy ecosystems in vast areas of lands and coastal waters, protected areas have very often been established in those areas with no consideration of such contribution, and have resulted in eviction or the loss of access to livelihoods;

(b) In addition to having disregarded their contribution to ecosystem management, the establishment of protected areas in lands and waters traditionally occupied or used by indigenous and local communities has in many cases led, or contributed, to impoverishment, deprivation, and further marginalization of those communities;

(c) Lack of recognition of land and resource rights, and deprivation resulting from the indicated practices, frequently in a context of broader socio-political marginalization, has given birth to a number of conflicts between protected-areas agencies and indigenous and local communities, who, having suffered from such processes, have become enemies of conservationists instead of being interested parties in conservation;

(d) Especially in conditions of insufficient institutional capacity, as it is very often the case in developing countries, in some cases traditional lands falling within protected areas have been more affected than in the past by external threats (like mining, illegal timber extraction, wildlife trafficking, etc), due to non-replaced loss of control capacity by indigenous and local communities;

(e) Lack of understanding and recognition of the values and roles of culture-based conservation of indigenous and local communities has undermined their potential support to protected areas, and in some cases, land-use practices opened following the establishment of protected areas (like tourism) have conflicted with traditional practices.

17. However, there have also been a number of instances in which protected areas overlapping lands and waters traditionally occupied or used by indigenous and local communities have had generally positive outcomes (see, for example, Kemf 1993):

(a) There are many cases in which indigenous and local communities have been permitted to continue living within protected areas with no significant losses in access to resource use, although in most cases (especially in civil law countries), ownership of lands and resources has remained with the State;

(b) In such conditions, indigenous communities living within those areas have gained benefits from additional protection of their territories, which otherwise may have been affected by threats much greater than the capacity of those communities to resist (Oviedo 2002:8, citing Colchester 1994);

(c) There are also cases in which, under the same conditions, material benefits have been also generated in favour of the communities involved, like employment opportunities, tourism-related revenues, improvement of housing, health care, education and infrastructure (Oviedo 2002:7-9).

18. As a result of these more positive experiences, indigenous and local communities are themselves considering in many cases the establishment of new protected areas in lands traditionally occupied or used by them because they are increasingly finding protected areas useful for their own purposes, for example, as a means to gain greater recognition and protection for the natural resources in those areas, as a way of attracting financial and other support, and as a way of increasing the security of such areas against the interests of developers (Oviedo 2002:8, citing Stevens 1997:4). In Australia, for example, a new category of protected area is now recognized, namely Indigenous Protected Areas. In a number of instances, both national and sub-national governments have enabled indigenous traditional owners to gain title over existing protected areas on the condition that they lease them back to the government as national parks. However, as part of this arrangement, the traditional owners have significant authority and responsibilities

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in how the parks are to be managed, and enjoy a significant share of the revenue derived from, for example, park entrance fees.

19. From an overall policy perspective, if protected areas are to be established on lands traditionally occupied or used by indigenous and local communities, those communities generally expect that:

- (a) Those lands, as well as their communities and cultures they contain, will be protected from external threats and will, in particular, reinforce traditionally protected areas;
- (b) They will be entitled to use those areas and the natural resources they contain;
- (c) They will be able to develop their communities in their own way;
- (d) They will be able to co-manage the resources within protected areas, and participation of traditional institutions in co-management arrangements will be allowed;
- (e) They will be able to determine their own development priorities, as long as they are compatible with protected-areas objectives;
- (f) Protected areas will only be declared at their initiative, and/or with their free and prior informed consent;
- (g) Sustainable use of natural resources using methods that maintain the integrity of the ecosystem and that have been used traditionally by indigenous and local communities will be incorporated within the management structure of the protected area; and
- (h) Protected-area status will provide tangible benefits to their communities (Oviedo 2002:9).

20. Thus, in addressing the interests of both protected-areas agencies and indigenous and local communities, some of the fundamental policy issues that will need to be resolved concern:

- (a) Land tenure and rights of access to natural resources, including the regulations for resource use;
- (b) Attribution of control and police powers, including management institutions and decision-making mechanisms;
- (c) Traditional ecological knowledge and traditional management practices;
- (d) Benefit-sharing and incentives (Oviedo 2002:9).

IV. THREATS TO PROTECTED AREAS

21. Protected areas that overlap lands and waters traditionally occupied or used by indigenous and local communities suffer from the direct and indirect threats, and the underlying causes to those threats outlined in the note by the Executive Secretary prepared for the meeting of the Expert Group (UNEP/CBD/AHTEG-PA/1/2), if not more so. Similarly, many such protected areas also suffer from a lack of resources and capacity in the agencies responsible for their management, which can also include a lack of local community involvement and participation.

22. The major problem however, as identified by Oviedo, is the inadequacy of national laws and policies to face the challenge of building partnerships, including in terms of their failure to follow guidance offered by the IUCN International System. At the national level, legal and political regulations on issues like ownership and statutory powers within protected areas are frequently obsolete and ineffective, particularly in developing countries, and contradict fundamental concepts of the International System. Categories with the highest potential to respond to indigenous peoples' claims, like Protected Landscapes and Managed Resources Protected Areas, are under-utilized and poorly understood. Approaches that have proven useful, like multiple classification and Biosphere Reserves, do not receive enough attention by governments and protected-areas managers (Oviedo 2002:2).

23. It is now widely recognized that in the developing world, protected-area agencies are, with a few exceptions, becoming increasingly weaker, and their managerial capacities are downsizing due to

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economic crises, while at the same time being stretched by growing human pressures. The problem of “paper parks”, or protected areas affected by ineffective management and therefore increasingly vulnerable to growing, powerful threats, has become more real than ever (Oviedo 2002:6, citing Carey et al, 2000). In the presence of weaker protected-area institutions, it is argued, a variety of actors, including traditional communities, should be considered assets for improving management effectiveness (Oviedo 2002:6)

24. These and many other issues might only be effectively resolved by putting in place effective arrangements for the co-management of protected areas that overlap the lands and waters traditionally occupied or used by indigenous and local communities by effectively involving such communities in the establishment and management of these protected areas. However, an appropriate policy and legislative framework that has been negotiated with the indigenous and local communities affected by a declaration of protected-area status, and one that will provide for effective community management capacity, should first be established. Such a framework might include, for example, indigenous/local community representation on boards of management; negotiation of management plans with affected indigenous/local communities; community powers of enforcement; financial provisions with regard to equitable sharing of revenues derived from the protected areas; and the provision of necessary infrastructure (access roads, paths, monitoring stations and equipment).

V. CO-MANAGING PROTECTED AREAS WITH INDIGENOUS AND LOCAL COMMUNITIES

25. The search for conflict resolution on the ground, and the persistent claims of indigenous and local communities, have given birth to many constructive arrangements for the management of protected areas that overlap lands and waters traditionally occupied or used by such communities. Most notable among these are co-management (or joint-management) agreements forged between governments and the traditional owners/occupiers of territories that have been designated protected areas. Especially in the absence of appropriate legal and policy changes, co-management agreements are providing valuable opportunities for participation and are fostering respect for local peoples’ rights. Oviedo states that co-management processes, coupled with legal and policy reform, and with innovative management techniques and approaches, like community mapping and customary management-based zoning, can become key avenues for building constructive partnerships, on the condition that they genuinely recognize the rights of the indigenous and local communities (Oviedo 2002:2).

26. Such co-management agreements are generally consistent with principle 2 of the ecosystem approach, which states that management should be decentralized to the lowest appropriate level, and with trends in the decentralization of government management of protected areas to more locally based institutions and authorities.

27. As pointed out in the note by the Executive Secretary, co-management can be generally defined as “a situation in which two or more social actors negotiate, define and guarantee amongst themselves a fair sharing of the management functions, entitlements and responsibilities for a given territory, area, or set on natural resources”. With specific reference to protected areas, it generally refers to:

“....a partnership by which various stakeholders agree on sharing among themselves the management functions, rights and responsibilities for a territory or set of resources under protected status. The stakeholders primarily include the agency in charge and various associations of local residents and resource users, but can also involve non-governmental organizations, local administrations, traditional authorities, research institutions, businesses and others.” (Borrini-Feyerabend, 1996)

28. A key ingredient in successful co-management arrangements wherever community involvement in protected area management has worked well has been an appropriate and sympathetic enabling policy and legislative environment, usually at the national level. Worah concludes that it is best to:

“focus on the basic principles of community-based conservation which are to decentralise resource management to the local level, to put the appropriate system of

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incentives and the policy environment in place to enable this and to build capacity for local stewardship of natural resources. This would imply that the focus of community-based conservation initiatives needs to be on facilitating equitable negotiations between interest groups based on incentives and disincentives, checks and balances and a supportive policy environment.”

29. A vital part of establishing co-management arrangements with indigenous and local communities with respect to protected areas on their territories is the formulation of management plans. The process by which such a plan is prepared is as important as the ultimate content of the plan. The WCPA guidelines stress that if a plan is to be effective, it must reflect “on-ground needs and priorities, and must be ‘owned’ by those who will have to implement it...” and notes that “it is desirable to include the participation of the local people who live in and around the parks (or have other traditional or economic links with them) in developing the plan”. Processes for stakeholder participation become extremely important in this process, since the design and legal designation of a particular site can have significant impacts on indigenous and local community access to resources and livelihoods.

30. In order to be successful, co-management agreements should address the policy issues identified in section III above. However, in establishing an appropriate policy and legislative environment, all those parties that are stakeholders in the existing/future protected area, need to be involved in the process. While due weighting should be given to those who are primary stakeholders in an area designated for possible protection status, a necessary part of the process is also the balancing of the respective claims and interests of both primary as well as secondary stakeholders, some of which may be in conflict. To this end, it would seem appropriate to establish some guidelines to assist in the development of co-management agreements which, in the first instance address the needs of protected area agencies and the indigenous and affected traditional communities, but also can be used to guide negotiations with regard to the interests of other stakeholders.

VI. FINANCING PROTECTED AREAS THAT OVERLAP LANDS AND WATERS TRADITIONALLY OCCUPIED OR USED BY INDIGENOUS AND LOCAL COMMUNITIES

31. As pointed out in the note by the Executive Secretary, local communities often suffer direct economic losses when their access to biological resources (such as bushmeat, timber, non-timber forest products and access to agricultural land) is cut off by establishment of a protected area. Protected areas may be the only source of employment in an area, or may provide a critical source of timber, or of animal protein in local diets. Converted to dollar values on open markets such measurements may appear trivial in economic terms, but their loss could be devastating to large numbers of people. While the protected area may be producing considerable economic benefit to society at large in the form of ecosystem services or ecotourism revenues, the affected local people are in essence subsidizing those flows of values to the state and the wider society. Thus there is a need to ensure that the burdens of protected-area establishment are not disproportionately visited on local communities and that the tangible financial costs to them are factored into the equation

32. It should also be recognized that, in monetary terms, indigenous and local communities are often among the poorest groups in their countries. They have few of the resources necessary for the successful management of the protected areas, even though they may have significant responsibilities in such management. Therefore special attention should be paid to ensuring that the long-term financial needs of the protected areas and the peoples involved with them are met, for example, through an appropriate share of park revenues, the establishment of conservation trust funds.

33. Protected areas are also proving to be an essential element of efforts to eradicate poverty, hunger, disease, and environmental degradation. Numerous studies and meetings have produced a wealth of analysis and case-studies illustrating the linkages between conserving biodiversity and alleviating poverty, hunger and disease. However, these positive outcomes in many cases can only be achieved through changes in the traditional economic and subsistence activities of the indigenous and local communities concerned. New forms of culturally appropriate employment that builds on traditional skills may need to

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be introduced to replace, for example, unsustainable traditional resource-use practices, remembering that some of these practices may have become unsustainable in more recent times due to indirect pressures on indigenous and local communities and their resource bases. Protected-area status can offer a whole new range of employment opportunities (as park rangers, tourist guides, interpretive centres, tourist-oriented artefact production, infrastructure provision and maintenance). Many of these jobs will also require training. Local people can acquire, for example, scientific management skills to complement their traditional knowledge, so that they can better carry out such tasks as strategic planning, environmental/social/cultural impact assessments, biodiversity monitoring, parataxonomy, habitat rehabilitation, species surveys, and so forth.

34. There is considerable potential to harness private financial flows to support local conservation efforts. Properly designed, new environmental business opportunities (e.g., ecotourism, organic agriculture, shade-grown coffee, certified forestry, etc) can contribute significantly to biodiversity conservation by shifting local employment away from more destructive livelihood activities (e.g., blast fishing, large-scale commodity crop monoculture). Yet major barriers exist to scaling up such environmental businesses, including lack of technical business planning capacity, lack of investment capital, lack of a pipeline of viable enterprises for investment, and difficulties with engaging the financial services industry.

35. In tropical developing countries—where biodiversity is richest and the threats to it are greatest—public development assistance provided by the developed countries through their bilateral agencies and the multilateral financial institutions must remain a cornerstones of protected-areas financing, and must increase if protected areas in those countries are to survive. For this to happen, protected areas must come to be seen as an essential part of sustainable development, not a “luxury good” that only rich countries can afford. Much of this development assistance must target the capacity-building needs of the indigenous and local communities whose territories overlap protected areas in order for them to take on prominent roles as managers, as well as enable them to diversify into other forms of economic activity that will relieve pressure on local biological resources.

VII. PRINCIPLES AND GUIDELINES ON INDIGENOUS AND TRADITIONAL PEOPLES AND PROTECTED AREAS (IUCN/WCPA AND WWF, 1999)

36. The Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas respond to WCC Resolution 1.53 on Indigenous Peoples and Protected Areas, adopted at the World Conservation Congress in Montreal, 1996. Resolution 1.53 is based on recommendations from the IV World Congress on National Parks and Protected Areas (Caracas, Venezuela, 1992), calling for the development of policies for protected areas that safeguard the interests of indigenous peoples, and take into account customary resource practices and traditional land tenure systems. In response to this request, WCPA and WWF initiated collaborative work that involved two years of extensive consultations within both organizations, with many indigenous and other traditional peoples' organizations from various parts of the world, as well as with other conservation organizations and protected areas managers. The process also benefited from many discussions that indigenous and local-community organizations had held themselves on the matter, as well as from various on-the-ground experiences where the concept of partnerships for protected areas had been tested (Oviedo 1999:1).

37. The result of this process was the development and adoption by both organizations, in 1999, of a Joint Policy Statement called Principles and Guidelines on Indigenous and Traditional Peoples And Protected Areas. This document is essentially a development and application of WWF and IUCN respective policies on indigenous peoples and conservation, in the context of the existing WCPA guidelines on protected areas, and in response to claims of indigenous and traditional peoples' organizations (Oviedo, 1999:1)

38. The Principles and Guidelines, comprising five principles and 22 guidelines for their implementation, should be considered as a framework aimed at providing guidance, not as a blueprint. It is intended that they should be adapted to the particular situation, legislation, and policies of each country,

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and used together with other complementary approaches and tools, to ensure effective management of protected areas in partnership with indigenous and other traditional peoples living within and around borders (IUCN/WCPA and WWF, 1999:4). The document seeks to reconcile the interests, rights and needs of indigenous peoples with those of protected areas. The steps proposed are seen as the necessary foundation to create partnerships in protected areas, which overlap with lands and waters traditionally occupied or used by indigenous and local communities (Larsen 2000:62).

39. Briefly stated, the principles cover the following matters:

Principle 1: Recognizing the long association with and respect for nature that indigenous and local communities have, there should be no conflict between the objectives of protected areas and the existence within their borders of indigenous and local communities, furthermore, they should be recognized as rightful, equal partners in the development and implementation of conservation strategies that affect lands and waters traditionally occupied or used by them, and in particular in the establishment and management of protected areas;

Principle 2: Agreements drawn up between conservation institutions and agencies and indigenous and local communities for the establishment and management of protected areas affecting lands and waters traditionally occupied or used by them should be based on the full respect for their rights associated with those areas, and on the recognition by indigenous and local communities of their responsibility to conserve the biodiversity harboured in those protected areas;

Principle 3: The principles of decentralization, participation, transparency and accountability should be taken into account in all matters pertaining to the mutual interests of protected areas and indigenous and local communities;

Principle 4: Indigenous and local communities should be able to fully and equitably share in the benefits associated with protected areas that overlap their territories; and

Principle 5: Recognition of the rights of indigenous and local communities is an international responsibility as in many cases their territories cross national boundaries.

40. In view of the considerable consultation and input from indigenous and local communities in the drafting of the document, and its adoption by three of the world's leading conservation authorities, it seems appropriate to consider the possibility of endorsement of the principles and guidelines by the Conference of the Parties to the Convention on Biological Diversity. It is therefore proposed that the principles and guidelines should be assessed by the Ad Hoc Working Group on Article 8(j) in terms of their capacity to meet the objectives of the Convention on Biological Diversity as well as fulfil the requirements of Article 8(j) and related provisions, other relevant provisions of the Convention, and decisions of the Conference of the Parties.

VIII. INDIGENOUS AND LOCAL COMMUNITIES AND THE IUCN PROTECTED AREAS MANAGEMENT CATEGORIES (1994)

41. The IUCN International System of Protected Areas Management Categories adopted in 1994, while widely accepted, nevertheless has a number of shortcomings relating to its applicability on the ground, and its accuracy as it has been applied in various regional and international overviews. There has been considerable debate about whether the six management categories of protected areas management comprising the International System, provide sufficient recognition to protected areas that overlap indigenous and local community territories. Gonzalo Oviedo has extensively addressed this debate and concluded that:

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“... the system offers considerable scope to incorporate indigenous peoples’ interests and concerns. Most of these revised [1994] protected areas management categories explicitly recognize that indigenous and local communities may occupy and/or use such areas and none of them is, *by definition, opposed to indigenous peoples’ claims with regard to protected areas established on their lands*. Therefore, the system as a whole has the potential to accommodate a range of models of protected areas, according to the degree of human intervention, in a way that both indigenous and other traditional peoples’ rights and conservation can be respected. (Brown and Oviedo, 1999: 104, cited in Oviedo 2002:29. Original emphasis)”

42. In support of this conclusion, in a review of 82 protected areas overlapping with lands and waters traditionally occupied or used by indigenous and local communities classified by international category and region, Oviedo reported that the largest group of areas corresponds to Category II (National Parks) with 33 areas representing 40% of the total. This contrasts with Categories Ib, III and V, in which only one area was recorded in each. Categories following in importance in this classification are Category IV: Habitat/Species Management Areas (12.2%), Category VI: Managed Resource Areas (8.5%) and Category Ia: Strict Nature Reserves (7.3%). Oviedo also notes that there is a group of areas not classified by international category as per the 1997 list (14.6%), in most cases because their national category doesn’t have a clear correspondence with the International System according to the criteria of the respective governments, or because they have been declared after compilation of the 1997 list (Oviedo 2002:30).

43. Oviedo, while noting that Category II: National Parks has by far the highest proportion of protected areas overlapping lands and waters traditionally occupied or used by indigenous and local communities, and also explicitly addresses issues relating to indigenous and local communities in its description, suggests that Categories V and VI seem to be the most useful ones for addressing the interests of indigenous and local communities, given their emphasis on sustainable practices and the humans-nature relationship that is built into their definitions (Oviedo 2002:30-31 and 33).

44. However, Oviedo concedes that there are national situations where, given the importance in the national landscape of indigenous and local communities and the lands they have traditionally used or occupied, the relevance of their interests for protected areas, and the management requirements for protected areas overlapping those lands, the creation of specific categories for such areas is justified and indeed happens in Australia where a separate national category, Indigenous Protected Areas, has been established (Oviedo 2002:29)

45. While discussion is currently taking place to examine issues of protected-area categorization, there is a particular need to review the IUCN International System in order to assess how its existing categories may be made more accommodating of indigenous and local community interests in protected areas which overlap lands and waters traditionally occupied or used by them. Consideration should also be given as to the adoption of a new category specifically addressing indigenous and local community protected areas, and to the establishment of criteria for such a category taking into account the objectives of the Convention on Biological Diversity, the requirements of Article 8(j) and related provisions, and relevant decisions of the Conference of the Parties.

IX. SUGGESTED RECOMMENDATIONS

46. The Ad Hoc Technical Expert Group on Protected Areas may wish to recommend that SBSTTA, at its next meeting, recommend that the Conference of the Parties at its seventh meeting:

(a) *Recognize* the need to give special consideration to the interests of indigenous and local communities in both current and future protected areas which overlap with lands and waters they have traditionally occupied or used and whose natural resources they have traditionally relied for their sustenance and livelihoods, in order to ensure that their customary uses of biological resources in accordance with sustainable use requirements are maintained; that their traditional knowledge is respected and applied in the management of such areas, and that they themselves are actively involved in a range of capacities in the management of overlapping protected areas;

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(b) *Request* the Ad Hoc Working Group on Article 8(j), in conjunction with the SBSTTA, to develop a set of guidelines which may be used in the development of co-management agreements involving protected area agencies and affected indigenous and local communities for the management of protected areas that overlap lands and waters traditionally occupied or used by such communities for the consideration of the eighth meeting of the Conference of the Parties;

(c) *Request* the Global Environment Facility, and *invite* other relevant funding organizations, to provide financial assistance, as a matter of priority, to developing countries, least developed countries and small island developing States for the management of protected areas, and in particular those protected areas that overlap lands and waters traditionally occupied or used by indigenous and local communities, targeting the capacity-building needs of such communities for the effective management of those protected areas;

(d) *Request* the Ad Working Group on Article 8(j) to undertake an assessment of the IUCN/WCPA and WWF Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas (1999) in terms of their capacity to meet the objectives of the Convention on Biological Diversity as well as fulfil the requirements of Article 8(j) and related provisions, and other relevant provisions of the Convention, and decisions of the Conference of the Parties, with a view to recommending the possible endorsement of the Principles and Guidelines by the Conference of the Parties at its eighth meeting.

(e) *Invite* IUCN to undertake an assessment of the IUCN International System of Protected Area Categories and examine how its existing categories may be made more accommodating of indigenous and local community interests in protected areas which overlap lands and waters they have traditionally occupied or used, also giving consideration to the adoption of a new category specifically addressing indigenous and local community protected areas, and to the establishment of criteria for such a category taking into account the objectives of the Convention on Biological Diversity, the requirements of Article 8(j) and related provisions, and relevant decisions of the Conference of the Parties.

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