



Ref: SCBD/SEL/OJ/43308

12 May 2004

Dear Sir/Madam,

Notification: Decision VII/16 on Article 8(j) and related provisions

The purpose of this notification is to invite Parties and Governments to contribute to the implementation of the work programme on Article 8 (j) and related provisions of the Convention on Biological Diversity and to the preparatory work for the fourth meeting of the Ad Hoc Open-ended Working Group on Article 8 (j) and Related Provisions, pursuant to decision VII/16 of the Conference of the Parties.

In decision VII/16, the Conference of the Parties decided, *inter alia*, that one meeting of the Ad Hoc Open-ended Intersessional Working Group on Article 8 (j) and related provisions (the Working Group) be organized prior to its eighth meeting in order “to ensure further advancement of the implementation of the work programme on Article 8 (j) and related provisions”. The fourth meeting of the Working Group will be held in the first quarter of 2006. The Working Group will, *inter alia*:

- review progress in the integration of the relevant tasks of the programme of work on Article 8 (j) in the thematic programmes of the CBD;
- review progress in the implementation of the priority tasks of the programme of work on Article 8 (j) and related provisions;
- consider the potential socio-economic impacts of Genetic Use Restriction Technologies (GURTs) on indigenous and local communities;
- consider the completion of phase one of the composite report on the status and trends regarding knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biological diversity, as well as progress on phase two and the further development of a plan of action for the retention of such knowledge, innovations and practices;
- review the question of participatory mechanisms for indigenous and local communities, in particular with regard to (a) the development of criteria for the voluntary funding mechanism for the participation of indigenous and local communities and (b) the role of the thematic focal point and communication networks;
- consider the further development of elements of *sui generis* systems for the protection of traditional knowledge, innovations and practices
- develop 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.



Contribution by Parties and Governments is sought on a number of issues in connection with the preparatory work for the next meeting of the Working Group. These are reviewed below.

Potential socio-economic impacts of Genetic Use Restriction Technologies (GURTs) on indigenous and local communities

In decision VII/16 D, paragraph 2, the Conference of the Parties urged the Working Group on Article 8 (j) and Related Provisions to consider the potential socio-economic impacts of genetic use restriction technologies on indigenous and local communities (GURTs) on the basis of the report of the Ad Hoc Technical Expert Group on GURTs, the outcome of the tenth meeting of SBSTTA on this issue, and the FAO study on potential impacts of GURTs on agricultural biodiversity and agricultural production systems.

In paragraph 3 of the same decision, the Conference of the Parties invited Parties and indigenous and local communities to review the recommendations of the Technical Expert Group and provide comments to the Executive Secretary for consideration at the fourth meeting of the Working Group on Article 8 (j) and related Provisions. The Executive Secretary is requested to compile comments received.

Action required:

- Parties and governments are invited to provide comments to the Executive Secretary on the recommendations of the Technical Expert Group on GURTS as soon as practicable but no later than **31st May 2005**.

Composite report on the status and trends regarding the knowledge, innovation and practices of indigenous and local communities

In decision VII/16 E, the Conference of the Parties decided to undertake further activities to complete phase one of the composite report in order to produce a revised version of it, in consultation with Parties, organizations, stakeholders and indigenous and local communities through the national focal points in consultation with, and after approval of, indigenous and local communities. Such work is to include regional workshops, the gathering of additional information, as well as preparation of a report on the Arctic region.

In the same decision, the Conference of the Parties also requested the Executive Secretary to immediately start work on a second phase of the composite report, with a view to identifying national and local processes that may threaten the maintenance, preservation and application of traditional knowledge, through national focal points and in consultation with and with the approval of indigenous and local communities.

The Conference of the Parties also requested the Executive Secretary to further develop the draft elements for an action plan for the retention of traditional knowledge, which is contained in the annex to the decision, in particular with a view to identifying actors and timeframes.

Action required:

Parties and governments are invited:

- to provide financial support to the Secretariat for the hiring of a team of consultants to carry out further work on phase one and initiate phase two of the composite report. Such support should be made available as soon as practicable but not later than **31st August 2004** to allow the Secretariat to hire consultants and complete the work in time for the

next meeting of the Working Group on Article 8 (j) and related provisions taking into account the need for peer review;

- to organize regional workshops as a contribution to the work on the composite report as soon as possible but no later than **31st May 2005** to ensure that the reports of the workshops can be taken into account in the preparation of the composite report;
- to provide, **by 31st August 2004**, financial support for the establishment of an advisory group/steering committee to assist in the completion of the composite report,
- to provide to the Secretariat their views on the elements of the draft plan of action on the retention of traditional knowledge contained in the Annex to decision VII/16 E no later than **31st May 2005**;
- to support the efforts of indigenous and local communities to undertake field studies on the status and trends of traditional knowledge as a contribution to the composite report.

Participatory mechanisms for indigenous and local communities

In decision VII/16 G on participatory mechanisms for indigenous and local communities, the Conference of the Parties requested the Executive Secretary to compile information on the participation of indigenous and local communities in the Convention process, and in decision-making processes and the implementation of the Convention at the national level, and to make such information available through the clearing-house mechanism.

In the same decision, the Conference of the Parties decided to establish a voluntary funding mechanism under the Convention to facilitate the participation of indigenous and local communities in meetings under the Convention, and that such mechanism shall operate according to criteria to be developed by the Conference of the Parties in consultation with indigenous and local communities and taking into account any United Nations practice in this field.

Action required:

In light of the above, Parties and governments are invited to communicate to the Secretariat, no later than **31st May 2005**:

- information on the participation of indigenous and local communities in decision-making processes and implementation of the Convention at the national level;
- their views and suggestions on the criteria to be developed for the operation of the funding mechanism to facilitate the participation of indigenous and local communities.

Sui generis systems for the protection of traditional knowledge

In decision VII/16 H, the Conference of the Parties requested the Working Group on Article 8 (j) and Related Provisions to:

- (a) Consider non-intellectual-property-based *sui generis* forms of protection of traditional knowledge, innovations and practices relevant for the conservation and sustainable use of biodiversity;

- (b) Further develop, as a priority issue, elements for *sui generis* systems (listed in the annex to the decision) for the protection of traditional knowledge and ensure benefit-sharing arrangements for indigenous and local communities when their traditional knowledge and associated genetic resources are accessed;
- (c) Review the relevance and applicability of the Bonn Guidelines to the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention in accordance with decision VI/24 A of the Conference of the Parties;
- (d) Review and, if appropriate, make recommendations regarding the international regime on access and benefit-sharing with a view to including *sui generis* systems and measures for the protection of traditional knowledge;
- (e) Assess the role of databases and registers in the protection of traditional knowledge;
- (f) Explore, taking into account the work of the World Intellectual Property Organization and the United Nations Permanent Forum on Indigenous Issues, the potential of and conditions under which the use of existing as well as new forms of intellectual property rights can contribute to achieving the objectives of Article 8(j) and related provisions of the Convention.

Parties and governments are also invited, in paragraph 2 of the same decision, to communicate to the Executive Secretary any relevant information on existing *sui generis* systems. In paragraphs 4 and 8, the Executive Secretary is requested to collect information on the role of databases and registers in the protection of traditional knowledge and to develop a glossary of terms relevant to Article 8 (j) and related provisions.

Action required:

In light of the above, Parties and Governments are requested to communicate to the Executive Secretary:

- information on existing *sui generis* systems;
- their views and suggestions on the issues mentioned above, including the role of databases and registers;
- the terms that should be included in a glossary of terms as well as any suggested definition for such terms.

Contributions on the above issues should be communicated to the Executive Secretary no later than **31st May 2005** to ensure they are taken into account in the preparation of documentation for the next meeting of the Working Group on Article 8 (j).

- Parties and Governments are also requested to submit case-studies and other relevant information to the Executive Secretary for compilation and dissemination through the clearing-house mechanism on the above-mentioned issues **on an ongoing basis**.

Recommendations of the Permanent Forum on Indigenous Issues: elements for an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities

Following up on a recommendation of the Permanent Forum on Indigenous Issue, in decision VII/16 I the Conference of the Parties requested the Working Group on Article 8 (j) and Related Provisions to develop elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities for the conservation and sustainable use of biological diversity, taking into account task 16 of the programme of work on Article 8 (j) and related provisions.

Action required:

- Parties and governments are requested to communicate to the Executive Secretary, no later than **31st May 2005**, relevant information and views regarding the elements for an ethical code of conduct as outlined above and the development of such a code.

Thank you for your cooperation and continued support of the work of the Convention

Accept, Madam/Sir, the assurance of my highest consideration.

Yours sincerely,

Hamdallah Zedan
Executive Secretary