

**REPORT TO THE UNPFII AT ITS EIGHTH SESSION
BY THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL
DIVERSITY**

Introduction

In response to the request from Mr. Sha Zukang, Under-Secretary-General of the United Nations Department of Economic and Social Affairs, the dated 11 November, 2008, inviting the Executive Secretary of the Convention on Biological Diversity, Dr. Ahmed Djoghlaif, to submit a concise summary of actions undertaken or planned by the Convention regarding indigenous peoples issues, based on the questionnaire provided, it is with great pleasure that the following information is submitted for the consideration of the eighth session of the UNPFII.

In answer to the Questionnaire of the UNPFII

a) –Economic and Social Development

The most notable advance within the framework of the Convention, relevant to economic and social development, comes from the commitment of the Parties to implement the third objective of the Convention¹ (the fair and equitable sharing of the benefits arising out of the utilization of genetic resources) through the negotiation and development of the International regime on access to genetic resources and benefit-sharing for adoption at the tenth meeting of the Conference of the Parties, in October 2010.

The timetable for the finalization of the international regime was adopted at COP 9 and includes in this biennium (2008-2010) three meetings of the Ad Hoc Open-ended Working Group on Access and Benefit Sharing (WGABS 7th, 8th and 9th meetings), taking place over seven consecutive days. In addition, three expert groups have been established to consider respectively concepts, terms, working definitions and sectoral approaches; compliance; and traditional knowledge associated with genetic resources. Each expert group will include three indigenous representatives except for the final expert meeting on TK, which will include seven indigenous and local community representatives. The full details of the Working Group meetings and the expert groups are available at the Convention's website at <http://www.cbd.int/meetings/>. The full text of the decision (IX/12), including the terms of reference for the three expert group meetings is available at <http://www.cbd.int/decisions/?m=COP-09&id=11655&lg=0>.

The Parties to the Convention have recognized the importance of the participation of indigenous and local communities in the elaboration and negotiation of the international regime on access and benefit sharing in the preamble of decision IX/12 and in paragraphs 18 and 19 encourages Parties, other governments and international organizations to provide the ways and means to allow for sufficient preparation and to facilitate effective participation of indigenous and local communities, including through national and regional workshops, in the

¹ Article 1 of the Convention states “The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.”

process of the negotiation and elaboration of the international regime, in accordance with decision VIII/5 C. Indigenous peoples effective participation in ABS discussions is further guaranteed through the Working Group on Article 8(j) and related provisions, which is characterized by unique, enhanced participation mechanisms for indigenous peoples and local communities, and remains mandated to continue to collaborate and contribute to the fulfillment 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 utilization².

The Secretariat remains committed to the effective participation of indigenous and local communities in all meetings of relevance to them. The secretariat anticipates that the voluntary fund (for indigenous and local community participation in meetings held under the Convention) will fund a core of approximately 25 indigenous and local community representatives to participate in each of the three meetings of the Working Group on ABS between April 2009 and March 2010.

b)—Indigenous Women

In 2008, the Convention developed and adopted the CBD Gender Plan of Action, which was drafted with the full and effective participation of indigenous women. In decision IX/24, the Conference of the Parties³ welcomed this initiative and committed to support the implementation of the plan by the Secretariat.

This Plan of Action defines the role that the CBD Secretariat will play in stimulating and facilitating efforts, both in-house and with partners at the national, regional and global levels, to overcome constraints and take advantage of opportunities to promote gender equality. The Plan is the Secretariat's and the Convention's continuing response to global commitments of the last decades as well as recommendations from international fora, and in compliance with major mandates within the UN system. It is also a reflection of the increasing awareness that gender equality and women's empowerment are important prerequisites for environmental conservation and sustainable development. The strategy and plan, specifically recognizes the crucial role of indigenous and local community women, in the use and transmission of traditional knowledge. The final CBD Gender Plan of Action is now adopted and the Secretariat is working with IUCN to ensure the strategy and plan of action become reality through the mainstreaming of gender issues through the National Biodiversity Strategies and National Action Plans.

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 taken into account within the work being done under the Convention with regards to traditional knowledge and that capacity building efforts target indigenous women.

² Decision IX/13, A, paragraph 12

³ The Conference of the Parties referred to as the COP, is the governing body of the Convention and meets every two years, to adopt decisions by consensus for ongoing and future work.

Further to this, thanks to the generous patronage of the Government of Spain, the Secretariat in early 2009, negotiated a long term capacity building strategy and entered into a three year memorandum of understand with la Fundación para la Promoción del Conocimiento Indígena (FPCI), acting on behalf of the Latin American and Caribbean Indigenous Women's Biodiversity Network (LAC IWBN), to provide capacity building for indigenous women to assist them in effectively participating in meetings held under the Convention and specifically to assist their preparations for the tenth meeting of the Conference of the Parties to be held in Nagoya, Aichi Prefecture, Japan from 18-29 October 2010. Also, thanks to the Government of Spain, the Secretariat has completed arrangements to bring on board a young indigenous woman from the LAC region, as an associate programme officer for Article 8(j) and related provisions, with the view of providing her with extensive training, with the medium term goal, of enabling her to lead this capacity building effort, in the LAC region.

c)—Second International Decade of the World's Indigenous People

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 focusing 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. Further to this, recent decisions of the governing body (referred to as COP) have consistently and by consensus interpreted "approval" in this context, as "prior and informed consent" and have interpreted their obligations to Article 8(j) to include "protection" of traditional knowledge.

In brief, the CBD has considerably advanced our preliminary work on 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 review, 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

In particular, a unique opportunity exists to highlighting the role of ILCs in achieving the goals of the Convention, in the international Year of Biological Diversity, which will be celebrated around the world in 2010. In particular in the most recent decisions, which include IX/13 E, paragraph 5 and IX/13 I, paragraph 3 regarding indigenous and local communities and the international year, the Parties to the Convention have requested the development of⁴ alternative means of communicating public information on traditional knowledge related to the conservation and sustainable use of biodiversity, in plain language and diverse community-friendly formats, such as video, including television, audio for community radio, songs, posters, theatre/drama, and film, in order to ensure the full and effective participation of indigenous and local communities, including women and youth, at local, national and international levels, while supporting the development by indigenous and local communities of their own media tools and has requested the Executive Secretary to draw attention to the

⁴ Through the Global Initiative on Communication, Education and Public Awareness (CEPA) and the clearing-house mechanism.

important role of indigenous and local communities in activities related to 2010 as the International Year of Biodiversity, and to cooperate closely with the United Nations Permanent Forum on Indigenous Issues, to explore opportunities for common activities as related to information exchange and awareness-raising under the guidance of the Bureau.

(2) Outline the obstacles your agency faces in implementing the Permanent Forum's recommendations, including those addressed specifically to your agency.

Recommendations to the Secretariat

The Secretariat of the Convention, serves 192 Parties, engages both rights and stake-holders but strictly speaking, is not an implementation body. The Convention is implemented through the Parties to the Convention, as well as implementing agencies including the Global Environmental Facility and the United Nations Development Programme. The Convention itself has a focused mandate on conservation, sustainable use and benefit sharing, making it essential to receive recommendations within the scope of its mandate so that action, where possible, can be taken. That said, it has been noted by the Secretariat that some UNPFII recommendations are directed to parties and some directed to the Secretariat and on occasion this is not clear. Also it is necessary for recommendations directed to the Convention to first be discussed by the Working Group on Article 8(j), which usually meets once every two years and then for the Working Group to forward the recommendation as a draft decision to the governing body, the Conference of the Parties (COP), which also meets on a biennial basis at this time, for their consideration and possible adoption for action. This biennium process makes it difficult to report on concrete outcomes on an annual basis. However, the new working methods initiated by the Forum, including the new reporting cycle which allows for the in-depth reporting of six agencies per annual session, provides a useful mechanism to ensure that agencies can elect for in-depth reporting every few years making it easier to report on concrete outcomes.

Recommendations to Parties

Regarding the Convention's processes, UNPFII recommendations, when adopted by consensus of the Conference of the Parties to the CBD, become COP decisions and parties then have an obligation to implement them and report on them through their national reports⁵. The fourth national reports are due by 30th March, 2009. After receipt of the national reports, the Secretariat carries out a deep analysis to gain an accurate picture of the implementation of the Convention on the ground. An analysis of the fourth national reports will be made available for the consideration of the 6th meeting of the Working Group on Article 8(j), when it meets in Kuala Lumpur, Malaysia, 2-5th November 2009.

In the analysis and overall assessment by the Secretariat, of the Third National reports (based on 132 out of a possible 192 reports), the overall implementation of Article 8(j) and related provisions requires increased efforts and support. Support to the efforts to determine the status and trends of traditional knowledge, innovations and practices of indigenous and local communities has progressed in many countries, because of an increasing awareness of its value across a wide range of areas however only some countries recognized the importance of traditional knowledge of indigenous and local communities to biodiversity conservation and sustainable use.

⁵ The national Reports is the only legal obligation of Parties to the convention and the Parties have received advice from the secretariat requesting the effective participation of indigenous and local communities in the consultation about and drafting of the national report.

There remain 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:

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 remains a high challenge particularly among African countries.

(3) Outline the facilitating factors that enable your agency to implement the Permanent Forum's recommendations, including those addressed specifically to your agency.

Collaborative development of recommendations allows for the crafting of recommendations that fall within the mandate of the relevant agencies and therefore makes it more likely to be accepted and implemented. Mechanisms such as the Inter-Agency Support Group on Indigenous Peoples' Issues remain an innovative approach for collaboration and action by the international system. Because of the rather lengthy CBD processes that recommendations must follow before they can become implementable decisions, the newly established arrangements of in-depth dialogues for only six agencies each year, may greatly assist in ensuring agencies and their governing bodies, have sufficient time to consider, take action and report on outcomes to the Forum. Finally, as the Secretariat manages many hundreds of decisions each biennium, prioritization of various recommendations depends on political will, adequate funding, resources and capacity.

(4) Given the Forum's recommendation for the adoption of policies on indigenous peoples' issues, please specify whether your agency:

- (a) **Has a policy or other similar tool on indigenous peoples' issues;**
- (b) **Has recent programmes on indigenous peoples' issues;**
- (c) **Has budgetary allocations on indigenous peoples' issue ;**
- (d) **Has projects/activities on indigenous peoples' issues?**

(In order to facilitate the quantification of data by the Forum, please indicate the number of programmes and projects/activities devoted to indigenous peoples issues in the past year).

(a) Has a policy or other similar tool on indigenous peoples' issues;

The Secretariat to the Convention is a treaty implementation body that serves 192 governments and facilitates interaction with various stakeholders including indigenous and local communities. As such does not have an internal policy of indigenous peoples. However, the Convention itself, has adopted a number of guidelines on issues relevant to indigenous peoples including the Akwe:Kon 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 lands and waters traditional occupied or used by indigenous and local communities, the Addis Ababa Guidelines for Sustainable Use of biodiversity and the Bonn Guidelines on the Bonn guidelines on access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization. The Convention remains to only Multi-lateral Environmental Treaty to have established a voluntary fund for indigenous and local community participation in meetings held under the Convention.

(b) Has recent programmes on indigenous peoples' issues;

In 2000, at its fifth meeting, in decision V/16, the Parties to the Convention decided on a programme of work for Article 8(j) and related provisions. At the most recent COP 9 meeting, the Parties have decided to prepare for an in-depth review of the programme of work, a possible new direction and the commencement of four new tasks of the work programme, including:

Element 4. Equitable sharing of benefits

Task 7. Based on tasks 1, 2 and 4, the Working Group to develop guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure: (i) that indigenous and local communities obtain a fair and equitable share of benefits arising from the use and application of their knowledge, innovations and practices; (ii) that private and public institutions interested in using such knowledge, practices and innovations obtain the prior informed approval of the indigenous and local communities; (iii) advancement of the identification of the obligations of countries of origin, as well as Parties and Governments where such knowledge, innovations and practices and the associated genetic resources are used.

Element 7. Legal elements

Task 12. The Working Group to develop guidelines that will assist Parties and Governments in the development of legislation or other mechanisms, as appropriate, to implement Article 8(j) and its related provisions (which could include sui generis systems), and definitions of relevant key terms and concepts in Article 8(j) and related provisions at international, regional and national levels, that recognize, safeguard and fully guarantee the rights of indigenous and local communities over their traditional knowledge, innovations and practices, within the context of the Convention.

Element 3. Traditional cultural practices for conservation and sustainable use

Task 15. The Ad Hoc Working Group to develop guidelines that would facilitate repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity in order to facilitate the recovery of traditional knowledge of biological diversity.

Element 5. Exchange and dissemination of information

Task 10. The Ad Hoc Working Group to develop standards and guidelines for the reporting and prevention of unlawful appropriation of traditional knowledge and related genetic resources.

The Working Group on Article 8(j) at its sixth meeting will discuss how to commence these tasks, including a terms of reference for task 15 (repatriation of traditional knowledge) and

will make recommendations to the tenth meeting of the COP (October, 2010, Japan) regarding a multi-year programme of work for Article 8(j) and related provisions, post 2010.

Furthermore, in early 2009, the Secretariat will bring on board as an associate programme officer for article 8(j), a young indigenous women from the Latin American region, and she will enter a period of extensive training, preparing her to lead a capacity building effort on article 8(j) and article 15 (ABS). Further to this, a three year strategy has been developed and a memorandum of understanding signed with the Indigenous Women's Biodiversity Network of the Latin American and Caribbean region to increase capacity building and enhance their participation in CBD processes.

(c) Has budgetary allocations on indigenous peoples' issue ;

Budgetary allocations come from both voluntary and core budget allocations. Article 8(j) attracted more than 500,000 Euros in voluntary funding for the 2008 calendar year, although much of the funds are allocated for the participation of indigenous and local community representatives through the voluntary fund for indigenous and local community participation in meetings held under the Convention, and for the newly established associate programme officer post, as well as capacity building efforts for indigenous and local communities, mainly in the Latin American and Caribbean region. The core budget funds two positions and on-costs, dedicated to indigenous and local community issues and article 8(j) and related provisions.

d) Has projects/activities on indigenous peoples' issues?

As previously mentioned, the Secretariat has most recently negotiated and will implement with the LAC IWBN, a three year capacity building effort in the LAC region, largely thanks to the generous patronage of the Government of Spain. Many of the Convention's decisions and particularly those related to article 8(j) could be considered projects or activities on indigenous peoples' issues, including the possible finalization of a code of ethical 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 by 2010, and the pursuit of sui generis systems of protection for traditional knowledge, as well as the adoption of a further two indicators (to compliment traditional languages) for status and trends in traditional knowledge, amongst others.

(5) Outline whether your agency have regular or ad hoc capacity-building programmes on indigenous peoples' issues for staff, or a plan for capacity-building activities in this area, at headquarters or in the field?

Although no formal training occurs, Secretariat staff are regularly briefed and updated on matters related to article 8(j) and related provisions, as a cross-cutting issue for the Convention, at regular staff meetings. The high profile of indigenous issues within the Convention, as well as increased cross-divisional work within the Secretariat has assisted in raising awareness amongst staff of the importance of the effective participation of indigenous and local communities in the work of the Convention and the implementation of article 8(j) across thematic areas, as well as in the overall achievement of the goals of the Convention..

(6) Does your agency have a focal point on indigenous issues? If so, please provide the name and contact information of this person.

The Secretariat has three staff dedicated to indigenous and local communities and their issues.

John SCOTT, Programme Officer for Traditional Knowledge, Innovations and Practices,
Focal point for Indigenous Peoples and Local Communities,
Social Economic and Legal Matters.

Sofia Gutierrez, Programme Assistant for Traditional Knowledge, Innovations and Practices,
Focal point for Indigenous and Local Community Women
Social Economic and Legal Matters.

Associate Programme Officer: to be advised.

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(7) Please provide a list of conferences and other meetings under your agency regarding indigenous issues in the current year as well as next year.

Refer Annex I

(8) Response to new recommendations made by the UNPFII to the CBD at its 7th session

New recommendations arising from both the 7th session (2008) and the 8th session (2009) of the UNPFII made to the Convention will be considered at the 6th meeting of the Working Group on Article 8(j) and related provisions, when it meets in Kuala Lumpur, Malaysia 2-6 November, 2009 and then forwarded to the tenth meeting of the Conference of the Parties for final endorsement and action (October 2010, Nagoya, Japan).

However, it is important to note that some of the recommendations arising from the report of the UNPFII at its 7th session (refer document E/2008/43) are already in the process of being addressed and/or may be related to previous recommendations and current processes. The Secretariat therefore takes this opportunity for a quick update on new recommendations.

Specifically:

Paragraph 19. *The Forum further recommends that discussions and negotiations on strengthening the links between climate change, biodiversity and cultural diversity under the Convention on Biological Diversity or the United Nations Framework Convention on Climate Change ensure the effective participation of indigenous peoples.*

The Secretariat to the Convention in partnership with UNU and Tebtebba Foundation, facilitated a Global Indigenous Peoples Consultation on Reducing Emissions from Deforestation and Forest Degradation (REDD) in Baguio city, Philippines, 12-14 November 2008. The Secretariat also ensured the indigenous and local communities are represented in climate related meetings of the Convention including the first meeting of the second ad hoc technical expert group meeting on biodiversity and climate change held in London, UK, 17-21

November. The Secretariat has officially submitted a summary document of these meetings, to the UNFCCC for consideration at its next COP in 2009.

Paragraph 32. *The Permanent Forum supports collaborations between indigenous groups and conservation organizations that bring together traditional and scientific knowledge holders to add the wealth of current and historical knowledge of indigenous peoples to the analysis of impacts of climate change and to mitigation solutions and adaptation strategies — recognizing and respecting the United Nations Declaration on the Rights of Indigenous Peoples and the provisions of article 8 (j) of the Convention on Biological Diversity.*

Article 8(j) requires that parties to the Convention (subject to national legislation) “respect” traditional knowledge. In implementing this obligation, the Convention is considering ways and means that traditional knowledge can be valued alongside of scientific knowledge in pursuit of the goals of the Convention. The recent work on climate change and biodiversity including the International Expert Meeting on Responses to Climate Change for Indigenous and Local Communities and the Impact on their Traditional Knowledge related to Biological Diversity -The Arctic Region, held in Helsinki, 25-28 March 2008, provided an avenue to explore how these two pools of knowledge can be complementary and equally valued.

Paragraph 33 . *The Permanent Forum recommends that donors and United Nations agencies give more support to indigenous peoples in Africa, where appropriate, to promote, recognize, protect and enhance indigenous traditional knowledge.*

The Secretariat in partnership with the German Government through GTZ is pursuing an ABS capacity building strategy in the African region and indigenous and local community representatives are regularly included in these workshops.

80. *The Permanent Forum applauds the effective participation mechanisms for indigenous peoples in such mechanisms as the Convention on Biological Diversity Working Group on article 8 (j) and related provisions and recommends that, in accordance with the Declaration on the Rights of Indigenous Peoples, such practices be extended to all critical areas of interest to indigenous peoples, such as the Working Group on Access and Benefit-sharing and in particular the Working Group on Protected Areas.*

The Working Group on Article 8(j) is unique both within and beyond the Convention on Biological Diversity and deals specifically with the knowledge, innovations and practices of indigenous and local communities. At the 6th meeting of the Working Group on Article 8(j) (Malaysia, 2-5th November 2009), participants will discuss a multi-year programme of work for Article 8(j) and related provisions and in this discussion, will consider, amongst other things, if the working group could be used as a think tank for important issues such as climate change and protected areas. That said, other meetings of the Convention have multiple interest holders and a balance must be achieved for all interested parties including indigenous and local communities. In such cases, indigenous and local communities can enjoy effective participation mechanisms but cannot be elevated above other parties.

The Working Group on ABS and the ninth meeting of the COP in its most recent decisions has recognized the importance of the participation of indigenous and local communities in the elaboration and negotiation of the international regime on access and benefit sharing and the co-chairperson of the Working Group are endeavouring to ensure that representatives of

indigenous and local communities can make timely interventions, within the rules of procedure.

81. *The Permanent Forum requests the Secretariat of the Convention on Biological Diversity to complete its work on the draft code of ethical conduct for the recognition and protection of indigenous intellectual property and cultural heritage, taking into account the Declaration on the Rights of Indigenous Peoples, as a minimum standard, with a view to adopting the code at the tenth meeting of the Conference of the Parties in 2010, the International Year of Biodiversity.*

In decision IX/13 G, paragraph 5, the COP at its ninth meeting has requested that the Ad Hoc Working Group on Article 8(j) and Related Provisions further develop the draft elements of a code of ethical conduct and submit them to the Conference of the Parties at its tenth meeting for its consideration and possible adoption. Further to this, in paragraph 3 of the same decision, the Executive Secretary has been requested to transmit the present decision to the United Nations Permanent Forum on Indigenous Issues and to seek collaboration in the development of the elements of a code of ethical conduct.

82. *The Permanent Forum requests the secretariats of the Convention on Biological Diversity and the Permanent Forum to consult and collaborate with indigenous organizations to promote the role of indigenous peoples as stewards of biological and cultural diversity for the International Year of Biodiversity.*

In the decision IX /13 I paragraph 3, the Conference of the Parties has requested the Executive Secretary to draw attention to the important role of indigenous and local communities in activities related to 2010 as the International Year of Biodiversity, and to cooperate closely with the United Nations Permanent Forum on Indigenous Issues, to explore opportunities for common activities as related to information exchange and awareness-raising under the guidance of the Bureau. Further to this and thanks to the generous patronage of the Government of Spain, the Secretariat has commence preparations of a draft menu of activities for the consideration of the Bureau and indigenous and local community representatives as well as the secretariat and interested members of the UNPFII, so that products can be prepared for use during the international year.

83. *The Permanent Forum requests the secretariat of the Convention on Biological Diversity and the World Intellectual Property Organization to assist it in finalizing the study on sui generis systems based on customary laws for the protection of traditional knowledge with a view to advancing its protection.*

Sui generis working document (refer UNEP/CBD/WG8J/5/6) is being revised in collaboration with WIPO and UNPFII and with input from Parties, governments, agencies and indigenous and local community representatives for the consideration of 6th Working Group on Article 8j will be available through the Secretariat webpage as early as May, 2009. After consideration by the Working Group as draft decision will be sent to the governing body (COP 10) for adoption and action.

84. *The Permanent Forum recommends that the secretariat of the Convention on Biological Diversity explore ways of ensuring that traditional knowledge issues and indigenous peoples' rights are fully addressed in the development of an international regime on access and benefit-sharing, welcomes the proposal of an indigenous expert meeting on traditional*

knowledge issues related to the international regime and requests the participation of some Permanent Forum members, as well as regional representation of indigenous experts, including indigenous female representatives.

In decision IX/12, paragraph 11, the COP considered the UNPFII recommendations, amongst other things, and decided to establish three distinct groups of technical and legal experts on: (i) compliance; (ii) concepts, terms, working definitions and sectoral approaches; and (iii) traditional knowledge associated with genetic resources. The terms of reference of the groups, including the criteria for the selection of experts are laid out in annex II to the present decision and included below;

C. Expert Group on traditional knowledge associated with genetic resources

1. A group of technical and legal experts on traditional knowledge associated with genetic resources is established to further examine the issue of traditional knowledge associated with genetic resources in order to assist the Working Group on Access and Benefit sharing. The expert group shall provide legal and technical advice, including, where appropriate, options and/or scenarios. The expert group will address the following questions:

(a) What is the relationship between access and use of genetic resources and associated traditional knowledge?

(b) What practical impacts should the negotiations of the international regime take into account based on the range of community level procedures and customary systems of indigenous and local communities for regulating access to traditional knowledge associated with genetic resources at the community level?

(c) Identify the range of community level procedures and determine to what extent customary laws of indigenous and local communities regulate access to genetic resources and associated traditional knowledge at the community level and its relevance to the international regime;

(d) To what extent measures to ensure compliance with prior informed consent and mutually agreed terms under Article 15 also support the prior informed consent of indigenous and local communities for the use of their associated traditional knowledge?

(e) Identify elements and procedural aspects for the prior informed consent of holders of associated traditional knowledge when traditional knowledge associated with genetic resources is accessed also taking into account potential trans-boundary contexts of such associated traditional knowledge and identifying best practice examples;

(f) Is there a basis for prior informed consent for indigenous and local communities relative to traditional knowledge associated to genetic resources in international law? If so, how can it be reflected in the international regime?

(g) Assess options, considering the practical difficulties and distinct implementation challenges, for including traditional knowledge associated with genetic resources in a potential internationally recognized certificate issued by the competent domestic authority also by considering the possibility of a declaration on such certificate as to whether there is any associated traditional knowledge and who the relevant holders of traditional knowledge are;

(h) How to define traditional knowledge associated to genetic resources in the context of access and benefit-sharing?

2. The expert group shall be regionally balanced and composed of thirty experts nominated by Parties and fifteen observers, including seven observers from indigenous and local communities nominated by them, and remaining observers from, *inter alia*, international organizations and agreements, industry, research institutions/academia and non-governmental organizations.

3. Parties are also encouraged to nominate experts from indigenous and local communities where possible.

Furthermore, to ensure that traditional knowledge issues and indigenous peoples' rights are fully addressed in the development of an international regime on access and benefit-sharing, some Parties and regional groupings, in collaboration with the Secretariat, have also pursued their own initiatives as the EU sponsored Vienna Workshop on Matters related to Traditional Knowledge associated with Genetic Resources and the International ABS Regime, which was held from 15 - 17 December 2008.

9. Other Matters of Interest to the UNPFII

Indigenous languages and Indicators Update

At the sixth meeting of the Conference of Parties (COP6), the Convention on Biological Diversity adopted a Strategic Plan and the 2010 target to significantly reduce the rate of biodiversity loss. COP7 in Decision VII/30 adopted a framework for Assessing Progress Towards the 2010 Target covering seven focal areas, goals, targets and the identification of provisional indicators, comprising indicators for immediate testing and possible indicators for development. One focal area is to 'protect traditional knowledge, innovations and practices'. Goal 9 of the 2010 Target is to 'Maintain socio-cultural diversity of indigenous and local communities', with two targets and the relevant indicators to be developed by the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions (WG8J):

- Target 9.1 to 'Protect traditional knowledge, innovations and practices' and
- Target 9.2 to 'Protect the rights of indigenous and local communities over their traditional knowledge, innovations and practices, including their rights to benefit-sharing'

With regard to traditional knowledge, an indicator on the status and trends in linguistic diversity and speakers of indigenous languages was included as an indicator for immediate testing. In decision IX/13 H, the Conference of Parties requested the Working Group on Article 8(j) to explore the need and possible options for a maximum of a further two indicators for the protection of innovations, knowledge and practices of indigenous and local communities, to complement the language indicator already developed.

The Secretariat is collaborating with UNESCO regarding the lead agency for the collection of data regarding status and trends in linguistic diversity and is exploring other possible complementary indicators with the International Labour Organization, the Food and Agricultural Organization and the International Fund for Agricultural Development. Complementary indicators being explored include traditional occupations/livelihoods and

changing land-use patterns. The Secretariat will report on these matters at the 6th meeting of the Working Group on Article 8(j) when it meets in Malaysia, 2-5 November, 2009.

End

Annex I

**SCBD Calendar of Meetings relevant to Indigenous Peoples and Local Communities
(ILCs)
2009-10**

**Upcoming Meetings
2009**

Dates and Venue	Meeting
January 2009	
February 2009	
March 2009	
9 - 13 March 2009 Ramsar, Iran (Islamic Republic of) <i>Confirmed</i>	Capacity Development Workshop for Central Asia on NBSAPs and the Mainstreaming of Biodiversity Open to ILCs
April 2009	
2 - 8 April 2009 Paris, France <i>Confirmed</i>	Seventh meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing (WG ABS 7) Open to ILCs
18 - 22 April 2009 Helsinki, Finland <i>Confirmed</i>	Second meeting of the Second Ad Hoc Technical Expert Group on Biodiversity and Climate Change Open to ILCs
May 2009	
<i>Dates and venue to be determined</i> Costa Rica <i>Tentative</i>	Regional Capacity-building workshop on media relations for Latin America Open to ILCs
<i>Dates and venue to be determined</i> Costa Rica <i>Tentative</i>	Regional Capacity-building workshop on Communication, Education and Public Awareness (CEPA) for Latin America Open to ILCs
June 2009	
June 2009 Singapore City, Singapore <i>Tentative</i>	Regional Capacity-building workshop on Communication, Education and Public Awareness (CEPA) for South-East Asia Open to ILCs
<i>Dates and venue to be determined</i> <i>Tentative</i>	Capacity Development Workshop for North America on NBSAPs and the Mainstreaming of Biodiversity Open to ILCs

13 - 17 June 2009
Isle of Vilm, Germany
Confirmed

Capacity Development Workshop for Europe on NBSAPs and the Mainstreaming of Biodiversity
Open to ILCs

16 - 19 June 2009
Venue to be determined
Tentative

Access and Benefit-sharing: Expert Group on traditional knowledge associated with genetic resources
Open to nominated experts of ILCs from ILC organizations

25 - 26 June 2009
Singapore City,
Singapore
Tentative

Regional Capacity-building workshop on media relations for South-East Asia
Open to ILCs

September 2009

16-19 September 2009
Singapore
Tentative

Workshop on Forest Biodiversity and Climate Change
Open to ILCs

29 September - 2
October 2009
Ottawa, Canada
Confirmed

Expert Workshop on Scientific and Technical Guidance on the use of Biogeographic Classification Systems and Identification of Marine Areas beyond national jurisdiction in need of protection
May include ILCs.

October 2009

15-17 October 2009
Buenos Aires, Argentina
Tentative

Argentina: Liaison Group Meeting on Non-Wood Forest Products / Bushmeat
Open to ILCs

November 2009

2 - 6 November 2009
Kuala Lumpur, Malaysia
Tentative

Sixth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions (WG8J 6)
Open to ILCs

9 - 15 November 2009
Kuala Lumpur, Malaysia
Tentative

Eighth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing (WG ABS 8)
Open to ILCs

2010

January 2010

February 2010

March 2010

18 - 24 March 2010
Venue to be determined
Tentative

Ninth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing (WG ABS 9)
Open to ILCs

May 2010

13 - 21 May 2010
Venue to be determined
Tentative

Fourteenth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA 14)
Open to ILCs

24 - 28 May 2010 **Third meeting of the Ad Hoc Open-ended Working Group on
Review of Implementation of the Convention (WGRI 3)**
Venue to be determined Open to ILCs
Tentative

October 2010

11 - 15 October 2010 **Fifth meeting of the Conference of the Parties serving as the
Nagoya, Aichi Meeting of the Parties to the Cartagena Protocol on Biosafety
Prefecture, Japan (COP-MOP 5)**
Confirmed Open to ILCs

18 - 29 October 2010 **Tenth meeting of the Conference of the Parties to the
Nagoya, Aichi Convention on Biological Diversity (COP 10)**
Prefecture, Japan OPEN to ILCs
Confirmed

27 - 29 October 2010 **High Level Segment of COP-10**
Nagoya, Aichi ILCs representative included
Prefecture, Japan
Confirmed
