



## CONVENTION ON BIOLOGICAL DIVERSITY

Distr.  
GENERAL

UNEP/CBD/WG8J/5/9  
28 July 2007

ORIGINAL: ENGLISH

---

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

Fifth meeting

Montreal, 15-19 October 2007

Item 11 of the provisional agenda\*

### RECOMMENDATIONS OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

*Note by the Executive Secretary*

#### INTRODUCTION

1. In decision VIII/5 I, on the recommendations of the United Nations Permanent Forum on Indigenous Issues (UNPFII), the Conference of the Parties welcomed the close cooperation between the Convention process and the Permanent Forum on Indigenous Issues, noted with appreciation the workshop on Cultural, Environmental and Social Impact Assessments based on the Akwe:Kon Guidelines and took note of the request by the Permanent Forum to advance its mandate to develop mechanisms for effective sui generis systems of protection based on customary laws of indigenous peoples.

2. Section I of this document provides an update of progress in the implementation of recommendations received to date. Relevant recommendations from the Permanent Forum on Indigenous Issues at its fifth and sixth sessions, which are addressed to the Convention and not yet considered, are reproduced in the annex to this document.

3. Section II contains recommendations from sessions five and six of the Permanent Forum not yet considered by the Working Group. Section III, suggests recommendations that the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and related provisions may wish to make to the ninth meeting of the Conference of the Parties, as appropriate.

/...

In order to minimize the environmental impacts of the Secretariat's processes, and to contribute to the Secretary-General's initiative for a C-Neutral UN, this document is printed in limited numbers. Delegates are kindly requested to bring their copies to meetings and not to request additional copies.

## I. OVERVIEW OF ACTIONS TAKEN WITH REGARD TO THE RECOMMENDATIONS OF THE THIRD, FOURTH, FIFTH AND SIXTH SESSIONS OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES (UNPFII)

### *An ethical code of conduct*

4. Responding to recommendations made by the Permanent Forum <sup>1/</sup> at its second session, the eighth meeting Conference of the Parties, in decision VIII/5, F, paragraph 3, requested the Executive Secretary to seek the collaboration of the Permanent Forum regarding 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. To this end, the Secretariat forwarded this request in a timely manner, along with copies of the draft elements, in all six United Nations languages to the 16 members of the UNPFII through the Secretariat of the Permanent Forum, to seek input. Two members <sup>2/</sup> of the Permanent Forum responded with comments that are included in the compilation (UNEP/CBD/WG8J/5/INF/15), concerning the draft elements of the code of conduct. The draft elements of the ethical code of conduct have been revised on the basis of all views received (UNEP/CBD/WG8J/5/7, annex) for the consideration of the Working Group.

### *Indicators for indigenous and local communities*

5. In decision VIII/5 G, paragraph 6, the Conference of the Parties responded to recommendation 22 of the fifth session of the Permanent Forum (E/2006 /43) and invited the Permanent Forum to support and collaborate with the Working Group on Article 8(j) and Related Provisions and the Indicators Initiative of the International Indigenous Forum on Biodiversity 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 Working Group on Article 8(j), the Strategic Plan of the Convention, the 2010 target of reducing the rate of biodiversity loss, and the Millennium Development Goals. To that end, and thanks to a generous contribution from the Government of Spain, the Secretariat entered into memorandums of understanding with IUCN LAC region and the Tebtebba Foundation (Philippines) to facilitate respectively the LAC consultation on Indicators (14-16 December 2006) and the International Expert Meeting on Indicators, which was held from 5 to 9 March 2007. This report will be considered by the fifth meeting of the Working Group on Article 8(j) under agenda item 10, with the view to adopt several practical, meaningful indicators, which capture indigenous realities and assist monitoring traditional knowledge status, sustainable use and the 2010 biodiversity target. The executive summary of the expert seminar on indicators is available as document UNEP/CBD/WG8J/5/8, and the full report of the expert seminar and the LAC consultation are available as documents UNEP/CBD/WG8J/5/INF/2 and UNEP/CBD/WG8J/5/INF/1, respectively.

### *Indigenous women and the Convention*

6. In full support of the recommendations of the Permanent Forum regarding the participation of indigenous women, <sup>3/</sup> the Secretariat of the Convention on Biological Diversity has been actively engaged in the United Nations Inter-Agency Network on Women and Gender Equality (IANWGE)/Task Force on Indigenous Women since its inception, in 2004.

---

<sup>1/</sup> At its second session, the Permanent Forum on Indigenous Issues, in recommendations 9 (see E/2003/43), recommended, inter alia, "the establishment of an international ethical code on bio-prospecting in order to avoid bio-piracy and ensure the respect for indigenous cultural and intellectual heritage"

<sup>2/</sup> Professor Michael Dodson (Australia) and Mr. Aqqaq Lyngé, Greenlander (Inuit), Denmark. Further information available at <http://www.un.org/esa/socdev/unpfii/en/members.html>

<sup>3/</sup> Recommendation to the Convention on Biological Diversity, paragraph 75, Report of the Third Session of the Permanent Forum on Indigenous Issues (E/2004/43) Indigenous women, gender issues and biodiversity.

7. Consistent with task 4 of the programme of work and in order to ensure the full involvement and participation of indigenous women in the work being carried under the Convention with regards to traditional knowledge, the Secretariat takes into account gender considerations when selecting participants to meetings, in research work, when selection individuals for experts groups, and in general in all activities related to policy-creation and implementation of the provisions of the Convention. As an example, the Advisory Group for Article 8(j) is composed of 17 members, nine of whom are indigenous women. In addition, traditional knowledge being a cross-cutting issue within the Convention, the promotion of the participation of indigenous women is applicable to meetings regarding each work program and decisions of the Conference of the Parties.

8. Finally, the Secretariat continues to cooperate with the Secretariat of the Permanent Forum on Indigenous Issues, among other relevant organizations, and with women representatives of indigenous and local communities to ensure that the perspectives and strategies of indigenous women in biodiversity related issues are taking into account in the work being done under the Convention, with regards to traditional knowledge.

*Sui generis systems for the protection of traditional knowledge*

9. The Conference of the Parties also took note of the request by the Forum at its third session addressed to the Working Group on Article 8(j), to advance its mandate to develop mechanisms for effective *sui generis* systems of the protection for traditional knowledge based on customary laws of indigenous peoples (E/2004 /43, paragraph 77). In response, in decision VIII/5 E, the Conference of the Parties requested the Executive Secretary to further develop as a priority issue, the possible elements of *sui generis* systems and to inform other relevant organizations, including the Permanent Forum, of the potential elements to be considered in the development of *sui generis* systems for the protection of traditional knowledge, innovations and practices. Furthermore, the Secretariat has been gathering and analysing information, including the report on indigenous traditional knowledge prepared by Permanent Forum expert Michael Dodson (UNEP/CBD/WG8J/5/INF/12), and the Executive Secretary has prepared a note (UNEP/CBD/WG8J/5/6) suggesting possible elements of *sui generis* systems, for the consideration of the Working Group. This document may assist the Working Group in the identification of priority elements of *sui generis* systems and in making appropriate recommendations to the ninth meeting of the Conference of the Parties.

*Access and benefit-sharing of genetic resources and the development of an international regime <sup>4/</sup>*

10. Regarding draft decision I of the fifth session of the Permanent Forum, “an international expert group meeting on the Convention on Biological Diversity’s international regime on access and benefit-sharing and indigenous peoples’ human rights”, the meeting was held from 17 to 19 January 2007, under the aegis of the Permanent Forum on Indigenous Issues, with the participation of the Convention, as a contribution to discussions on an international regime on access and benefit-sharing. The report of that meeting is available for consideration of the fifth meeting of the Working Group on Article 8(j) as an information document (UNEP/CBD/WG8J/5/INF/10).

---

<sup>4/</sup> Draft decision I of the fifth session of the UNPFII - International expert group meeting on the Convention on Biological Diversity’s international regime on access and benefit-sharing and indigenous peoples’ human rights. The Economic and Social Council decides to authorize a three-day international expert group meeting on the Convention on Biological Diversity international regime on access and benefit-sharing and indigenous peoples’ rights with the participation of representatives from the United Nations system, ... and requests that the results the meeting be reported to the Permanent Forum at its sixth session in May 2007 and Recommendation 2 – Future work of the Forum – of the sixth session of the UNPFII - The Permanent Forum recommends that the secretariat of the Convention on Biological Diversity facilitate an indigenous peoples’ expert workshop on traditional knowledge in a timely manner in order to feed into the fifth meeting of the Working Group on article 8 (j) and Related Provisions and the fifth and sixth meetings of the Working Group on Access and Benefit-sharing in order to support the elaboration by indigenous peoples’ of recommendations vis-à-vis an international regime on access and benefit-sharing. This meeting could be organized back-to-back with the meeting of the Inter-Agency Support Group on Indigenous Issues in order to take advantage of the presence of some United Nations agencies to provide technical support and information.

11. Regarding the recommendation made in paragraph 4 of the report of the sixth session of the Permanent Forum (E/2007/43) on participation of indigenous and local communities in the ongoing negotiations of an international regime on access and benefit sharing of genetic resources, the Conference of the Parties in decisions VII/16 H and decision VIII/5 C has taken steps to enhance the involvement of indigenous and local communities, including by encouraging the participation of representatives of indigenous and local communities in government delegations. The Secretariat is also working with donors to ensure that indigenous and local communities are provided with ample opportunities to contribute to the ongoing process of the elaboration of an international regime.

12. The establishment of a selection committee for the voluntary fund for indigenous and local community participation in meetings held under the Convention by decision VIII/5 D, annex, section A, subsection (d), will assist in ensuring geographic equity based on the seven socio-cultural regions recognised by the Permanent Forum and directly responds to the Forum's request "that the diverse regional views of indigenous peoples are reflected in discussions on the international regime on access and benefit-sharing from the seven indigenous geocultural regions <sup>5/</sup> and subregional levels to ensure that they are provided with opportunities to express diverse regional and subregional views".

13. At its sixth session, the Permanent Forum recommended in paragraph 2 of its report (E/2007/43), under "future areas of work", that the Convention on Biological Diversity facilitate an indigenous expert consultation on access to genetic resources and associated traditional knowledge and benefit sharing in a timely manner to contribute to discussions held at the fifth meetings of the Working Group on Article 8(j) and the Working Group on Access and Benefit-sharing. This expert seminar is tentatively planned to be held on 19-21 September 2007, in Montreal. The report of the meeting will be made available to the Working Group as information document (UNEP/CBD/WG8J/INF/13).

### III. SUGGESTED RECOMMENDATIONS

14. The Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions may wish to recommend that the Conference of the Parties:

(a) *Welcomes* the continued 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;

(b) *Notes with appreciation* the contribution of the Permanent Forum to the work of the Convention and, in particular, its organization of the International Expert Group Meeting on the Convention on Biological Diversity's International Regime on Access and Benefit-sharing and Indigenous Peoples' Human Rights, held in New York from 17 to 19 January 2007 (UNEP/CBD/WG8J/5/INF/10), and the report on indigenous traditional knowledge" prepared by Permanent Forum expert Michael Dodson (UNEP/CBD/WG8J/5/INF/12);

(c) *Requests* the Executive Secretary to collaborate with Parties in convening, subject to the availability of financial resources, regional and subregional capacity-building workshops in collaboration with members, as appropriate, of the Inter-Agency Support Group on Indigenous Issues, for the purposes of information exchange and capacity-building among Governments, indigenous peoples and local communities and other stakeholders with regard to the proposed international regime on access and benefit-sharing with particular emphasis on the participation of women from indigenous and local communities;

---

<sup>5/</sup> Africa; Asia; Central and South America and the Caribbean; the Arctic; Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.

(d) Requests the Executive Secretary to make available, through the Traditional Knowledge Information Portal, information on possible opportunities to provide financial support for indigenous networks to disseminate information, in appropriate and accessible languages, and through appropriate media, to indigenous issues on the issue of access and benefit-sharing.

*Annex***EXTRACT FROM THE REPORT ON THE FIFTH SESSION OF THE PERMANENT FORUM  
ON INDIGENOUS ISSUES (E/2006/43-E/C.19/2006/11)****Draft decision I****International expert group meeting on the Convention on Biological Diversity's international regime on access and benefit-sharing and indigenous peoples' human rights.**

The Economic and Social Council decides to authorize a three-day international expert group meeting on the Convention on Biological Diversity international regime on access and benefit-sharing and indigenous peoples' rights with the participation of representatives from the United Nations system, five members of the Permanent Forum on Indigenous Issues, and invites interested intergovernmental organizations, experts from indigenous organizations, and interested Member States to participate as well, and requests that the results the meeting be reported to the Permanent Forum at its sixth session in May 2007.

**Recommendations emerging from the fifth session**

19. The Permanent Forum urges all African Governments to comply with and support United Nations resolutions and mechanisms that include references to indigenous peoples, specifically Agenda 21, the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity, 4. the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification Particularly in Africa, International Labour Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries of the International Labour Organization (ILO), the draft United Nations declaration on the rights of indigenous peoples and other United Nations agreements.

22. The Permanent Forum welcomes and fully supports the holding of an international expert seminar on indicators relevant to indigenous peoples and biodiversity, to be organized by the working group on indicators of the International Indigenous Forum on Biodiversity under the auspices of the Convention on Biological Diversity, in cooperation with the Permanent Forum.

33. Indigenous traditional knowledge not only sustains indigenous and local communities in their daily lives, but is also a key element of their identity and self-determination. Such knowledge of indigenous communities, which reflects their holistic world views, also contributes to the world's cultural and biological diversity and is a source of cultural and economic wealth for the communities and for humanity as a whole. Indigenous knowledge systems are subject, however, to a variety of threats. In response, numerous practical, legislative and policy initiatives are under way at the community, national, regional and international levels to enhance the protection of indigenous traditional knowledge. However, as stressed by the indigenous experts who took part in the International Technical Workshop on Indigenous Traditional Knowledge (Panama City, 21-23 September 2005), respect for the rights of indigenous peoples, in particular their human rights, is at the heart of their concerns about the preservation, the promotion and the protection of traditional knowledge and cultural expressions. Due consideration of those concerns and perspectives, while preserving, promoting and protecting the traditional knowledge and cultural expressions of indigenous communities, will have a direct bearing on the achievement of the Millennium Development Goals.

85. The Permanent Forum recommends that the Office of the United Nations High Commissioner for Human Rights in cooperation with the Permanent Forum develop a coherent and strategic plan of action in Africa in cooperation with indigenous peoples and their representative organizations, and that the

/...

implementation of the programme of the Office of the High Commissioner to strengthen capacity to protect and advocate for the human rights of indigenous peoples be linked to other United Nations bodies, notably the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the Secretariat of the Convention on Biological Diversity, the World Intellectual Property Organization (WIPO), UNESCO and others.

(a) The technical paper prepared by the Inter-Agency Support Group on Indigenous Issues (E/C.19/2006/3/Add.1), which offers an overview of indicators and systems of data collection and disaggregation currently in place in its member organizations. The Permanent Forum endorses recommendations 36 and 37 proposed by ILO, UNDP, the Economic Commission for Latin America and the Caribbean (ECLAC), UNESCO, the secretariat of the Convention on Biological Diversity, the Inter-American Development Bank, the Office of the United Nations High Commissioner for Human Rights, UNIFEM, UNFPA, WHO, UNICEF, the United Nations Conference on Trade and Development (UNCTAD), UNEP and the Division for Public Administration and Development Management and the Division for Sustainable Development of the Department of Economic and Social Affairs of the United Nations Secretariat;

101. The Permanent Forum invites Governments, United Nations organizations and their regional offices, universities and research bodies to support the convening of regional workshops and other activities in the Arctic, Asia, Africa, Latin America and the Pacific to identify indicators relevant to indigenous peoples' poverty and well-being, traditional knowledge and biodiversity, with a view to monitoring progress in the achievement of the Millennium Development Goals and the objectives of the Convention on Biological Diversity.

103. The Permanent Forum invites the Inter-Agency Support Group on Indigenous Issues for the Permanent Forum, Governments and donors to maximize collaboration, avoid duplication and advance joint efforts to strengthen work on data collection and identification of indicators relevant to indigenous peoples, Millennium Development Goals and the Convention on Biological Diversity.

119. The Permanent Forum urges African Governments to take into account standing reports on the retention of traditional knowledge developed by indigenous peoples and government representatives during the Convention on Biological Diversity process.

120. The Permanent Forum calls upon African Governments to formalize their recognition of African knowledge systems, in particular indigenous peoples' expertise in this regard, including medicinal knowledge. Indigenous knowledge systems should be included in formal education. Indigenous peoples should participate in the sustainable management of biodiversity, as well as ensure the sustainability of their economies, cultures, languages and knowledge systems.

134. The Permanent Forum supports decision VIII/6 adopted by the Conference of the Parties to the Convention on Biological Diversity at its eighth meeting, in which the Conference of the Parties invited the General Assembly at its sixty-first session to consider adopting the draft resolution contained in the annex to that decision, by which the Assembly would declare 2010 the International Year of Biodiversity (see UNEP/CBD/COP/8/31 of 15 June 2006, annex I).

135. National mechanisms established for the implementation of Agenda 21, national biodiversity strategies and action plans, the Millennium Development Goals and activities for the Second International Decade of the World's Indigenous People should include a focal point for indigenous issues, including responsibility for communication, education and public awareness activities.

**EXTRACT FROM THE REPORT ON THE SIXTH SESSION OF THE PERMANENT FORUM  
ON INDIGENOUS ISSUES (E/2007/43-E/C.19/2007/9)**

**Special theme: Territories, lands and natural resources**

10. The Permanent Forum expresses its appreciation to Special Rapporteurs, Ms Victoria Tauli-Corpuz and Mr Parshuram Tamang for their report entitled “Oil palm and other commercial tree plantations, mono-cropping: impacts on indigenous peoples’ land tenure and resource management systems and livelihoods”. The Permanent Forum recommends that further analysis be undertaken to include information received and gathered from Governments, the logging and plantation sectors and their networks, indigenous peoples, non-governmental organizations and intergovernmental bodies such as the United Nations Framework on Climate Change, the Convention on Biological Diversity and the United Nations Forum on Forests. The Permanent Forum reappoints Victoria Tauli-Corpuz to continue as the Special Rapporteur to draft the follow-up report, using existing resources, to be presented at the 2008 session of the Permanent Forum.

28. The Permanent Forum recommends that the Working Group on Access and Benefit Sharing of the Convention on Biological Diversity recognize the rights of indigenous peoples over the biological and genetic resources of their own territories.

**Future work of the Forum**

2. The Permanent Forum recommends that the secretariat of the Convention on Biological Diversity facilitate an indigenous peoples’ expert workshop on traditional knowledge in a timely manner in order to feed into the fifth meeting of the Working Group on Article 8 (j) and Related Provisions and the fifth and sixth meetings of the Working Group on Access and Benefit-sharing in order to support the elaboration by indigenous peoples’ of recommendations vis-à-vis an international regime on access and benefit-sharing. This meeting could be organized back-to-back with the meeting of the Inter-Agency Support Group on Indigenous Issues in order to take advantage of the presence of some United Nations agencies to provide technical support and information.

3. The Permanent Forum decides to transmit the report of the expert group meeting (International expert group meeting on the Convention on Biological Diversity’s international regime on access and benefit-sharing and indigenous peoples’ human rights) to the Executive Secretary of the Convention on Biological Diversity as an informational document for the meetings of the open-ended working group on access and benefit-sharing and the open-ended Working Group on Article 8 (j) and Related Provisions, to be presented during the discussion of the relevant agenda item at those meetings.

4. The Permanent Forum calls upon the States parties to the Convention on Biological Diversity to continue to enhance participatory mechanisms by ensuring that the diverse regional views of indigenous peoples are reflected in discussions on the international regime on access and benefit-sharing. In particular, the parties are urged to ensure adequate representation of indigenous peoples from the seven indigenous geo-cultural regions\* and sub-regional levels in the Working Group on Access and Benefit-sharing and to ensure that they are provided with opportunities to express diverse regional and sub-regional views.

---

\* Africa; Asia; Central and South America and the Caribbean; the Arctic; Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.



5. The Permanent Forum, with the assistance of relevant member of the Inter-Agency Support Group, and in collaboration with indigenous experts, will conduct timely technical reviews at critical stages in the negotiations of international standards on the protection of traditional knowledge, such as the international regime on access and benefit-sharing and the deliberations of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, to evaluate consistency and harmonization with existing and developing international legal instruments, standards and arrangements and, in particular, the human rights of indigenous peoples.

6. The Permanent Forum calls upon the secretariat of the Convention on Biological Diversity to work in partnership with other members of the Inter-Agency Support Group and donors to organize regional workshops for the purposes of information exchange and capacity-building among Governments, indigenous peoples and local communities and other stakeholders with regard to the proposed international regime on access and benefit-sharing. In addition, the secretariat is called upon to provide financial support for indigenous networks to disseminate information, in appropriate and accessible languages, and through appropriate media, to indigenous communities on this issue.

-----