



## Convention on Biological Diversity

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

Sixth meeting

Montreal, 2-6 November 2009

Item 6 of the provisional agenda\*

### UPDATE ON THE NEGOTIATIONS OF THE INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING

*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 in light of decisions IX/12, IX/13, VIII/4 A and VIII/5 C of the Conference of the Parties, as well as previous decisions of the Conference of the Parties.
2. In its decision VII/19 D, the Conference of the Parties 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 decision VIII/5 C, 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, in paragraph 1, 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*”

\* UNEP/CBD/WG8J/6/1.

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associated with genetic resources and to the fair and equitable sharing of benefits arising from their utilization”. (emphasis added)

4. As requested by the Conference of the Parties, the Working Group on Article 8(j), at its fifth meeting, considered the elaboration and negotiation of the international regime on access and benefit-sharing as it relates to traditional knowledge, innovations and practices associated with genetic resources. However, the Working Group failed to reach consensus on views to be transmitted to the sixth meeting of the Working Group on Access and Benefit-sharing, and, as a result, no views were transmitted.

5. At its ninth meeting, in decision IX/13 A, paragraph 12, the Conference of the Parties reiterated its request to the Ad Hoc Open-ended Working Group on Article 8(j) to continue to collaborate and contribute 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 the 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.

6. In decision IX/12, on access and benefit-sharing, the Conference of the Parties reiterated its instruction to the Working Group on Access and Benefit-sharing to complete the elaboration and negotiation of the international access and benefit-sharing regime at the earliest possible time before the tenth meeting of the Conference of the Parties. It also decided that the eighth meeting of the Working Group would, *inter alia*, negotiate operational text on traditional knowledge associated with genetic resources. In addition, it decided to establish three distinct groups of technical and legal experts to inform the negotiation process, two of which addressed specifically issues related to traditional knowledge associated with genetic resources: the Expert Group on Traditional Knowledge Associated with Genetic Resources, which met in June 2009 in Hyderabad, India, and the Expert Group on Compliance, which met in January 2009 in Tokyo. The reports of the meetings of these two expert groups are available in documents UNEP/CBD/WG-ABS/8/2 and UNEP/CBD/WG-ABS/7/3 respectively.

7. Furthermore in paragraph 20 of decision IX/12, the Conference of the Parties requested that the Working Group on Article 8(j) continues to collaborate and contribute to the fulfilment of the mandate of the Working Group on Access and Benefit-sharing “by providing detailed and focused views on the outcome of the technical experts groups on traditional knowledge associated with genetic resources and compliance as input to the work of the Working Group on Access and Benefit-sharing”.

8. The seventh meeting of the Working Group on Access and Benefit-sharing was held in Paris from 2 to 9 April 2009. The meeting was devoted to the negotiation of operational text on objective, scope, compliance, fair and equitable benefit-sharing, and access to genetic resources. The results of the meeting are available in the annex to its report (UNEP/CBD/WG-ABS/7/8).

9. In light of the above, the Working Group on Article 8(j) and Related Provisions is invited to provide views to the Ad Hoc Open-ended Working Group on Access and Benefit-sharing on the international regime on access and benefit-sharing as it relates to associated traditional knowledge and the equitable sharing of benefits, including detailed and focused views on the outcome of the expert groups on traditional knowledge and on compliance.

10. In fulfilling its mandate, the Working Group may also wish to take into consideration the outcome of a number of initiatives regarding indigenous and local communities and access to genetic resources and benefit-sharing. These include the report of the Vilm Workshop on Matters Related to Traditional Knowledge Associated with Genetic Resources (UNEP/CBD/WG8J/6/INF/14) and the report of the Vienna Workshop on Matters Related to Traditional Knowledge with Genetic Resources and the International ABS Regime (UNEP/CBD/WG8J/6/INF/13).