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ON ARTICLE 8(j) AND RELATED
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Second meeting
Montreal, 30 April – 03 May 2007

DRAFT REPORT ON PROTECTING THE RIGHTS OF INDIGENOUS AND LOCAL
COMMUNITIES LIVING IN VOLUNTARY ISOLATION

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 Executive Summary of the above-mentioned document, which will be used as input for the preparation of a report on possible measures to ensure respect for the rights of unprotected and voluntary isolated communities, as requested in paragraph 7 of decision VIII/5/B/I.

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

**REPORT ON THE SITUATION OF ISOLATED INDIGENOUS
PEOPLES AND THE PROTECTION OF TRADITIONAL
KNOWLEDGE**

Executive Summary

**THE WORLD CONSERVATION UNION
REGIONAL OFFICE FOR SOUTH AMERICA
IUCN-SUR**

April 2007

This document has been developed in connection with the Programme of Work on Article 8(j) and the resolution included in Decisions VI/16 y VII/16, Annex E, called *Elements of an Action Plan for the Protection of Traditional Knowledge*, which indicates the need to generate information in support of an *Action Plan for the Maintenance of the Knowledge, Innovations and Practices of Indigenous Peoples and Local Communities embodying Traditional Ways of Life for the Conservation and Sustainable Use of Biological Diversity*. The Eighth Conference of the Parties to the CBD (Curitiba, Brazil, March 2006) requested that research be conducted regarding:

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. (UNEP/CBD/COP/8/31)

The Secretariat of the Convention on Biological Diversity requested the World Conservation Union's Regional Office for South America (IUCN-Sur) to prepare a document of a global scope describing the situation of the isolated indigenous peoples, the risks to their rights and their traditional knowledge, and also identifying recommendations for their protection.

The objectives of this report are: one, to examine the situation of the isolated indigenous peoples; two, to detect the factors affecting their stability; and, three, to provide the CBD Secretariat and the Working Group on Article 8(j) with recommendations for the integral protection of the isolated indigenous peoples.

A consultation process was carried out to the CBD focal points; organisations belonging to the United Nations system; indigenous organisations; NGOs focused on the environment, human rights and indigenous rights; research centres, specialists and other social stakeholders with an interest in the issue. The report presents the situation of isolated indigenous peoples in the following countries: Bolivia, Brazil, Colombia, Ecuador, Paraguay, Peru, Venezuela (South America) and India (Asia). It should be noted that a recurring lack of information was a constraint in the preparation of this report.

2. Isolated indigenous peoples and traditional knowledge

There are still indigenous peoples in the world that remain in a state of voluntary isolation. Normally these are native, indigenous populations that, due to a variety of different factors and pressures, have opted for a way of life separate from civilizing contacts. At least two types of indigenous peoples in isolation are recognised:

- **The first group** is made up of those peoples whose isolation has been sustained and who remain isolated in the present day.
- **The second group** consists of isolated peoples who are in first contact due to external agents as well as endogenous socio-cultural factors.

The indigenous peoples in voluntary isolation should be considered special social groups in which particular cultural forms that are unique in their relationship to nature are still practiced; the isolated indigenous peoples generally live as social units in globally important ecosystems that contribute to their stability and livelihood.

Cultural isolation is the expression of the exercise of free determination and must be respected. The isolated indigenous peoples are generally peoples that do not accept, or avoid, contacts with external agents. This makes it impossible, in practice, to develop information systems, carry out consultations or reach agreements with these peoples, not only related to traditional

knowledge, access and equitable benefit sharing, but also to their territories, customs and other particularities. It would be premature to establish strategies for an eventual access and equitable benefit sharing regime aimed at isolated indigenous peoples; the lack of awareness of their ways of life, together with the absence of their own system of political representation, would hinder the development of informed and mutually agreed arrangements on genetic resources and associated traditional knowledge.

Given the serious problems and threats faced by the indigenous peoples in voluntary isolation, the focus and challenge in working with them should not be on how to protect their traditional knowledge and develop potential forms of access and equitable benefit sharing, but on preserving their way of life, ethnic persistence, and biotic and social stability, as well as safeguarding their territories and the exercise of their fundamental rights.

3. Conclusions

The **main factors** affecting the social and biotic stability of the isolated indigenous peoples include the following:

1. The **absence of specific laws** for their protection.
2. Insufficient territorial zoning and **the lack of recognition of their territories**.
3. The **systemic weakness of the National States**: scarce and ineffective public policies.
4. The isolated indigenous peoples' **absence of legal and political representation**: other social stakeholders cannot represent them; however, this does not relieve national governments from the obligation of protecting them.
5. Cultural isolation should be interpreted as a quality that makes it possible for a people to reproduce its own ways of life and protect its traditional knowledge. Free, Prior and Informed Consent (FPIC) constitutes an inalienable right of the indigenous peoples; in the context of the voluntarily isolated indigenous peoples, **their isolation must be interpreted as their negative consent**.
6. Policies involving the **development and exploitation of natural resources in the territories** of isolated indigenous peoples; industrial development with an impact on their lives, territories, cultures and environments, including activities involving oil, gas, mining, timber, road building, oil pipelines, viaducts, wellsites and other.
7. Factors of **illegality**: the extraction, transportation and commercialisation of timber taken from their territories, poaching, armed actions, biotechnological research and certain kinds of ecotourism, among others.
8. The **weakness of the National Systems of Protected Areas**: the establishment of National Parks and Ecological Reserves does not constitute an efficient public policy for the protection of the isolated indigenous peoples.
9. **Lack of information**: on the one hand, information is lacking for their protection; on the other hand, the generation of this information should not infringe on their right to isolation.
10. **Intervention by churches and religious sects**: harassment, cultural change, territorial displacement and political subordination.
11. **Ethnic labelling, social exclusion and racism**: disparaging treatment of the indigenous peoples' phenotype, culture and ways of life, denigrating them as savages.
12. **Illegal or unregulated access to traditional knowledge and genetic material**: unregulated research, lacking FPIC, often in violation of their rights.

4. Recommendations

1. Advocate, both internationally and nationally, the **recognition of, and respect for, the fundamental rights** of the isolated indigenous peoples, among which the most essential

are their **rights to territory, to isolation, to their own culture and to government protection.**

2. Promote **health protocols** to ensure that the eventual episodes of contact will have a low impact on their health. Develop health and food security plans aimed at indigenous peoples in first contact.
3. Promote the **creation of specialised national offices for the protection** of isolated peoples and peoples in first contact. These offices should be at the ministerial level and have sufficient financial, technical and administrative autonomy to provide efficient protection; it is vital that the indigenous organisations and civil society participate in developing the official plans for the protection of the isolated peoples.
4. **Actively involve local, national, regional and international indigenous organisations** in the elaboration, management and control of policies, plans and programmes for the defence of the isolated indigenous peoples.
5. Create **national and international multisectoral committees with the presence of indigenous organisations, experts and other civil stakeholders** committed to the protection of the isolated indigenous peoples. The committees will play an important advisory role and exercise social control over the government's responsibility for protection.
6. Advocate **permanent and effective coordination between governmental entities** (ministries and secretariats of the environment, development, economy, indigenous affairs, health, energy, mining and oil exploration, among others) that are directly or indirectly responsible for the protection of, and/or control of impacts on, isolated indigenous peoples.
7. Advocate for the **drafting of national norms inspired by ILO Convention No. 169** and dedicated expressly to the protection of the rights of isolated indigenous peoples. **Recommend that the Government of India ratify ILO Convention No. 169** as an essential framework for the generation of effective measures aimed at the protection of the isolated peoples from the Nicobar and Andaman islands, while applying ILO Convention No. 107.
8. Recognise the **condition of isolation as a form of negative consent (FPIC)** to any form of intervention in the territories of the voluntarily isolated peoples.
9. It is essential to **generate a shared vision between conservation and human rights interests in the management of Parks and Reserves.** In this way, protected areas will become suitable vehicles for socio-cultural reproduction by the isolated indigenous peoples. **Establish criteria, plans and programmes with an anthropological and human rights focus for the integral management of protected areas with isolated indigenous peoples** in order to promote the recognition of their fundamental rights, their special forms of territoriality, mobility and cultural practices.
10. Develop **programmes, plans and projects aimed at reducing poverty** among the already contacted indigenous peoples and the traditional communities that live in the areas surrounding the isolated indigenous peoples in order to reduce pressures on them.
11. **Promote immediate and definitive suspension of religious proselytism activities** aimed at isolated indigenous peoples.
12. Advocate the immediate **suspension of communications activities** (film, television and others) that affect the rights of isolated indigenous peoples, their lives, territories, environments and natural resources.
13. Promote **regulatory frameworks that sanction racist and socially exclusive practices** against isolated indigenous peoples (and other indigenous peoples) and implement educational and communications plans to promote the valuing of the cultural, social and biological heritage they represent.
14. Insist on the **suspension of development projects** in the territories of isolated indigenous peoples. In cases where the development intervention is already underway (hydrocarbon exploration, mining, forestry or other activities), respect for the fundamental rights of the isolated peoples and the avoidance of interventions in their territories should be insisted

upon.

15. Insist on the **suspension of civil works** in the territories of isolated indigenous peoples: roads, hydro lines, pipelines, oil pipelines, bridges, paths, and others. In cases in which the civil works are already built, they should be managed with strict respect for the fundamental rights of the isolated peoples. In fact, it should be recommended that those civil works that infringe on the lives of isolated indigenous peoples should be shut down.
16. Advocate the immediate **suspension of illegal activities** in and around the isolated indigenous peoples' territories: extraction, processing and commercialisation of tropical timber, narcotrafficking, illegal access to genetic material, hunting, trafficking of fauna, armed actions, and others. Develop ongoing monitoring, control and external patrolling programmes.
17. Insist on the immediate **suspension of legal and illegal military activities** in the territories of the isolated indigenous peoples. Develop ongoing monitoring, control and external patrolling programmes.
18. Promote the **establishment of understandings and bilateral and multilateral agreements** between countries containing isolated peoples in their **cross-border** regions, for the protection of these peoples.
19. The **information that is generated on isolated indigenous peoples should not put their integrity, rights, territories and environments at risk**; it is recommended that indirect research methods and techniques be used to generate the information to be applied to their protection.
20. Concerning the **role of international organisations**:
 - a. Promote **stronger leadership and involvement** in the protection, monitoring and promotion of the rights of isolated indigenous peoples, by the United Nations Permanent Forum on Indigenous Issues, the Special Rapporteur on the Situation of the Human Rights and Basic Freedoms of Indigenous Peoples, the Human Rights Council, the Inter-American Court of Human Rights, and other international entities and members of the United Nations system.
 - b. Insist that the UN Human Rights Council and the Special Rapporteur on the Situation of the Human Rights and Basic Freedoms of Indigenous Peoples **prepare a global report** on the situation of the isolated indigenous peoples, to be presented and discussed at their next meeting (2007).
 - c. Insist that the UN Human Rights Council and the Special Rapporteur on the Situation of the Human Rights and Basic Freedoms of Indigenous Peoples **elaborate annual global and regional reports** on the situation of the isolated indigenous peoples.
 - d. It is recommended that the **Amazon Cooperation Treaty Organisation (ACTO) promotes the preparation and signing of a Charter on the Isolated Indigenous Peoples** that officially commits its member countries with isolated indigenous peoples (Bolivia, Brazil, Colombia, Ecuador, Peru and Venezuela) and Paraguay to work for their protection.
 - e. Recommend that **international, regional and national environmental organisations adopt policies and plans for the protection and respect of the rights** of isolated indigenous peoples.