



CBD



**CONVENTION ON
BIOLOGICAL
DIVERSITY**

Distr.
GENERAL

UNEP/CBD/WG8J/AG/2/INF/2

16 April 2007

ORIGINAL: ENGLISH

ADVISORY GROUP MEETING
ON ARTICLE 8(j) AND RELATED
PROVISIONS OF THE CONVENTION
ON BIOLOGICAL DIVERSITY
Second meeting
Montreal, 30 April – 03 May 2007

DECISION VIII/5, ARTICLE 8(j) AND RELATED PROVISIONS

Note by the Executive Secretary

The Executive Secretary is circulating herewith, for the information of participants in the Second meeting of the Advisory Group on Article 8(j) and Related Provisions, the text of decision VIII/5 as adopted by the Eighth Meeting of the Conference of the Parties.

VIII/5. Article 8(j) and related provisions

Bearing in mind that for the purposes of this decision, protection of traditional knowledge, innovations and practices must be interpreted in accordance with the provisions of Article 8(j),

A. *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 Conference of the Parties

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. *Invites* Parties to submit through their national reports, if appropriate, 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;

3. *Requests* Parties that have not yet submitted information regarding the implementation of the programme of work to do so in consultation with indigenous and local communities, as appropriate, in time for the fifth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions

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

5. *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 ;

6. *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, paragraph 2, and 18, paragraph 4, of the Convention, and based on this information to provide advice on how these related provisions may be further advanced and implemented;

7. *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;

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

9. *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

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programmes for the consideration of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions at its fifth meeting.

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

I. COMPOSITE REPORT

The Conference of the Parties

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 prerequisite 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 recording and documenting traditional knowledge, innovations and practices, , 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.*

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II. 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

9. *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;
10. *Urges* Parties and Governments to take appropriate measures to further advance the elements of the plan of action;
11. *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;
12. *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 sections B and D, and to report on the advancement of this task to the Working Group at its fifth meeting;
13. *Requests* the Executive Secretary to collaborate with Parties in convening, 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 women from indigenous and local communities.

C. *International regime on access and benefit-sharing: collaboration with the Ad Hoc Working Group on Access and Benefit-sharing and participation of indigenous and local communities*

The Conference of the Parties,
Recalling its decision VII/19 D,

1. *Requests* the collaboration and contribution of the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions to the fulfilment of the mandate of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing by providing views on the elaboration and negotiation of an international regime on access and benefit-sharing relevant to traditional knowledge, innovations and practices associated with genetic resources and to the fair and equitable sharing of benefits arising from their utilization and requests the Executive Secretary to compile these views and make them available to the Ad Hoc open-ended Working Group on Access and Benefit-sharing before its sixth meeting;
2. *Invites* indigenous and local communities to submit to their governments and 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 with genetic resources;
3. *Requests* the Executive Secretary, where practicable, to make the necessary arrangements for the Ad Hoc Open-ended Working Group on Access and Benefit-sharing to be convened immediately following the Ad Hoc Open-ended Inter-Sessional Working Group on the Article 8(j) and Related Provisions;
4. *Invites* Parties, Governments, and donor organizations to contribute to provide the ways and means to facilitate sufficient preparation and participation of representatives of indigenous and local
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communities in the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions and the Ad Hoc Open-ended 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 and the Ad Hoc Open-ended Working Group on Access and Benefit-sharing available three months prior to those meeting, where possible, to facilitate *consultations with representatives of indigenous and local communities*;

6. *Having regard* to paragraph 1 above, *reaffirms* paragraph 6 of decision VII/19 D, and to this end:

(a) *Requests* the Executive Secretary to provide administrative support to representatives from indigenous and local communities through practical measures, including making available meeting rooms, access to documentation, and computer and photocopying facilities, subject to the availability of funds;

(b) *Invites* Parties and Governments to increase the participation of representatives of indigenous and local communities' organizations in official delegations to meetings of the Ad Hoc Open-ended Working Group on Access Benefit-sharing and the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions, without prejudice to the participation of representatives of indigenous and local communities outside official delegations;

(c) *Invites* Parties, Governments, donor countries and organizations to facilitate the participation of indigenous and local communities in preparatory processes for the meetings of the Ad Hoc Open-ended Working Group on Access Benefit-sharing and the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions.

7. *Invites* chairpersons to facilitate the effective participation of representatives of indigenous and local communities and to consult them, as appropriate, on issues related to traditional knowledge, innovations and practices and associated genetic resources, in proceedings related to decision VII/19 D in accordance with the rules of procedure.

D. 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 Conference of the Parties adopts the following mechanism to promote the effective participation of indigenous and local communities in meetings held under the Convention.

I. CRITERIA FOR THE OPERATION OF THE VOLUNTARY FUNDING MECHANISM

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, 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;

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

4. *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;

5. *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,

6. *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) 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) Provide, in a timely fashion, documentation for meetings under the Convention in the six United Nations languages to the national focal points, in order to facilitate their use in the process of consultations with, between and within indigenous and local communities;

7. *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

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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 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:

(i) Main criteria

(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 and local community women (in knowledge, innovations and practices) from indigenous and local communities;

(c) 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.

(ii) Other criteria

(a) 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;

(b) 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).

(iii) Requirements

(a) 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;

(b) 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;

(c) 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;

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

(e) 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 or community being represented and confirmation from their government that the participant will be included on their official delegation;

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

(g) 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;

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

(i) 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>. The Secretariat will advise of meetings through official communications, where possible, five months in advance to facilitate early applications. Applications must be received by the Secretariat of the Convention on Biological Diversity within 45 days of the official communication by the Secretariat of the call for applications. 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:**

**Recent
Photo
if possible.**

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 is accredited to the Convention on Biological Diversity.

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**):

Address of applicant: _____

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:

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:

Mailing address:

Telephone (with country and city codes): _____ Fax: _____

Email: _____

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

/...

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:

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.

7. A letter of nomination and recommendation signed by an executive official or body of the applicant's indigenous or local community organization or indigenous or local community authorities 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: _____

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: _____

/...

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

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:

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

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
United Nations Environment Programme
Secretariat for the Convention on Biological Diversity
413 St. Jacques Street, Suite 800,
Montreal, Qc. Canada. H2Y 1N1
URL: <http://www.biodiv.org>
Email: 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>)

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E. Development of elements of sui generis systems for the protection of the knowledge, innovations and practices of indigenous and local communities

The Conference of the Parties,

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

1. *Urges* Parties and Governments to develop, adopt and/or recognize national and local sui generis models for the protection of traditional knowledge, innovations and practices with the full and effective participation of indigenous and local communities.
2. *Urges* Parties and Governments to report on these initiatives to adopt local and national sui generis models and to share experiences through the clearing-house mechanism;
3. *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 of indigenous and local communities;
4. *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, and further requests the Working Group on 8(j) to identify priority elements of sui generis systems;
5. 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;
6. *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;
7. *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;
8. *Invites* the Parties and Governments, indigenous and local communities, and non-governmental organizations to communicate to the Secretariat their views on the definitions (UNEP/CBD/WG8J/4/7, annex II), 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;

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F. 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 Conference of the Parties

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 and to seek collaboration in the development of the code;
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 to the present decision.

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;

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- (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 and/or local 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 and local 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.

G. Indicators for assessing progress towards the 2010 biodiversity target: status of traditional knowledge, innovations and practices

The Conference of the Parties

1. *Considers* that a more structured technical process is required 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;
2. *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;
3. *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 paragraph 1 above;
4. *Invites* the Open-ended Working Group on Article 8(j) and Related Provisions, to further elaborate a limited number of meaningful and practical indicators for assessing progress in the implementation of the Strategic Plan of the Convention and the 2010 biodiversity target, before the 5th meeting of the Working Group on Article 8(j) and Related Provisions:
5. *Welcomes* the initiative of the International Indigenous Forum on Biodiversity (IIFB) Working Group on Indicators to organize an international expert seminar on Indicators relevant for indigenous and local communities and the Convention on Biological Diversity, with the aim of supporting the work of the Open-ended Working Group on Article 8(j) and Related Provisions, the Strategic Plan of the Convention, the 2010 target, and the Millennium Development Goals;
6. *Invites* Parties, the United Nations Permanent Forum on Indigenous Issues, the United Nations Development Programme, the United Nations Educational, Scientific and Cultural Organization, IUCN, the 2010 Biodiversity Indicator Partnership and organizations with relevant experience and data-sets relevant to this work, donors, the academe and research institutions and other interested bodies to support and collaborate with the Open-ended Working Group on Article 8(j) and Related Provisions and the IIFB Indicators Initiative with the above mentioned technical process;

H. Recommendations of the United Nations Permanent Forum on Indigenous Issues

The Conference of the Parties

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.