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Permanent Forum on Indigenous Issues

Sixth session

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Item 4 of the provisional agenda*

Implementation of recommendations on the six mandated areas and on MDGs

Information received from the UN system and other intergovernmental organizations

The Secretariat of the Convention on Biological Diversity (SCBD)

Summary

In this document, the Secretariat of the Convention on Biological Diversity (CBD) provides information on the implementation of recommendations of the Third, Fourth and Fifth Session of the Forum which were addressed to CBD, as well as follow up concerning the recommendations of the Forum's Second Session.

* E/C.19/2007/1.

Advance Unedited Version

Table of Contents

- A. Response to Recommendations addressed exclusively to the Convention on Biological Diversity
- B. Response to recommendations addressed to the United Nation's system
- C. Obstacles to implementation of recommendations of the Permanent Forum, or other policies relevant to indigenous peoples.
- D. Other significant information regarding recent policies, programme, budgetary allocations or activities regarding indigenous issues
- E. Information and suggestions regarding the special theme of the sixth session, "Territories, lands and natural resources".
- F. Information regarding the Second International Decade of the World's Indigenous Peoples
- G. Inputs towards a questionnaire to enhance reporting to the Permanent Forum

Advance Unedited Version

A. Response to recommendations addressed exclusively to the Convention on Biological Diversity

Recommendation to the Convention on Biological Diversity, paragraph 57, Report of the Second Session of the Permanent Forum on Indigenous Issues (E/2003/43) *Code of ethics*;

1. At its second session, the Permanent Forum on Indigenous Issues 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. Under the framework of the Convention, a mechanism should be established for the repatriation and devolution of genetic materials collections to indigenous peoples. The Forum recommends to the Convention Secretariat that the global taxonomy initiative incorporate an ethical principles and social framework for the protection of indigenous people’s rights to their lands, traditional knowledge and resources before its implementation”.

2. Following up on this recommendation, in Decision VII/16/I, paragraph 5, the Conference of Parties requested the Ad Hoc Open-ended Inter-Sessional 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 relevant 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. Accordingly, this issue has been included as item 9 of the agenda of the fourth meeting of the Working Group.

Advance Unedited Version

3. It should also be noted that, in task 16 of the programme of work (Decision V/16, Annex, Programme of Work on the Implementation of Article 8(j) and related provisions), the Executive Secretary was requested to: identify, compile and analyze, with the participation of indigenous and local communities, existing and customary codes of ethical conduct to guide the development of models for codes of ethical conduct for research, access to, use, exchange and management of information concerning traditional knowledge, innovations and practices for the conservation and sustainable use of biological diversity. Thus, following up on this request of the Permanent Forum also addresses task 16 of the programme of work.

4. The eighth meeting of the Conference of the Parties took note of the elements of an ethical code of conduct and invited Parties, Governments, indigenous and local communities, relevant international organizations and other relevant stakeholders, after having undertaken, where appropriate, consultations, to submit written comments to the Executive Secretary, on the draft elements, at least six months prior to the fifth meeting of the Ad Hoc Working Group on Article 8(j) and Related Provisions and requested the Executive Secretary to transmit the present decision to the United Nations Permanent Forum on Indigenous Issues and to seek collaboration in the development of the code.

5. The Executive Secretary is currently compiling the views and comments provided, including those by the members of the UNPFII and the compilation as well as a revised draft on elements of an ethical code of conduct, will be available at least three months prior to the fifth meeting of the Ad Hoc Working Group on Article 8(j) and Related Provisions for its consideration. The Ad Hoc Working Group on Article 8(j) and Related Provisions has been requested to further develop

Advance Unedited Version

the draft elements of an ethical code of conduct and submit these to the Conference of the Parties at its ninth meeting for consideration and possible adoption.

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*;

6. 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.

7. The Convention on Biological Diversity in its Preamble recognizes “the vital role that women play in the conservation and sustainable use of biological diversity and affirming the need for the full participation of women at all levels of policy-making and implementation for biological diversity conservation”.

8. A specific framework for the participation of indigenous women is found in the Program of Work of Article 8(j) and related provisions (Decision V/16)¹ regarding participatory mechanisms for indigenous and local communities. Thus, Task 4 of the First Phase of the Programme of work insists on:

¹ The Programme of Work of Article 8(j) is available at <http://www.biodiv.org/decisions/default.aspx?m=COP-05&id=7158&lg=0>

Advance Unedited Version

9. “Parties to develop, as appropriate, mechanisms for promoting the full and effective participation of indigenous and local communities with specific provisions for the full, active and effective participation of women in all elements of the programme of work, taking into account the need to:

- (a) Build on the basis of their knowledge;
- (b) Strengthen their access to biological diversity;
- (c) Strengthen their capacity on matters pertaining to the conservation, maintenance and protection of biological diversity;
- (d) Promote the exchange of experiences and knowledge;
- (e) Promote culturally appropriate and gender specific ways”

10. In order to ensure the full involvement and participation of indigenous women in the work being carried under the CBD with regards to traditional knowledge, the Secretariat takes into account gender considerations when selecting participants to our meetings, in our research work, when creating experts groups and in general in all activities related to policy-creation and implementation of the CBD provisions. As an example, the article 8(j) advisory group is composed of 17 members, 9 of whom are indigenous women. In addition, traditional knowledge being a cross-cutting issue within the CBD, the promotion of the participation of indigenous women is applicable to meetings regarding each work program and decisions of the Conference of the Parties.

Advance Unedited Version

11. 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 CBD with regards to traditional knowledge.

Recommendation to the Convention on Biological Diversity, paragraph 77, Report of the Third Session of the Permanent Forum on Indigenous Issues (E/2004/43) *Sui generis systems for the protection of traditional knowledge and the development of an international regime on access and benefit sharing of genetic resources;*

12. The development of sui generis systems for the protection of traditional knowledge was considered by the fourth meeting of the Working Group on Article 8(j) and the eighth meeting of the Conference of the Parties. The Conference of the Parties has requested the Executive Secretary to continue gathering and analyzing information in consultations with parties, governments and indigenous and local communities and to further develop as a priority issue, the possible elements for consideration by the fifth meeting of the Working Group on Article 8(j) so that it can identify priority elements and make recommendations regarding their adoption to the ninth meeting of the Conference of the Parties.

13. The eighth meeting of the Conference of the Parties adopted a timetable for the development of an international regime on access and benefit sharing with the view of adopting a regime as soon as possible but no later than 2010 and has also made significant decisions to enhance the

Advance Unedited Version

participation of indigenous and local communities on issues related to traditional knowledge and associated genetic resources.

Recommendation to the Convention on Biological Diversity, paragraph 140, Report of the Fourth Session of the Permanent Forum on Indigenous Issues (E/2005/43) Interagency Support Group on Indigenous Issues (IASG) to convene a technical workshop on indigenous traditional knowledge to promote a complementary and holistic approach to traditional knowledge;

14. The Convention on Biological Diversities Secretariat assisted in the facilitation of a Technical Workshop on Indigenous Traditional Knowledge in Panama in September 2005. The workshop promoted a collaborative, complementary and holistic approach to traditional knowledge in order to enhance better understanding of indigenous concerns and their possible solution. The Workshop was attended by twenty-eight experts from indigenous organisations and the United Nations system and other intergovernmental organizations.

15. In its conclusions and recommendations, the workshop identified indigenous perspectives and experiences with indigenous traditional knowledge issues, gained a better understanding of the various programs relating to indigenous traditional knowledge of the UN system and other intergovernmental organizations, and formulated certain recommendations for the Forum's consideration. Recognizing the multiplicity of policy areas in which indigenous traditional knowledge issues arise, and the range of priorities, objectives and strategies relating to indigenous traditional knowledge of indigenous peoples, workshop participants identified a number of recommendations addressed to the UN system and other intergovernmental

Advance Unedited Version

organizations, governments, indigenous peoples and academia, as well as some recommendations addressed to the Forum itself.

Recommendation to the Convention on Biological Diversity, draft decision I, Report of the Fifth Session of the Permanent Forum on Indigenous Issues (E/2006/43): *International expert group meeting on the Convention on Biological Diversity's international regime on access and benefit sharing and indigenous peoples human rights;*

16. The UNPFII facilitated, in cooperation with the Secretariat of the Convention on Biological Diversity, an International expert group meeting on the Convention on Biological Diversity's international regime on access and benefit sharing and indigenous peoples' human rights from 17 – 19 January 2007, New York. The report, including draft recommendations and conclusions of the meeting will be considered by the sixth session of the UNPFII and the fifth meetings of the Working Group on Article 8(j) and related provisions and the Working Group on ABS in October 2007.

Recommendation to the Convention on Biological Diversity, paragraph 22, Report of the Fifth Session of the Permanent Forum on Indigenous Issues (E/2006/43): *Support for the international expert seminar of indicators.*

17. The Permanent Forum welcomed 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. To this end and

Advance Unedited Version

through the generosity of the Government of Spain, the Secretariat of the Convention developed memorandums of understanding with World Conservation Union Latin American and Caribbean Regional Office (IUCN LAC) and the Tebtebba Foundation to facilitate the Latin American and Caribbean regional consultation, which was held in December 2006 in Quito, Ecuador, and the International expert meeting on indicators which was held in the Philippines 5-9 March 2007. The reports of these meetings will be considered by the fifth meeting of the Working Group on Article 8(j) and the ninth meeting of the Conference of the Parties and will inform the adoption of indicators relevant to indigenous and local communities within the context of the Convention and the 2010 Biodiversity Target.

B. Response to recommendations addressed to one or more agencies or to the United Nation's system in general under one or more items of the Permanent Forum's mandate

General Recommendation/s made by the UNPFII - *Effective Participation of Indigenous peoples:*

18. The Conference of the Parties has not responded to general recommendations made by the UNPFII to the United Nations system. However, noting that regular recommendations have been made by the UNPFII, concerning the effective participation of indigenous peoples in matters that affect them, the Conference of the Parties at its eight meeting adopted enhanced participation mechanisms and measures to assist the effective participation of indigenous and local communities in the development of an international regime on access and benefit sharing of genetic resources and associated traditional knowledge.

Advance Unedited Version

19. It is also important to note and is an indication of the importance placed on the implementation of Article 8(j) and the effective participation of indigenous and local communities, that the Convention is the only multilateral environmental agreement with two full-time positions in its Secretariat exclusively focused on traditional knowledge and its role in the conservation and sustainable use of biological diversity.

20. At its eighth meeting, held in Curitiba, Brazil, in March this year, the Conference of the Parties became the first governing body of a multilateral environmental agreement to establish a voluntary funding mechanism specifically for the participation of indigenous and local communities in meetings held under the Convention. In recognition of the diversity of indigenous and local communities, the Conference of the Parties also established separate categories of accreditation for indigenous communities and local communities embodying traditional lifestyles.

21. The eighth meeting of the Conference of the Parties attracted large numbers of participants from indigenous and local communities, and more than 1,000 non-governmental organizations participated, including 348 indigenous organizations. Outside of the United Nations Permanent Forum on Indigenous Issues, the Convention hosts one of the largest gatherings of indigenous and local communities within the international system, which is further testimony to the high priority given by indigenous and local communities' to participation in the work of the Convention.

Advance Unedited Version

C. Obstacles to implementation of recommendations of the Permanent Forum, or other policies relevant to indigenous peoples.

22. Within the context of the Convention on Biological Diversity, the implementation of the programme of work for article 8(j) and related provisions is the highest priority for indigenous and local communities. In assessing obstacles to implementation it is important to note that the Convention itself is not an implementing body and that implementation rests with the Parties to the Convention. It is therefore useful to consider a brief analysis of the third national reports by the Parties to the Convention concerning implementation of the Convention. In the Third National Reports, Parties described the level of priority that they give to each article of the Convention. For each article, Parties prescribed the programme of work with a low, medium or high priority. Considering only thirty reports at the time of the initial analysis, with regards to Article 8(j), nine Parties considered Article 8(j) as a high priority of work, ten considered it to be a medium priority and ten considered it a low priority. Only one other provision, Article 16 (Access to and transfer of technology), had fewer Parties describing the programme of work as a high priority. Furthermore, Article 8(j) has the highest number of ‘low priority’ ratings. All countries that described Article 8(j) as a high priority have acknowledged indigenous or local communities, except Germany. Germany’s international cooperation efforts, however, significantly involve work with indigenous and local communities. Of the countries that ranked Article 8(j) as a low priority, none had recognised indigenous and local communities, except Morocco. Finally, those Parties that ranked 8(j) as a medium priority, all acknowledge having indigenous and local communities.

Advance Unedited Version

Level of priority given to Article 8(j) by reporting Member States		
High priority	Medium priority	Low priority
Bangladesh	Algeria	Belgium
China	Botswana	Cyprus
Turkmenistan	Congo	Israel
Finland	Estonia	Iceland
Germany	Hungary	Italy
Mauritania	Namibia	United Kingdom
Niue	Norway	Macedonia, Former Yugoslav Republic
Senegal	Poland	Morocco
Thailand	Republic of Korea	
	Sweden	

23. Although it is difficult to establish trends or to make comparisons with the Second National Reports, because of changes in reporting structure and different numbers and combinations of Member States reporting, compared to the Second National Reports, the priority given to implementing Article 8(j) appears to have decreased. In the Second National Reports, 44 per cent of the 92 parties that responded to the question on priority of work labelled Article 8(j) as a high priority, compared to only 30 per cent of the 30 Parties who gave it a high priority in the Third National Report.

There are several challenges and obstacles facing countries in the implementation of Article 8(j). These range from financial, capacity, social, political, public awareness and demographic obstacles. Parties reported that the ten most significant obstacles to implementation of Article 8(j) were the following, in order of the perceived level of challenge to implementation:

Advance Unedited Version

1. Lack of financial, human and technical resources;
2. Lack of economic incentive measures;
3. Lack of public education and awareness at all levels;
4. Existing scientific and traditional knowledge not fully utilized;
5. Lack of adequate scientific research capacities to support all the objectives;
6. Lack of horizontal cooperation among stakeholders;
7. Lack of capacities for local communities;
8. Lack of synergies at national and international levels;
9. Lack of appropriate policies and laws;
10. Inadequate capacity to act, caused by institutional weaknesses;

Poverty was also considered a high challenge particularly among African countries.

D. Other significant information regarding recent policies, programme, budgetary allocations or activities regarding indigenous issues

24. The Secretariat regularly liaises with donors to support the implementation of the work programme for article 8(j), as decided by the Conference of the Parties at its biennial meetings.

In particular, the voluntary fund for the participation of indigenous and local communities in meetings held under the Convention is now fully operational and information about the fund, including application forms, can be found at:

<http://www.biodiv.org/programmes/socio-eco/traditional/default.shtml>

Advance Unedited Version

E. Information and suggestions regarding the special theme of the sixth session, “Territories, lands and natural resources”.

25. The most relevant output to date regarding article 8(j) and the Convention on Biological Diversity relevant to the special theme of the sixth session of the UNPFII is the adoption of the Akwe:Kon Guidelines.

26. The Conference of the Parties has been actively considering the question of the preservation of sacred sites and lands and waters occupied by indigenous and local communities. In February 2004, the Parties adopted guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities, known as the “Akwé: Kon Guidelines.”

27. The Akwé: Kon Voluntary Guidelines provide guidance to Governments on the incorporation of cultural, environmental and social considerations of indigenous and local communities into new or existing impact assessment procedures. The COP requested governments to use these guidelines whenever developments are proposed to take place on, or are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities. The Akwe:Kon Guidelines are available in the six United Nations languages at:

<http://www.biodiv.org/doc/guidelines.shtml>

Advance Unedited Version

F. Information regarding the Second International Decade of the World's Indigenous Peoples

28. All activities within the framework of the Convention on Biological Diversity related to indigenous and local communities directly contribute to the implementation of the objectives of the decade of the world's indigenous people. In particular, Article 8(j) and related provisions directly address matters of the utmost importance to indigenous and local communities by focussing on respect, preservation and maintenance of the knowledge, innovations and practices of indigenous and local communities, embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. Article 8(j) also requires that these knowledge, innovations and practices are promoted with the approval and involvement of the knowledge holders and encourage the equitable sharing of benefits arising from their use.

29. The Parties to the CBD have taken steps to comply with these commitments. The Conferences of the Parties (COP), established a subsidiary body, the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions, to address these issues and to develop an ambitious programme of work, which was adopted by the COP in 2000 and provides the basis for action on traditional knowledge within the framework of the Convention.

30. In particular, further in line with goal 1 of the Decade, in decision VIII/5/E, the COP has urged that Parties to the Convention develop, adopt and/or recognize regional, national and local sui generis models for the protection of traditional knowledge, innovations and practices, based on the customary laws of indigenous and local communities with their full and effective participation and has requested the further development, as a priority issue, possible elements of

Advance Unedited Version

sui generis systems for the consideration of the fifth meeting of the Working Group on Article 8(j) and the ninth meeting of the Conference of the Parties.

31. In addition, traditional knowledge is an important component of the thematic programmes of work on agricultural biodiversity, forest biological diversity, marine and coastal ecosystems, inland waters, and dry and sub-humid lands established by the Conference of the Parties to the Convention.

32. In conclusion, the CBD has considerably advanced our preliminary work of the promotion and protection of traditional knowledge. In distilling our work into outcomes, the Convention has entered a period of enhanced implementation and actively seeks and encourages the involvement of indigenous and local communities in development and implementation of the work programme of Article 8 (j) and related provisions, which contributes directly to the goals of the Second Decade of the World's Indigenous People.

G. Inputs towards a questionnaire to enhance reporting to the Permanent Forum

33. The Convention respectfully suggests that questionnaires are brief and to the point and allow for reporting on recommendations that are made within the mandate of the body concerned.