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WORKING GROUP ON ARTICLE 8(j) AND
RELATED PROVISIONS OF THE CONVENTION
ON BIOLOGICAL DIVERSITY

Tenth meeting

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Item 8 of the provisional agenda*

RECOMMENDATIONS FROM THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES TO THE CONVENTION ON BIOLOGICAL DIVERSITY

Note by the Executive Secretary

INTRODUCTION

1. As is the practice of the Convention, recommendations of the United Nations Permanent Forum on Indigenous Issues to the Convention on Biological Diversity are considered by the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions, which, in turn, makes recommendations for the consideration of the Conference of the Parties.

2. The present background document has been prepared in order to facilitate and guide the discussion under this item concerning recommendations of relevance to the Convention on Biological Diversity emanating from the fifteenth and sixteenth annual sessions of the Permanent Forum, which were held from 9 to 20 May 2016 and from 24 April to 5 May 2017, respectively.

3. Section I provides the background on the Permanent Forum, and section II contains a summary of relevant recommendations emanating from these two sessions of the Permanent Forum not yet considered by the Convention on Biological Diversity. Section III provides an update on previous recommendations of the Permanent Forum to the Convention on Biological Diversity, and section IV provides a draft recommendation for consideration by the Working Group.

I. BACKGROUND

4. The Permanent Forum¹ is a high-level advisory body of the Economic and Social Council, which established the Forum in its resolution 2000/22 of 28 July 2000 with a mandate to deal with indigenous issues related to economic and social development, culture, the environment, education, health and human rights.

5. More specifically, the Permanent Forum:

(a) Provides expert advice and recommendations on indigenous issues to the Council as well as to programmes, funds and agencies of the United Nations through the Economic and Social Council;

(b) Raises awareness and promotes the integration and coordination of activities related to indigenous issues within the United Nations system;

* CBD/WG8J/10/1.

¹ More information <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2.html>

- (c) Prepares and disseminates information on indigenous issues.

6. The Permanent Forum meets annually for two-week sessions at United Nations Headquarters in New York. At its fifteenth session (9-20 May 2016), the Permanent Forum considered the theme “indigenous peoples: conflict, peace and resolution”. At its sixteenth session (24 April-5 May 2017), the Permanent Forum considered, as a special theme, the “tenth anniversary of the United Nations Declaration on the Rights of Indigenous Peoples: measures taken to implement the Declaration”.

7. In line with the modus operandi of the Permanent Forum, at each session, the 16 independent experts adopt recommendations by consensus for the consideration of Governments and United Nations agencies, programmes and other mechanisms. Recommendations of relevance to the Convention on Biological Diversity adopted at its fifteenth and sixteenth sessions are contained in section II below.

II. RECENT RECOMMENDATIONS OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES TO THE CONVENTION ON BIOLOGICAL DIVERSITY

8. During the period 2016-2017, the Permanent Forum did not address any specific recommendations to the Convention on Biological Diversity. However, some of the general recommendations may be of relevance to the Convention on Biological Diversity. To a certain extent, these recommendations have already been considered by the Conference to the Parties of the Convention and its Protocols in previous work, as mentioned below.

A. Recommendations emanating from the fifteenth session of the Permanent Forum²

General recommendation

10. The Permanent Forum recommends that States and the United Nations system, including United Nations country teams, **provide support, including funding, for the efforts of indigenous peoples’ institutions to preserve and revitalize their languages**, with the particular goal of fluency. Such efforts may include the sharing of positive experiences and the establishment of informal networks or caucuses involved in the promotion and revitalization of indigenous languages, as well as the use of information and communications technology in indigenous languages. It is important that States provide adequate funding for language revitalization and the preservation of cultural heritage as it relates to indigenous languages. In addition, States should facilitate funding for indigenous language projects from external donors, including the private sector, in accordance with law.

9. Of relevance to this recommendation, the Secretariat of the Convention on Biological Diversity implemented, in collaboration with the International Indigenous Forum on Biodiversity and its organizations, a Training Programme on Community Protocols of Traditional Knowledge and, Indicators for Traditional knowledge and Customary Sustainable Use within the Strategic Plan for Biodiversity 2011-2020 including the effective implementation of the Nagoya Protocol.³

10. The training programme included three regional training programmes for the African, Asian, and Latin American regions and supported 19 local workshops. More than 1.033 trainers from indigenous peoples and local communities and Parties from different countries of Africa, Asia, and Latin-America and the Caribbean were successfully trained.

11. This initiative provided technical and financial support for indigenous and local communities’ trainers who participated in the regional trainings, to implement local or national workshops in indigenous and local languages. Also, in order to assist local or national workshops, the trainers received support to adapt and translate training materials and information provided by the Secretariat about the Convention

² http://www.un.org/en/ga/search/view_doc.asp?symbol=E/2016/43&referer=http://www.un.org/en/documents/index.html&Lang=E

³ More information <https://www.cbd.int/tk/cb/trainingprogramme.shtml>

on Biological Diversity and traditional knowledge and customary sustainable use into indigenous or local languages, which resulted in over thirty translations.

12. These activities were implemented thanks to financial support by the Government of Japan, through the Japan Biodiversity Fund, the Central American operation of the Deutsche Gesellschaft für Technische Zusammenarbeit (GIZ), and in collaboration with, among others, the following organizations: Sotzil; Indigenous Women's Biodiversity Network (IWBN); Indigenous Information Network (IIN); SwedBio; Forest Peoples Programme; Asian Indigenous Peoples Pact; and Natural Justice.

13. This initiative contributed to the revitalization of indigenous languages as was requested in recommendation 10 from the fifteenth session of the United Nations Permanent Forum on Indigenous Issues.

B. Recommendations emanating from the sixteenth session of the Permanent Forum⁴

General recommendations

36. The Permanent Forum recommends that States develop laws and policies to ensure the recognition, continued vitality and protection from misappropriation of indigenous traditional knowledge.

14. In decision XIII/19, the Conference of the Parties adopted the Mo'otz Kuxtal⁵ Voluntary Guidelines,⁶ which are intended to provide guidance for the development of mechanisms, legislation, administrative and policy measures or other appropriate initiatives to ensure that potential users of knowledge, innovations and practices that are held by indigenous peoples and local communities, embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity (hereinafter "traditional knowledge"), obtain the "prior and informed consent", "free, prior and informed consent" or "approval and involvement", depending on national circumstances, where appropriate, of these indigenous peoples and local communities, in accordance with national legislation, and that these indigenous peoples and local communities obtain a fair and equitable share of the benefits arising from the use and application of such traditional knowledge and for reporting and preventing unlawful appropriation of traditional knowledge that is relevant for the conservation and sustainable use of biological diversity.

15. The adoption of the Mo'otz Kuxtal Voluntary Guidelines addresses, in part, recommendation 36 from the sixteenth session of the Permanent Forum.

71. The Permanent Forum requests the Inter-Agency Support Group on Indigenous Peoples' Issues and, specifically, those agencies working on land tenure and changes in land use, to step up cooperation in order to operationalize indicators on land tenure and changes in land use pertaining to the traditional territories (lands and waters) of indigenous peoples, as a global multipurpose indicator in order to report on status and trends, in line with the Convention on Biological Diversity, the 2030 Agenda for Sustainable Development and the United Nations Declaration on the Rights of Indigenous Peoples. All relevant funds, programmes and specialized agencies should update the Forum every year on the results of this work.

⁴ <https://undocs.org/en/E/2017/43>

⁵ Meaning "roots of life" in the Maya language.

⁶ Voluntary guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure the "prior and informed consent", "free, prior and informed consent" or "approval and involvement", depending on national circumstances, of indigenous peoples and local communities for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge.

16. Of relevance to this recommendation is the fact that the Secretariat of the Convention on Biological Diversity is a member of the Inter-Agency Support Group on Indigenous Peoples' Issues and has been contributing to and leading the discussion on the operationalization of the indicators relevant to indigenous peoples, based on the adopted global indicators for traditional knowledge adopted under the Convention, particularly the indicator on "Status and trends in land-use change and land tenure in the traditional territories of indigenous and local communities" (Conference of the Parties decision X/43). This is a global indicator related to Aichi Biodiversity Target 18 of the Strategic Plan for Biodiversity 2011-2020.⁷

17. In the light of "land" becoming a common indicator of relevance to various international processes, including the Convention on Biological Diversity (for traditional knowledge and customary sustainable use), the Sustainable Development Goals (for equity, including women's access to land) and the United Nations Declaration on the Rights of Indigenous Peoples (for indigenous well-being), the Inter-Agency Support Group on Indigenous Peoples' Issues, at its annual meeting held in Quito in June 2017, established a Working Group on the Land Tenure Indicator with a mandate to address this recommendation.

18. The Working Group is chaired by a representative of the Secretariat of the Convention on Biological Diversity, with the participation of the Food and Agriculture Organization of the United Nations (FAO); the International Land Coalition (ILC); and the International Fund for Agricultural Development (IFAD), among others.

19. The Inter-Agency Support Group on Indigenous Peoples' Issues, through its Working Group on the Land Tenure Indicator, will continue to work on operationalising and reporting on the "land" indicator as requested in recommendation 71, in order to update the Permanent Forum on progress on an annual basis. This work is also complementary to efforts by the Secretariat of the Convention towards operationalizing the "land" indicator, in order to report on progress towards Target 18 on traditional knowledge and customary sustainable use by 2020.

III. UPDATE ON PREVIOUS RECOMMENDATIONS OF THE PERMANENT FORUM TO THE CONVENTION ON BIOLOGICAL DIVERSITY

Recommendation 26. Affirmation of the status of indigenous peoples as "peoples" is important in fully respecting and protecting their human rights. Consistent with its 2010 report (E/2010/43-E/C.19/2010/15), the Permanent Forum calls upon the Parties to the Convention on Biological Diversity, and especially including the Nagoya Protocol, to adopt the terminology "indigenous peoples and local communities" as an accurate reflection of the distinct identities developed by those entities since the adoption of the Convention almost 20 years ago.

20. In response to the recommendation emanating from the tenth session⁸ of the United Nations Permanent Forum on Indigenous Issues (see above), in which Parties to the Convention on Biological Diversity were called upon to adopt the terminology "indigenous peoples and local communities", the Conference of the Parties decided at its twelfth meeting⁹ to use the terminology "indigenous peoples and local communities" in future decisions and secondary documents under the Convention, as appropriate.

21. As follow-up and in order to ensure consistency across the Convention and its Protocols, the Conference of the Parties serving as the meeting of the Parties to the Cartagena and Nagoya Protocols considered this issue at their eighth and second meetings, respectively, in December 2016, and decided¹⁰

⁷ Decision XIII/28 (Indicators for the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets).

⁸ See E/2011/43-E/C.19/2011/14 and Corr.1.

⁹ See Conference of the Parties decision XII/12, Section F, Terminology "indigenous peoples and local communities".

¹⁰ In decisions CBD/CP/MOP/DEC/VIII/19 and CBD/NP/MOP/DEC/2/7, respectively.

to apply decision XII/12 F of the Conference of the Parties to the Convention on Biological Diversity on the use of the terminology “indigenous peoples and local communities”.

IV. POSSIBLE DRAFT RECOMMENDATIONS FOR THE CONSIDERATION OF THE WORKING GROUP

22. The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions may wish to recommend that the Conference of the Parties at its fourteenth meeting adopt a decision along the following lines:

The Conference of the Parties,

Notes the recommendations emanating from the fifteenth and sixteenth sessions of the United Nations Permanent Forum on Indigenous Issues, and requests the Secretariat to continue to inform the Permanent Forum on developments of mutual interest.
