



## CONVENTION ON BIOLOGICAL DIVERSITY

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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 – 3 May 2007

Item 9 of the provisional agenda\*

#### **INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING: COLLABORATION WITH THE AD HOC OPEN-ENDED WORKING GROUP ON ACCESS AND BENEFIT- SHARING AND PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES.**

*Note by the Executive Secretary*

1. The present document provides background information with respect to the negotiation of an international regime on access and benefit-sharing and its relationship to the issue of traditional knowledge.
2. In its decision VII/19 D, the Conference of the Parties, at its seventh meeting, , decided:  
“[T]o mandate the Ad Hoc Open-ended Working Group on Access and Benefit-sharing *with the collaboration of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions*, ensuring the participation of indigenous and local communities, non-governmental organizations, industry and scientific and academic institutions, as well as intergovernmental organizations, to elaborate and negotiate an international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument/instruments to effectively implement the provisions in Article 15 and Article 8(j) of the Convention and the three objectives of the Convention.” (emphasis added)
3. In the same decision, the Conference of the Parties encouraged “Parties, Governments, international organizations and all relevant stakeholders to provide the ways and means to allow for sufficient preparation and to facilitate effective participation of indigenous and local communities in the process of the negotiation and elaboration of an international regime” and also recommended “the promotion of the participation of all relevant stakeholders, including non-governmental organizations and the private sector, and indigenous and local communities”.
4. In paragraph 2 of the same decision, the Conference of the Parties also recommended that the Working Group on Access and Benefit-sharing should operate in accordance with the terms of reference contained in the annex to the decision. These terms of reference address the process, nature, scope and elements to be considered for inclusion in the international regime.

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5. The scope includes “traditional knowledge, innovations and practices in accordance with Article 8(j)”.

6. In addition, among the elements to be considered for inclusion in the international regime listed in section (d) of the terms of reference, the following relate to traditional knowledge:

- (x) Measures to ensure compliance with prior informed consent of indigenous and local communities holding traditional knowledge associated with genetic resources, in accordance with Article 8(j);
- (xiii) Internationally recognized certificate of origin/source/legal provenance of genetic resources and associated traditional knowledge;
- (xiv) Disclosure of origin/source/legal provenance of genetic resources and associated traditional knowledge in applications for intellectual property rights
- (xv) Recognition and protection of the rights of indigenous and local communities over their traditional knowledge associated to genetic resources subject to the national legislation of the countries where these communities are located.
- (xvi) Customary law and traditional cultural practices of indigenous and local communities;
- (xviii) Code of ethics/Code of conduct/Models of prior informed consent or other instruments in order to ensure fair and equitable sharing of benefits with indigenous and local communities;”

7. At its eighth meeting, the Conference of the Parties considered the issue of collaboration between the Working Group on Article 8(j) and Related Provisions and the Ad Hoc Open-ended Working Group on Access and Benefit-sharing, as well as the participation of indigenous and local communities with respect to the international regime on access and benefit-sharing, and adopted decision VIII/5 C on the subject.

8. In paragraph 1 of this decision, the Conference of the Parties requested “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”. It further requested “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”.

9. In light of the above, the Working Group on Article 8(j) and Related Provisions, at its fifth meeting, will be invited to consider the international regime on access and benefit-sharing as it relates to traditional knowledge. The views expressed will then be transmitted to the Working Group on Access and Benefit-sharing for consideration at its sixth meeting.

10. Under agenda item 9, members of the Advisory Group may wish to examine how the Working Group on Article 8(j) could contribute most effectively to the negotiation of an international regime on access and benefit-sharing. They may also wish to examine how indigenous and local communities could contribute directly to the negotiations as they relate to traditional knowledge.