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

REVISION OF THE SECOND PHASE OF THE COMPOSITE REPORT- ARCTIC

*Note by the Executive Secretary*

The Executive Secretary is circulating herewith, for the consideration of participants in the Second meeting of the Advisory Group on Article 8(j) and Related Provisions, the above-mentioned document prepared by the Secretariat, which will be used as input to further develop the second phase of the composite report on the same subject.

The report is being circulated in the form and language in which it was received by the Secretariat.

## SUMMARY RE REGIONAL REPORT FOR THE ARCTIC ON THE STATE OF TRADITIONAL KNOWLEDGE

### **INTRODUCTION**

*This summary will focus on local, national and international obstacles to the retention and use of traditional knowledge. However, it will also include notes on climate change and how it affects northern communities.*

### **GENERAL OBSTACLES**

- Qualitative parameters: Current research on biodiversity is based on quantitative parameters. Studies related to indigenous peoples also require qualitative studies. Traditional knowledge is both quantitative and qualitative. (4)
- Biodiversity infrastructure: Infrastructure to assess knowledge and biodiversity in ILCs of many countries is weakly developed (i.e. legislative measures, monitoring programs, financial support systems, capacity building programs, other suitable indicators). (4)
- Knowledge and information sharing: The knowledge and information sharing regarding biodiversity is scattered and therefore difficult to access. (4)
- Integration: There is a challenge relating to how to integrate traditional knowledge into the modern educational, scientific, administrative, juridical, political and resource management regimes and structures. (5)
- Commercial value: Indigenous knowledge is sold or misappropriated and only a small part of the income from selling the knowledge and practices comes back to the source communities. (7) (82)
- Gender: Because research on traditional knowledge is relatively young, there is a gap in Western scientific literature on traditional knowledge in its failure to address gender. It fails to acknowledge that gender is a significant factor in the development and maintenance of traditional knowledge. (34) (82)
- Support and self-governance: Many ILCs do not have sufficient national legislative support or any degree of self-governance that is needed for the maintenance of their biodiversity-related practices and knowledge for successful implementation of art. 8(j). (81)
- Funding: Stating that ILCs are welcome to participate without providing funding is not adequate since most ILCs lack the financial means to fund their own participation. (81)
- Guidelines: The different sectors of modern society, at all hierarchical levels, need guidelines for the implementation of art. 8(j). (81)
- Sustainability: ILCs need the ability to fully interact and relate to the environment, ensuring that biodiversity and health is maintained. ILCs need support for their overall viability and well being to become a reality. (81)
- Researchers and scientists: Researchers and scientists need to evaluate their research activities, values, concepts and theories regarding how they conduct their research in ILCs and how the research can impact on these communities. There needs to be more documentation on the knowledge of ILCs. (82)
- Climate change: ILCs face many threats caused by climate change. (83)

## **OBSTACLES AT A LOCAL LEVEL**

- Modern education (Saami): Many parents from ILCs feel that modern education distances their children from traditional knowledge. (5) Interest to learn traditional ways is often lost in modern schools. Documentation and teaching materials are needed. (31)
- Transfer of knowledge: Young people do not have concrete possibilities to take part in all seasonal subsistence activities. (5)
- Commercial value: Trading of traditional knowledge can cause internal division within the ILCs. (7)
- Indigenous health: Indigenous health requires a balance between environmental factors, cultural factors and various components of indigenous life. (18)
- Doctors for ILCs: There is a need for doctors who can speak the local language. (18)
- Reindeer herding (Finland): Reindeer herding (and knowledge related to it) is affected by loss of pastures, loss to predators, economic development based on meat production, unresolved issues relating to Saami land rights, need to disconnect herding and agriculture at a administrative and managerial level, wrong impressions of herding in newspapers, climate change, reindeer research sometimes serving state interests, difficult recruitment of younger people, weak position of women, low incomes from herding. (20-22)
- Sales (Greenlandic Inuit): Life as a hunter is on the wane. For several reasons, the hunter has troubles selling his product. (31)
- Language: Children and young people in many areas do not have possibilities to learn their native tongue in natural environment as daily means of communication. Often, there are not enough resources to continue with the programs that support the linguistic skills of children and young people or there are not enough native students. (31)
- Exploitation: Some exploitation hinders ILCs from learning and using their traditional knowledge and practices in a sustainable way. (32)
- Public perception (Sea Saami, Norway): The Sea Saami have encountered great problems in getting official support from Norwegian society for their way of life. (33)
- Gender (Inuit, Nunavut): Although Western scientists collaborate with a given ILC and although ILCs, through funding and support from governments, initiate studies, they are usually carried out by Hunter and Trappers Organizations, where few women are elected. As such, women's voices are given little attention. (34)
- Language (Sakha Republic): The main problem with small languages is the lack of everyday use and the strong status of the Russian language all over the Sakha Republic. (49)
- Continued colonial influence (Greenland): Many educated Greenlanders stay abroad and Danes fill the posts within the service sector, education and overall expertise in construction, health care, etc. The Home Rule is organized according to the Danish organizational way and employs many Danes, who have introduced Danish ideas concerning economic activities and organizational culture, including the use of Danish in administration. Many hunters feel overlooked by the administration and regulations and feel that biologists with their research methods are too detached from a daily subsistence life of local Inuit. (66) Relocation to larger towns fragments traditional kinship-based and family-based social organization and there is social differentiation. Many Inuit also experience difficulty in adapting to new ways of production. (77)
- Loss of lands (Saami, Russia and Finland): Through border arrangements between Russia and Finland, the Skolt Saami were relocated from Russia to Finland. Because much of their traditional ways were embedded in their 'old' lands, ecological features and winter villages, the Skolt Saami lost their traditional ways. The Russian Saami were relocated from several villages to Lovozero, where they encountered similar issues, on top of finding no work and proper housing. (66-67)

- Social problems (Sakha Republic): Domestic reindeer herding has been seen as a basis for preservation of traditional ways of life of different ILCs. However, traditional economies are in deep crisis and there is a consequently low level of living conditions of the people involved in them. Social problems and alcohol abuse are apparent in small rural communities. The unemployment rate is very high, especially among young people. (72)
- Sports fishing (Saami, Russia): The Murmansk Fishing and Water Department alters rules and periods for salmon fishing nearly every year for the benefit of foreign tourist fishing. (74)
- Environmental threats to livelihoods (Saami, Russia): Those are due to loss and destruction of reindeer pastures due to industrial expansion and pollution, pollution by the mining industry, hydroelectric projects, radioactive pollution, reindeer theft and poaching, foreign commercial tourist enterprises and climate change. (76)
- Military presence (Russia, Labrador): There are several examples of nuclear disasters and other stress to ILCs, such as low-level flying. (76)
- Status of political organizations (Saami, Finland): The Saami Parliament lacks financial resources to implement the Saami laws and political goals. Additionally, there are repressive elements in Finnish Saami policy. (77)
- Unemployment (Kola Peninsula, Russia): In Lovozero, there is an unemployment rate of 60%, which brings about low living standards, problems with housing and electricity, and alcoholism. (78)
- High mortality rates (Russia): There are high adult mortality rates in Russia and in the Arctic as a whole, Russia has the lowest life expectancy. Reduced possibilities to continue traditional livelihoods can increase the risk of mental health crisis and suicide. (78)
- Population outflow (Russia): The greatest population outflow from the Russian Arctic has happened in the past 15 years and is still going on. For instance, the population of Chukotka registered in 1989 suffered a loss of 70% due to outflow. (78)
- Spirituality: Traditional medicine and shamanism have been for a very long time discouraged by the mainstream society. Young people grow up without spirituality and contact with traditions. (78)
- Westernized lifestyles: Lifestyles become Western and the rates of obesity, cardiovascular diseases and diabetes has increased. In addition, smoking and alcohol consumption has become common. Drugs such as marijuana and cocaine also constitute large problems. Research also shows that there is a link between suicide and acculturation. (79)
- Acculturation: Indigenous youth are acquiring different values and lifestyles because of exposure to global and national influences. This may mean the lack of youth who are able to undergo the training necessary to learn from Elders. (79)
- Nursing homes: Many older people are placed in nursing homes and thus their role as Elders is taken away from them. (79)
- Environmental groups (Greenland, Canada): Environmental groups fight non-damaging hunting forms that were sensitive to environmental protection in former times and still are today. These groups are seen as comparable to former colonial influences. The Canadian seal wars are an example. (80)
- Value of traditional knowledge: In some ILCs, the local indigenous government or power-holders do not see any value in maintaining or passing on traditional knowledge. There is a need for capacity building. (81)

### **OBSTACLES AT A NATIONAL LEVEL**

- Traditional land use: The ILCs efforts to use wilderness areas in a sustainable way and protect these areas from overuse have not been acknowledged, for instance through relevant law making.

It now goes as far as accusing ILCs for being non-sustainable and the majority wants to maintain wilderness areas “for its own needs of tourism and nature romanticism”. (7)

- Foreign theories: Foreign theories (such as the Theory of the Commons by Garrett Hardin) are used uncritically in the management of indigenous lands and resources. Some cases present, for instance, theories on indigenous history that are based entirely on too simplified and stereotypical assumptions concerning the past. (7)
- Indigenous rights: Protection of indigenous knowledge and traditions requires acknowledgment of the fact that indigenous knowledge and traditions include indigenous understanding of rights. Many emphasize that the goals of art. 8(j) cannot be reached if the land and resource rights of ILCs and their other basic rights are not solved. (7) (31-32)
- Political and economic support: Implementation of biodiversity goals requires political and economic support. (7) Most ILCs are highly dependent on the states and their laws, authorities and measures and financial support in the implementation of art. 8(j). (32)
- Implementation of laws: In some areas, such as Russia, there are suitable laws but their implementation does not function properly.
- Research and management: Traditional knowledge has not been integrated in all countries into the research and management discourse. (9)
- Forestry regulations: Regulations for sustainable management of timberline forests are needed and should include both scientific assessment and traditional knowledge. (17)
- Sacred sites: ILCs should be more involved in the elaboration of protection strategies for sacred sites. (19)
- Regulations (Alaska): Federal and State governments fail to take into account traditional knowledge. (29)
- Recognition (Saami, Sweden): Sweden has not recognized the Saami as indigenous people in the formal sense. Saami legislation has been exclusively a matter of reindeer herding. The notion of Saami as reindeer herders constitutes built-in limitations for Saami policy. (38)
- Resource legislation (Russia): The *Federal Law on Agreements Concerning Production Sharing* requires the participation of local authorities in the development of contracts for the use of land within the boundaries of ILC's territories. Local governments participate in negotiations, but not always as equal partners. When national natural resources are involved in the deal, ILCs may suffer, yet no compensation is paid. (40-41)
- Sacred sites (Russia): Although federal and regional legislation in the sphere of indigenous rights creates the preconditions necessary for protection of a traditional way of life, of traditional economic activities and of the environment, there is no experience yet in applying these towards protection of indigenous peoples' sacred sites. (45)
- Status of customary law (Canada): Although courts have stated as a legal principle that customary law be treated equally, judges have not adopted this principle in practice. (60)
- Species and ecosystem protection: It may be that the protection is not sustainable enough. (66)
- Stakeholders: There are many stakeholder groups with varied expectations and views regarding biodiversity maintenance. (66)
- Strength of indigenous rights: In some areas, indigenous rights are not strengthened to meet the competing interests regarding the land use in their areas. (66)
- Support: ILCs may feel that they do not get support for their traditional livelihoods, knowledge and management programs. (66)
- Consultation and involvement: State and regional planning and decision-making can take place without indigenous involvement. (66)
- Capacity building: When taking measures to preserve traditional knowledge and the conditions in which traditional knowledge is used and maintained, capacity building, information sharing and scientific assistance need to be fostered. (66)
- Political status (Saami, Finland): Although the *Saami Parliament Act* states that the authorities shall negotiate with the Saami Parliament on all wide-ranging measures, the Finnish

administration has not negotiated with the Saami in all matters affecting them, in accordance with this law. The Saami Parliament has not managed to gain high political status in Finland. (66) The Saami are still regarded as a national linguistic minority rather than an indigenous people, giving the false impression that legal protection of linguistic rights alone is sufficient for the Saami to maintain their culture. (78)

- Declarative laws (Russia): The declarative character of the *Federal Law Guaranteeing Indigenous Peoples' Rights in the Russian Federation / Federal Law on Indigenous Peoples' Rights* means that it does not offer mechanisms to enforce indigenous rights, but only gives a statement of principles. (67)
- Conflicts with governments (Russia): Conflicts between authorities of ILCs and government bodies frequently mean that no legal regime can be established to guarantee indigenous rights and protect indigenous interests. (67)
- Guaranteed rights (Russia): New legislative measures on indigenous rights often guarantee rights that are already guaranteed as common rights to all Russian citizens. As such, the new laws may merely duplicate existing laws that target all Russian citizens. (67)
- Territories of Traditional Use of Nature (TTUNs) (Russia): Boundaries of TTUNs are not always concurrent with those of self-governing territories, districts and regions. As such, decisions regarding a crossboundary TTUN must be taken by the territories involved. Some TTUNs also cross national borders. Issues related to those would have to be dealt with through international agreements. Furthermore, no list of activities that can be referred to as traditional knowledge practices has been defined and there are no criteria that can be used to distinguish various types of trades and practices as 'traditional'. (This also has an impact on taxation of ILCs.) (67)
- Federal policy (Russia): The federal government has not yet succeeded either in the development of a clear national policy on the country's economic development or in the harmonization of the country's multinational population interests. (67)
- Patent law (Canada): Under the *Patent Act*, a patentable subject matter must not be previously disclosed. Many Inuit designs cannot be patents, as it does not meet the requirement outlined under section 2 of the Act. (68)
- Copyright law (Canada): In order to satisfy the requirements outlined under copyright law, ILCs would be forced to abandon the method of knowledge transmission that goes to the very essence of native life. In all, by definition, copyright law places an immense burden on ILCs seeking to protect their traditional knowledge. (69)
- Trademark law (Canada): Even though the usage of Inuit symbols is recognized in Canada as that of Inuit origin, the Inuit themselves cannot trademark their own products because of constraint in the law. (70)
- Trade secret law (Canada): Enforcing trade secret law is problematic as the onus is on the holder to prove that they took adequate steps to prevent disclosure of the information. This is problematic for Inuit where they were willing to share their knowledge on various products and Inuit women have shared this knowledge with researchers in the past. (70)
- Contractual arrangements (Canada): Contractual arrangements still raise concerns as to the bargaining power balance between Inuit and large corporations. (70)
- Intellectual property law (Canada): All of the above existing IP laws fail to recognize the particular IP of Inuit and encourage individual interests and individual values that are dominant in mainstream society and it can be strongly argued that this interferes with aboriginal rights of Inuit and interferes with the goals and objectives of the Inuit land claim agreements. Furthermore, it limits their ability to exercise their rights as set under the Nunavut Land Claims Agreement. (71)
- Legal status (Saami, Finland): The Saami's participation in decision making, participation in projects of sustainability and developing their resources is still limited because their legal position is not ensured. The Saami are dependent on the Finnish Forest and Park Service as 90% of their lands is owned by the state. The Service is concerned with the economic profitability of its activities and decisions, which may lead to emphasizing economic factors at the cost of reindeer herding. (71)

- Status of traditional knowledge (Saami, Finland): The Ministry of Forestry and Agriculture does not recognize traditional knowledge as a valuable source of information. Research regarding reindeer herding does not make use of traditional knowledge and views of the Saami. (72)
- Administration (Saami, Finland): The regional herding administration does not have the necessary knowledge of herding. (72)
- Resource development (Russia, North and Far East, including the Sakha Republic): Growing pressure of forestry, mining and metallurgy activities and exploitation of oil and gas have great effects on land, in which traditional livelihoods of ILCs are based. (72)
- Fisheries (Sea Saami, Norway): Fish resources are nationally Norwegian for the Norwegian state. Fishing is an international industry and fish products have an enormous export value. The Saami practice small-scale fishing and lack power to manage the resources in the area. Their knowledge and customary rules are not valued by the Norwegian fisheries administration. (74)
- Government support (Russia): Nomadic peoples living in the Russian Far East, Siberia and the North face many difficulties, including economic problems and harsh weather conditions, and therefore need special support from the government to survive. Traditional activities pursued by the northern ILCs during Soviet times were appropriately supported by the central government. However, over the past three years, remote settlements have not been adequately provisioned for the long winter months as promised. The government program for economic and cultural development of small ILCs in the Russian North, which aimed to put in place industrial and social infrastructure, has year after year failed to meet its goals. (75)
- Continued colonialism: In most countries of the Arctic, there are cultural and ideological conflicts and colonialist relations between the national majority group and ILCs. (77)

### **OBSTACLES AT AN INTERNATIONAL LEVEL**

- CBD: One weakness of the CBD is its strong emphasis on national sovereignty over biodiversity, without adequate recognition of indigenous territories. (6)
- Environmental groups: Although some environmentalist groups are supportive of ILC strivings, activities of environmental groups are in many cases in opposition to the ways and activities of the ILCs. (6)
- Status of customary law: Neither common law nor international treaties place customary law on equal footing with other sources of law. As a result, traditional knowledge is particularly vulnerable to continued destruction without substantive legal protection. Generally, courts have treated customary law as subservient, static, primitive and dichotomous to Western sources. (56)
- Sui generis protection systems for traditional knowledge: Too strong and pre-emptive an international sui generis model for IP protection may homogenize traditional knowledge. International attempts to establish sui generis protection for indigenous knowledge are at an impasse or crossroads. (61)
- Access and benefit sharing: The complexity of the matters, such as the interlinkages with intellectual property rights (IPRs), the difficulty to develop a common vision regarding the nature of the regime or even its necessity, and the unclear international framework indicate the long road ahead. (64)
- Globalization and modernization (Greenland): Economic vulnerability goes hand in hand with globalization and modernization. For instance, there are pressures on indigenous languages, there are population movements away from small settlements, and there are new demands from wage employment and international mass consumption patterns. (74)

### **CLIMATE CHANGE**

- Marine ecosystem: Climate change reduces sea ice, affects breeding and migration of animals, as well as sea algae, plankton and fish. Changes in seasonal patterns of sea ice would also affect erosion, the ocean currents, weather patterns, on the global scale as well, considering the interactions with other ecosystems and the Arctic marine ecosystems. (14)
- Reindeer herding (Saami, Russia): Impacts on various aspects, such as traveling on waterways or on the safety of traveling in general. (24)
- Sea ice: Thinning and melting sea ice renders whaling more dangerous. Furthermore, it causes marine mammal and seabird populations to be reduced and displaced. (76)
- Permafrost (Alaska): Melting permafrost increases muddiness of fishing streams and makes cross-country travel by four-wheeler harder. (26)
- Oceans (Alaska): Warming oceans have negative impacts on whales, walruses and seals. (26)
- Rivers and lakes (Alaska): Warming rivers have negative impacts on fish. Thinning of ice makes snowmobile travel dangerous in the winter. Later freeze-up and earlier break-up times disrupt fish and game migration patterns. (26)
- Temperature (Alaska): Warming of land surfaces and air temperatures eased migration of invasive insect, plant and bird pest. (27)
- Caribou (Gwich'in): The caribou, a critical resource for the Gwich'in and many other North American groups, is very sensitive to climate change. (76)
- Contaminants: Climate change is linked to the transport of contaminants from outside to the Arctic within the Arctic regions. (76)
- PCBs (Greenland): Inuit women are found to have high levels of PCBs and other persistent organic pollutants in their bodies. (76)
- Loss of pasturelands (Russia): Large areas of reindeer pasturelands are already lost to petroleum extraction and other industrial activities. Effects of climate change are likely to add more stress to these areas, namely through melting permafrost and its disruption of reindeer migration routes and through the increased difficulty for reindeer to access lichen. (76)
- Landscape (Evenk, Sakha Republic): The local landscape is changed, namely through increased floods and sinking of the ground. Furthermore, new species are seen in the area. (77)