



Convention on Biological Diversity

Distr.
GENERAL

UNEP/CBD/WG8J/7/INF/3
10 May 2011

ORIGINAL: ENGLISH AND
SPANISH

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

Seventh meeting

Montreal, 31 October-4 November 2011

COMPILATION OF VIEWS ON ARTICLE 10 FOCUS ON 10 (c)

Note by the Executive Secretary

INTRODUCTION

1. As requested by the Conference of the Parties in decision X/43, the Executive Secretary is circulating herewith, for the consideration of participants in the seventh meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions, a compilation of view and comments submitted to the Secretariat regarding a new major component of work on Article 10 with a focus on Article 10(c), as one of the inputs for deliberations for develop a strategy for the integration of this component, as a cross-cutting issue into the Convention's various programmes of work and thematic areas.

2. Submissions have been reproduced in the form and languages in which they were provided to the Secretariat of the Convention on Biological Diversity.

SUBMISSIONS

A. Submission from Parties

Australia

AUSTRALIAN GOVERNMENT RESPONSE TO NOTIFICATION 2011-065 & 2010-210:
PROGRAMME OF WORK ON ARTICLE 8(j) AND RELATED PROVISIONS:

NOTE: *No consultation with state and territory governments or Indigenous groups occurred due to the tight deadline for responding to this notification. All information provided below has been drawn from Australian Government agency inputs only.*

X/43 MULTI-YEAR PROGRAMME OF WORK ON THE IMPLEMENTATION OF ARTICLE 8(J) AND RELATED PROVISIONS

Article 10

Also in decision 10/43, the Conference of the Parties decided on a new major component of work on article 10 with a focus on article 10(c), and requested the seventh meeting of the Working group to provide advice on how this component could be implemented and to develop a strategy for the integration of this component, as a cross-cutting issue into the Convention's various programmes of work and thematic areas. To assist the Working Group in its consideration of this issue, Parties, indigenous and local community organizations, NGOs and other relevant organizations are requested to submit information regarding:

- (a) **The implementation of Article 10 of the Convention (sustainable use of biodiversity), with a focus on Article 10(c) (customary sustainable use), (decision X/43, paragraph 6);**

Working Together for Sea Country Management of the Great Barrier Reef: A Case Study of Traditional Use of Marine Resource Agreements

The Great Barrier Reef Marine Park Authority and Traditional Owner groups along the Great Barrier Reef are working together to establish cooperative arrangements for sea country management. Traditional Use of Marine Resource Agreements (TUMRAs) are being developed by Traditional Owner groups to describe formal management arrangements for a range of traditional use of marine resources activities within their sea country.

Traditional use of marine resources is the undertaking of activities as part of Aboriginal and Torres Strait Islander people's customs or traditions, for the purposes of satisfying personal, domestic or communal needs and may include: fishing, collecting (for example, shellfish), hunting, and looking after cultural and heritage sites.

Many Aboriginal and Torres Strait Islanders undertake traditional use of marine resources activities to educate younger generations about traditional and cultural rules, protocols and for activities in sea country; practice their 'living maritime culture'; and provide traditional food for families.

TUMRAs describe how Traditional Owner groups work with government to manage traditional use activities in sea country. A TUMRA may describe for example, how Traditional Owner groups wish to management or place limits on their take of turtle and dugong; their role in compliance; and in monitoring the condition of plants, and animals, and human activities in the Great Barrier Reef Marine Park. The TUMRA implementation plan may describe ways to educate the public about traditional connections to

sea country, and to educate other members of a Traditional Owner groups about the conditions of their TUMRA and management arrangements for sea country. See www.gbrmpa.gov.au/data/assets/pdf_file/0006/21885/reef-wide_framework_for_managing_tumra.pdf for more information.

Norway

NORWAY GOVERNMENT RESPONSE TO NOTIFICATION 2011-065 & 2010-210: PROGRAMME OF WORK ON ARTICLE 8(j) AND RELATED PROVISIONS:

Article 10

The Nature Diversity Act states that official decisions that affect biological, geological and landscape diversity shall, as far as is reasonable, be based on scientific knowledge of the population status of species, the range and ecological status of habitat types, and the impacts of environmental pressures. The knowledge required shall be in reasonable proportion to the nature of the case and the risk of damage to biological, geological and landscape diversity. Furthermore, the authorities shall attach importance to knowledge that is based on many generations of experience acquired through the use of and interaction with the natural environment, including traditional Sami use, and that can promote the conservation and sustainable use of biological, geological and landscape diversity.

In addition, in 2011 the Norwegian government decided to launch a national programme on local and traditional knowledge concerning the conservation and sustainable use of biological diversity. This was a direct result of the ongoing discussions concerning article 8j and 10 c in the Convention on biological diversity (CBD). The national programme has as aim to safeguard relevant traditional knowledge, innovations and practices according to article 8(j).

Norway is one of the few European countries to have indigenous peoples, the Saami. In addition to the Saami, Norway also has many tradition holders represented in small-scale use of the biological resources. Reindeer husbandry, small-scale farming, forestry, hunting, and artisanal fishery all depend on traditional knowledge. Artisanal fishermen are still dependent on knowledge of the seasonal behaviour of the fish, weather conditions and wind directions to make their catches. Fish, both fresh and smoked, is sold directly by the fishermen locally to tourists and summer guests. Farm dairies produce traditional cheese made from cows and goats that graze in forest that have been grazed for centuries. Traditional knowledge and local traditional products still play

an important role in rural development even in a highly industrialized country like Norway.

Republic of China

CHINA GOVERNMENT RESPONSE TO NOTIFICATION 2011-065 & 2010-210: PROGRAMME OF WORK ON ARTICLE 8(J) AND RELATED PROVISIONS:

2. Article 10 of the Convention

China is a civilized ancient country with long history, and accumulated rich traditional knowledge, innovation and practices during thousands years of agricultural production. Meanwhile, China is also a country composed of many nationalities, people of different nationalities accumulated very rich traditional knowledge during long-term production and life practices, and many farmers, especially people of some ethnic minorities living in remote mountainous areas, still inherit, use and develop the traditional knowledge and practice beneficial to the conservation and sustainable use of biological diversity. The traditional knowledge of China is too rich to be named one by one, which includes

nationality dresses, traditional cuisines, traditional houses, traditional Chinese medicine, acupuncture, local dramas, ceramics, wushu and qigong, etc.

Chinese Government very respects the rights and interests of ethnic minorities and local communities, respects the traditional life styles beneficial to the conservation and sustainable use of biological diversity, encourages local communities to participate in the activities consistent with goal of the CBD, strengthens the collection, reorganization and management of traditional knowledge, improves public awareness of protection of traditional knowledge, strengthen the innovation, research and development of traditional knowledge, which enhances greatly the sustainable development of national economy and society, and also makes great contribution to the conservation of ecosystems, species and genetic resources of Chinese characteristics.

China has established Outline on Basic Study of Traditional Chinese Medicine and Outline of Clinic Study of Traditional Chinese Medicine, fulfill overall Plan on Prevention and Control of AIDS with Traditional Chinese Medicine (2004-2005); launched the compilation of Planning on Standardization Construction of Traditional Chinese Medicine, completed 12 traditional Chinese medicine standards, among them 11 standards including Terminology for Basic Theories of Traditional Chinese Medicine have been completed; strengthened the study over basic theories of symptom, Syndrome, viscera and their manifestation, meridians and collaterals, prescription, therapeutic principles and treatment by applying traditional methods; organized and implemented the preparation for investigation and inventory of traditional Chinese medicine resources; strengthened the reorganization of classical literature, the platform of literature digitalization research is initially established, and the construction of literature database of traditional Chinese medicine is speeded up; organized and carried out the publicity and training of protection of intellectual property rights; the international cooperation of traditional Chinese medicine is strengthened, and has signed health cooperative agreements including articles of traditional Chinese medicine with 51 countries such as US, Canada, France, UK and Germany, and has signed 17

cooperative agreements on traditional Chinese medicine with countries such as Norway and Ireland. In 2005, the State Council has started the revision of Regulation on Protection of Traditional Chinese Medicine Varieties, which shall become the umbrella of intellectual property rights of traditional Chinese medicine industry.

Nationality medicines are the great treasures of medicines of various nationalities of China. For instance, traditional Tibetan medicine is not only one important component of traditional Chinese medicine, but also has very important academic position and historical position in the field of global traditional medicines. And medicines of other nationalities also have their unique characteristics and attractions. China has accomplished great achievements in the unearthing and reorganization of nationality medicines. Over 300 literatures of medicines of ethnic minorities were compiled, reorganized or translated into Chinese. State Administration of Traditional Chinese Medicine itself had arranged the reorganization of 82 literatures of medicines of ethnic minorities during 2001-2004. Besides the type of medicines of Tibet, Mongolia, Uigur, Dai Nationality, Korean Nationality and Hui Nationality that have historic literatures, medical science histories, medical monographs, pharmaceutical monographs or comprehensive books were published for the medicines of ethnic minorities of Zhuang, Miao, Yao, Yi, Dong, Tujia, Buyi, Gelao, She and Shui minorities. 25 kinds of serial university textbooks of Tibetan medicine were published. Internal Medicine of Zhuang Medicine regarding Zhuang medicine was also published. These books not only collected many clinic experiences and medicine technologies, but also summarized and reorganized their own medical theories to different extents. In addition, under the support of competent authorities of central government, the minority regions developed vigorously the cause of nationality medicines. Now there are 4 institutes of high learning of nationality medicines. In terms of clinic, there are 157 nationality hospitals nationwide, among them, 55 hospitals of traditional Tibetan medicine, 41 hospitals of traditional Mongolia medicine, 33 hospitals of traditional Uigur medicine, 30 hospitals of traditional Dai medicine,

traditional Yao medicine, traditional Kazak medicine, traditional Zhuang medicine and traditional medicines of other nationalities and 359 clinics of nationality medicines. The minority autonomous regions and some minority autonomous prefectures have established research institutes of nationality medicines. What's more delightful is that, the nationality medicines rise quickly in the past decade, over 130 manufacturers of nationality medicines appeared, and they manufacture 853 officinal of nationality medicines approved by the state and involving six categories of nationality medicines of traditional Tibetan medicine, Miao medicine, Mongolia medicine, Uigur medicine, Dai medicine and Yi medicine, and the annual turnover is around USD 0.605 billion.

But China has 56 nationalities, the traditional knowledge of different nationalities are spread among the society which needs to be collected and reorganized systematically; the awareness of protection of traditional knowledge is still relatively weak and not sensitive enough; and the professionals of protection and management of traditional knowledge is in shortage, and their capabilities to apply the means of intellectual property rights are not sufficient; no enough research is carried out for special issues of protection of traditional knowledge, the corresponding national policies, strategies and legislations are rather weak; the fair system of sharing the benefits arising out of the utilization of traditional knowledge, innovation and practice has not been established yet; with the development of nationality medicines, the collection of medicinal material resources of nationality medicines is excessive; the national capacities and skills to protect the traditional knowledge is rather weak, which causes the loss of a great deal of traditional knowledge.

Colombia

**COLOMBIAN GOVERNMENT RESPONSE TO NOTIFICATION 2011-065 & 2010-210:
PROGRAMME OF WORK ON ARTICLE 8(j) AND RELATED PROVISIONS:**

Asunto: Comentarios al Programa de Trabajo 8 (j): integración del artículo 10 con enfoque en el artículo 10 (c)

Señor Secretario:

De manera atenta me dirijo a usted con ocasión de la Notificación a las Partes SCBD/SEL/OJ/JS/DM/7443, a través de la cual se solicita remitir comentarios sobre el Programa de Trabajo en el Artículo 8 (j) y disposiciones conexas.

A continuación, y en consideración a la Decisión X/43 de la Conferencia de las Partes sobre el Programa de Trabajo en el Artículo 8 (j), y específicamente a lo que respecta a los avances en la integración del artículo 10 con enfoque en el artículo 10(c) sobre el uso consuetudinario de la biodiversidad, remito los siguientes comentarios de Colombia al respecto.

1. El uso consuetudinario de la biodiversidad por parte de las comunidades indígenas y locales en Colombia está determinado por la autonomía en la gestión de sus territorios. De esta manera, ese uso consuetudinario no puede entenderse por fuera de la institucionalidad local que caracteriza tal autonomía (reglas, normas y derechos propios), ni tampoco por fuera de su reconocimiento estatal.
 - ✓ El Estado colombiano ha avanzado en el reconocimiento de los sistemas de reglas propias en torno a la gestión de los territorios colectivos¹. Los avances se refieren a los procesos de facilitación de instancias de participación entre las instituciones estatales y las comunidades, con el propósito principal de establecer procedimientos

¹ La Constitución Política de Colombia de 1991 constituye la base fundamental para el reconocimiento de la autonomía local, así como las Leyes que definen el alcance de los Territorios Colectivos. Existen, además instrumentos legales que obligan reflexión sobre la autonomía territorial de los grupos étnicos como los acuerdos regionales, las Sentencias de la Corte Constitucionales, y disposiciones generales como el Acuerdo 169 de la OIT.

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de consulta en sus territorios, el fortalecimiento de las formas propias de gobierno, la armonización entre Jurisdicciones Indígenas y Ordinarias, el desarrollo y ajuste de instrumentos propios de gestión territorial, el desarrollo de protocolos y procedimientos para la articulación económica, presupuestal y de inversión, así como para el seguimiento a las formas de gobierno. Existe entonces un marco desde el cual podría avanzarse en la implementación del artículo 10 con enfoque en el artículo 10(c), sin embargo, debe mencionarse que existen limitantes relacionadas con los acuerdos entre las Instituciones y la Comisión Permanente de Concertación. El reto estriba en fortalecer la gobernanza de los territorios locales, y en avanzar en la discusión sobre el carácter o no de autoridad ambiental de dichas comunidades.

- ✓ Una de las experiencias más representativas que se han tenido desde el punto de vista del reconocimiento de la institucionalidad local asociada al uso consuetudinario de la biodiversidad, es el de los Regímenes Especiales de Manejo (REM) por parte de la Unidad Especial Administrativa de Parques Nacionales Naturales². La construcción de dichos acuerdos en diferentes contextos territoriales ha sido una oportunidad de legitimar para la institucionalidad formal colombiana las distintas formas locales de apropiación y uso de la biodiversidad. Estos acuerdos constituyen avances concretos con los planteamientos del artículo 10 y en general con su enfoque 10(c), sin embargo, es necesario avanzar en términos de la cobertura en el territorio nacional. Existe el reto concreto de armonizar dichos acuerdos con las directrices más generales que reconocen la autoridad y autonomía de las comunidades locales en la gestión de su territorio. Al mismo tiempo es importante continuar con el trabajo de agendas de articulación por parte de la Autoridad Ambiental Nacional, de manera que se avance en la constitución de mecanismos acoplados para la gestión de la biodiversidad.
- ✓ Además de los grupos étnicos referidos principalmente a indígenas y negritudes, las comunidades campesinas también tienen institucionalidades alrededor del uso y aprovechamiento de la biodiversidad que no siempre son reconocidas. Para el caso colombiano no existe soporte legal sobre el cual se permita a las comunidades campesinas establecer sistemas de uso y manejo consuetudinario. Es evidente que las comunidades campesinas también se benefician de forma directa de estos recursos, y que la desarticulación de las disposiciones de las autoridades ambientales puede redundar en comprender el uso como un proceso ilegal. En este sentido, vale la pena avanzar en el reconocimiento de procesos de uso de costumbre de la biodiversidad por grupos campesinos, así como identificar elementos que permitan acoplar dichas dinámicas con los referentes legales e institucionales del Estado.

² Los Regímenes Especiales de Manejo (REM) son figuras de entendimiento entre la Autoridad Ambiental encargada de la gestión de las áreas de Parques Nacionales y las comunidades indígenas o grupos locales que tienen sus territorios superpuestos con las reservas en mención. Dichos acuerdos nacen del artículo 7 del Decreto 622 de 1977 en el que se busca *"...establecer un régimen especial en beneficio de la población indígena de acuerdo con el cual se respetará la permanencia de la comunidad y su derecho al aprovechamiento económico de los recursos naturales renovables, observando las tecnologías compatibles con los objetivos del sistema señalado al área respectiva"*.

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2. La aproximación al conocimiento sobre los usos consuetudinarios de la biodiversidad es un proceso complejo. La promoción de los usos consuetudinarios de la biodiversidad es posible en la medida en que se comprendan los rasgos y dominios de los conocimientos tradicionales, el entendimiento de las prácticas en las que éstos se expresan, y su concordancia con las reglas y normas sociales que en consecuencia se desarrollan.

- ✓ Siendo el conocimiento tradicional un elemento fundamental asociado a la comprensión de los usos locales y consuetudinarios, considerarlo más allá de los planteamientos que aseguran que es una unidad discreta es fundamental para avanzar en la promoción y mantenimiento de los usos consuetudinarios. Colombia ha tenido avances relevantes en la consideración de los conocimientos tradicionales como valores intangibles y de importancia para la competitividad³, sin embargo, es necesario recalcar que dichos conocimientos tradicionales no existen sin un medio y unas formas culturales que así lo permiten, y que por tal razón debe consolidarse una política de recuperación, protección y fomento del conocimiento tradicional.
- ✓ La pérdida de sistemas de uso y manejo tradicional de la biodiversidad es un factor preocupante. No obstante, se cuenta con experiencias exitosas en la recolección, sistematización e incorporación del conocimiento tradicional en contextos territoriales específicos. En tal sentido, dicha incorporación ha estado más determinada por procesos de conservación que de uso y mantenimiento de dinámicas locales de gestión del territorio. El reto, en este orden de ideas, para avanzar en los presupuestos del artículo 10(c), está en reconocer que si bien el conocimiento tradicional es un elemento importante para la conservación explícita de la biodiversidad, también es un marco en el que se definen prácticas de uso y aprovechamiento de la biodiversidad de las que depende el bienestar de las comunidades locales⁴.
- ✓ Colombia ha tenido avances importantes en el entendimiento de las prácticas de uso de la biodiversidad en contextos locales. Básicamente se ha enfrentado a reconocer diferentes sistemas de uso de la biodiversidad, donde principalmente tiene avances en la caracterización de las actividades de caza de subsistencia por parte de comunidades indígenas y algunas con comunidades campesinas. De dichos estudios, los principales resultados están relacionados con datos biológicos, ecológicos y socio-

³ El Plan Nacional de Desarrollo (2010-2014) nombra la importancia del conocimiento tradicional como base para el Desarrollo del país, específicamente en el sentido en que se constituye como una oportunidad para avanzar en procesos de innovación que garantizarían que los mercados colombianos de bienes y servicios sean más competitivos.

⁴ Algunos de los más importantes avances han estado vinculados con experiencias como las de Tropenbos Colombia, donde a partir del conocimiento local, y de la comprensión entre éste y las prácticas de los habitantes locales, han logrado desarrollar estrategias de manejo de información orientada al monitoreo de la sostenibilidad en los usos cotidianos y de costumbre, específicamente en pesca. Los resultados han sido muy valiosos, y a este punto se cuenta con más de 12 años de registros de caza y pesca, y con acuerdos ajustados y adaptativos para el uso y gestión de la biodiversidad.

<http://www.tropenbos.org/index.php/es/where-we-work/colombia>

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culturales, y en general se accede a información sobre las técnicas utilizadas de caza y el uso dado a los animales cazados⁵. Si bien muchos de estos estudios son realizados en contextos territoriales donde prevalecen sistemas de uso consuetudinario, no todos los trabajos dan cuenta de la dinámica institucional alrededor del aprovechamiento.

- ✓ Un referente importante al momento de considerar los avances en la implementación del artículo 10(c) tiene que ver con el desarrollo de investigaciones propias por parte de los usuarios consuetudinarios. Algunas asociaciones de comunidades locales, principalmente indígenas, han avanzado en la formalización de procesos de generación de conocimiento propio sobre la significación y el comportamiento de la biodiversidad que es usada⁶. Desde el punto de vista del conocimiento, estas experiencias son fundamentales para construir una base sobre la cual puedan comprenderse, de mejor manera, los sistemas consuetudinarios de uso de la biodiversidad y su sostenibilidad. El reto es seguir avanzando sobre este tipo de iniciativas, eso sí vinculando al horizonte de investigación la percepción local sobre los procesos de transformación que pueden percibirse en dichos territorios.
3. El uso consuetudinario de la biodiversidad además requiere, además de considerar las perspectivas institucionales y del conocimiento como factores determinantes, también requiere incorporar una dimensión instrumental. La promoción y el mantenimiento de los usos consuetudinarios debe fundamentarse en acuerdos que sean reconocidos y que puedan ser incorporados dentro de los procesos de seguimiento de las Decisiones del Convenio.
- ✓ Un avance importante en este tema es la construcción de agendas conjuntas por parte del Ministerio del Interior y de Justicia, y también la voluntad por parte del Ministerio de Ambiente, Vivienda y Desarrollo Territorial en el apoyo a la construcción de agendas ambientales propias. No obstante, el reto a futuro es poder articular dichas agendas con los compromisos establecidos al nivel central para el manejo del territorio y la biodiversidad, específicamente el vínculo a través de instrumentos entre dichos procesos y las disposiciones existentes que orientan la gestión de la biodiversidad.
 - ✓ Es importante destacar que Colombia ha avanzado en el reconocimiento de algunos compromisos sobre uso sostenible de la biodiversidad, y que se continúa el trabajo de instrumentalización de dichos marcos. La promoción y el mantenimiento de los usos

⁵ La información en este caso suele ser dispersa, asimétrica y heterogénea en términos de enfoques y escalas de aproximación. No siempre en ellas hay participación directa de las comunidades locales. Vieira *et al.* (2006) identifica que uno de los principales referentes en los estudios del uso sostenible es el concepto de máxima cosecha sostenible, advirtiendo su limitante para comprender procesos de cambio y la incertidumbre asociada a los usuarios.

⁶ La Asociación de Cabildos y Autoridades Indígenas de la Selva de Matavén – ACATISEMA, ha trabajado a través de becas en la generación de estudios sobre la biodiversidad de su territorio, enfatizando sobre las relaciones de uso de la biodiversidad. Esta experiencia también ha sido desarrollada por Tropenbos Colombia en otras regiones de la Amazonia. De la misma manera el Ministerio de Cultura de Colombia, en alianza con WWF-Colombia, han desarrollado becas de colaboración con comunidades locales para identificar prácticas culturales asociadas al uso de la biodiversidad.

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consuetudinarios de la Biodiversidad deben darse sobre un escenario de reconocimiento en el que sea posible articular diferentes estrategias y mandatos. La sostenibilidad en el uso de dicha biodiversidad debe ser elemento a considerar en este abordaje, en tal sentido se recomienda continuar con las discusiones de ajuste y aplicación de los principios de Addis Abeba.

- ✓ Otro aspecto importante, más en el orden del desarrollo de elementos conceptuales para entender las relaciones entre biodiversidad y bienestar humano, ha sido la consideración explícita de la biodiversidad como aportante a la seguridad alimentaria y la salud de las comunidades locales. Un elemento a considerar en el proceso de implementar los enunciados del artículo 10(c) del Convenio, sería el reconocimiento formal del aporte de la biodiversidad que, a través de sus usos consuetudinarios, tiene aportes evidentes y explícitos a la autonomía de los sistemas de alimentación y de salud de dichas comunidades. El reto está en avanzar en la construcción de instrumentos de política.
- ✓ La consideración de la dimensión del riesgo en la gestión de la biodiversidad es un tema que merece ser considerado en los procesos de implementación del artículo 10(c). Resulta claro que una gestión ineficiente, inequitativa y centralizada de la biodiversidad, puede aumentar las condiciones del riesgo a que ésta se pierda, y a que las comunidades que de ella dependen se perjudiquen. Existen un reto importante y es el de visibilizar los procesos de uso consuetudinario (así como sus reglas) como elementos favorables para la disminución de los factores del riesgo en la gestión de la biodiversidad y el bienestar humano.

Cordialmente,


PATTI LONDOÑO JARAMILLO
 Viceministra de Asuntos Multilaterales

B. Submission from relevant organizations

Forest Peoples and Biodiversity Project' (FPBP) and the Indigenous Women and Biodiversity Network
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This is a joint submission by:

- Red Mujeres Indígenas sobre la Biodiversidad (Indigenous Women and Biodiversity Network)
- The South Central People Development Association (SCPDA) (Wapichan people, Guyana)
- Unnayan Onneshan – The Innovators, centre for research and action on development (Sundarbans traditional resource users, Bangladesh)
- The Association of Kaliña and Lokono Peoples in Marowijne (KLIM) (Kaliña and Lokono people Suriname)
- *The Inter Mountain Peoples Education and Culture in Thailand Association (IMPECT) (Hmong and Karen people, Thailand)*
- Association OKANI (Baka people Cameroon)
- The Foundation for the Promotion of Indigenous Knowledge (FPCI) (Kuna people Panamá)

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Article 10

Also in decision 10/43, the Conference of the Parties decided on a new major component of work on article 10 with a focus on article 10(c), and requested the seventh meeting of the Working group to provide advice on how this component could be implemented and to develop a strategy for the integration of this component, as a cross-cutting issue into the Convention's various programmes of work and thematic areas. To assist the Working Group in its consideration of this issue, Parties, indigenous and local community organizations, NGOs and other relevant organizations are requested to submit information regarding:

- (i) The implementation of Article 10 of the Convention (sustainable use of biodiversity), with a focus on Article 10(c) (customary sustainable use), (decision X/43, paragraph 6);

Our submission consists of the following elements:

1. Assessment of the implementation of Article 10(c) so far
2. Advice on how this component can be implemented more effectively
3. Suggestions for the development of a strategy on how this component can be integrated as a cross-cutting issue in the CBDs POWs

Assessment of the implementation of Article 10(c) so far

In this section we describe some key issues and concerns related to our customary sustainable practices, and explain various obstacles to effective implementation of 10(c) at local and national levels

1. Secure rights to lands, territories and resources, including access, control and management of those resources, represent a fundamental requirement for indigenous peoples and local communities to maintain and practise customary use and traditional knowledge in their daily interaction with biodiversity. However, our communities do not have secure land and resource rights; this situation threatens our customary use systems.
2. Lack of recognition of customary laws and institutions. Customary laws are the backbone of customary sustainable use, and customary institutions (such as village councils) enforce customary laws and make sure they are respected. If these are not respected and recognized by our governments and laws, customary practices can become weakened.
3. Lack of appreciation of customary sustainable management of natural resources often results in top-down natural resource management and conservation approaches that exclude customary practices. Policies and programmes often do not support or promote communities' traditional ecological principles and knowledge about sustainability and conservation. In the long term, this can have negative consequences for the vitality of these systems. Often, the situation is even worse; biodiversity loss is unjustly blamed on indigenous peoples and local communities' actions and therefore customary use and management are restricted or severely curtailed.
4. The establishment of protected areas without respect for forest peoples' rights and their full and effective participation is posing challenges to indigenous peoples and local communities in terms of both access and management of biological resources. This again has severe impacts on the customary sustainable use of these areas by our communities.
5. External challenges: our communities are facing many external challenges that impact on our territories, such as mining, logging, infrastructure, hydro-electric projects, etc. Such external threats destroy areas where we practice customary use and have knowledge about, or deny access to us to these areas. The right to free, prior and informed consent (FPIC) is important to protect our rights but in our cases this right is not formally recognised, not fully understood, and not applied as it should.

6. Education in our own language and on issues that relate to our environment and related knowledge and practices is vital to maintain customary sustainable use and traditional knowledge. Ecological concepts and knowledge in many instances cannot be translated into non-indigenous languages, and the transfer of knowledge and skills usually takes place in the ecosystem, not in a classroom. Access to these educational locations is therefore vital. Many current education systems however, are aimed at assimilation and at enforcing non-indigenous languages upon our children. This can lead to the loss of local knowledge and related practices.

Advice on how this component can be implemented more effectively

In relation to the issues and obstacles described above, we have drafted a few possible recommendations to improve the implementation of Article 10(c).

1. Take measures to recognise and respect indigenous peoples' rights to their lands and resources, with their full and effective participation, including, inter alia, measures to:
 - a) Revise current land laws, land administration policies and regulations on natural resource use and ownership, to bring them into line with international standards and obligations
 - b) Review and strengthen land demarcation and titling methods and regulations to ensure alignment with international obligations
 - c) Support and recognise indigenous community maps of the occupation and use of their traditional territories, to assist in ensuring secure land tenure of these territories
 - d) Establish or update a registry of outstanding land and territorial claims and unresolved land conflicts
 - e) Build the capacity of relevant government agencies on the land and resource rights of indigenous peoples in relation to international obligations
 - f) Recognize and support collective land titles
 - g) Develop effective mechanisms for the restitution of lands and resources that have been taken from indigenous peoples and local communities without their free, prior and informed consent
2. Promote the full and effective participation of indigenous peoples and local communities in biodiversity conservation, management, use and decision- making, for instance by:
 - a) Revising and reforming laws and policies to ensure the full and effective participation of indigenous peoples and local communities in biodiversity conservation, management , use and decision- making
 - b) Establishing local and national mechanisms to ensure the full and effective participation of indigenous peoples and local communities in biodiversity conservation, management , use and decision-making, using participatory methods and tools that are culturally appropriate
3. Take actions to recognize and strengthen customary laws and traditional institutions, through, inter alia:
 - a) Putting in place laws and policies, and establishing pluri-legal national frameworks, which recognize and respect customary law systems in relation to the management and conservation of biological resources
 - b) Establishing mechanisms for strengthening traditional institutions and customary laws in relation to the management and conservation of biological resources, in accordance with their customary laws and traditions
4. Take concrete actions to acknowledge, respect and promote customary practices and traditional knowledge in relation to biodiversity conservation and sustainable use through, *inter-alia*,:
 - a) Updating relevant national laws and policies, to fully recognise the contribution of traditional knowledge and customary practices of indigenous peoples and local communities to the conservation and sustainable use of biodiversity, including, inter alia, NBSAPs, protected areas

laws and legislation, national forest programmes (NFPs), national programmes for climate change adaptation and mitigation, etc.

- b) Support initiatives by indigenous peoples and local communities which aim to strengthen and promote customary use and practices and traditional systems of biodiversity management at the local level

5. Ensure that free, prior and informed consent (FPIC) is respected and fully applied in all decisions, policies, actions and measures that may affect indigenous peoples' lands and territories, in accordance with UNDRIP and related international instruments. This should be done, *inter-alia*, by:

- a) Recognising and respecting community rules and customary laws
- b) Establishing effective mechanisms for the enforcement of free, prior and informed consent

6. Address all cases where protected areas have adversely affected indigenous peoples, or may adversely affect them in current or future protected areas programmes or projects

- a) Establish a transparent process to document and address situations in which the establishment or expansion of protected areas have adversely affected indigenous peoples and local communities, *inter alia* through:
 - i. Reviewing the historical record of the national protected areas system and their impacts on indigenous peoples, with their full and effective participation
 - ii. Develop national and global mechanisms for redress, reparation, restitution and fair compensation to indigenous peoples and local communities for past injustices and damages in relation to protected areas
- b) Ensure that any current or new activities related to protected areas are carried out in accordance with the Programme of Work on Protected Areas, in particular programme element II on governance, participation, equity and benefit-sharing

7. Take steps to ensure that indigenous peoples have access to an education that is culturally appropriate and promotes the use and revitalisation of indigenous languages and traditional knowledge, noting Article 17(d) and 30 of the Convention on the Right of the Child and Article 14 of the United Nations Declaration on the Rights of Indigenous Peoples:

- a) Include indigenous languages in the national curriculum
- b) Promote the use of mother tongue and use locally-developed curricula
- c) Support local initiatives for the revitalisation of indigenous languages and traditional knowledge
- d) Remove imposed mainstream education or assimilation policies for indigenous children

General recommendation for a more effective implementation of Article 10(c) at the international, national and local level:

- WG8j should recommend COP11 to take a decision to request the WG8j to develop a set of guidelines to effectively promote and encourage customary sustainable use, focusing on enabling conditions at the national and local level. This could constitute a useful tool to guide Parties and other relevant stakeholders in the implementation of Article 10(c).

Suggestions on the development of a strategy on how this component can be integrated as a cross-cutting issue in the Programmes of Work of the Convention:

- Bring the programmes of work in line with the 2011-2020 Strategic Plan (particularly with Target 18)
- Include customary sustainable use in the revised programmes of work when they are reviewed and updated; all revised POWs should include a task on 10(c)
- Analyze whether the integration of traditional knowledge and customary sustainable use can take place through the updating of the programmes of work in accordance with the MYPOW of the

Convention; in case that this is insufficient, a recommendation should be developed for an effective integration of traditional knowledge and customary sustainable use in the various POWs

- When a decision is made about revision of POWs, a notification should be sent to Parties, indigenous peoples and local communities and other stakeholders for input on 10(c) in the POW revision
- Hold a SBSTTA or WGRI meeting to revise and update all the POWs to bring them in line with the 2011-2020 Strategic Plan, including the integration of Article10(c).
- Promote and ensure effective participation of indigenous peoples and local communities and civil society in developing NBSAPs
