

Information provided by the Secretariat of the Convention on Biological Diversity to the Tenth Session of the United Nations Permanent Forum on Indigenous Issues

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RESPONSE BY THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY REGARDING THE QUESTIONNAIRE FROM THE UNPFII REGARDING WRITTEN CONTRIBUTIONS TO THE UNPFII AT ITS TENTH SESSION (2011)

Introduction

1. In response to the request from Mr. Sha Zukang, Under-Secretary-General of the United Nations Department of Economic and Social Affairs, the dated 22 November, 2010, inviting the Executive Secretary of the Convention on Biological Diversity, Dr. Ahmed Djoghlaf, to submit a concise summary of actions undertaken or planned by the Convention regarding indigenous peoples issues, in the form of answers to the questionnaire provided, it is with great pleasure that the following information is submitted for the consideration of the tenth session of the UNPFII.

1. At its tenth session in 2011, UNPFII will review its recommendations in relation to (a) Economic and Social Development; (b) Environment; (c) Free, Prior and Informed Consent.

(i). Please provide information on how your agency is dealing with this important issue in the seven regional areas of the Permanent Forum¹.

The Convention on Biological Diversity is an international environmental agreement implemented on the ground by the 193 Parties to the Convention. The role of the Secretariat is to assist Parties in their implementation. Of most note concerning development, environment and prior informed consent is the recently adopted Nagoya Protocol and the new directions for the programme of work for article 8(j) and related provisions, including a new major component of work on sustainable and customary use of biodiversity.

The Nagoya Protocol

A major accomplishment at COP 10 was the adoption of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from the Utilization of Genetic Resources of the Convention on Biological Diversity (Nagoya Protocol) following six years of intense negotiations. Indigenous and local communities participated, including those on government delegations, throughout the negotiations. The Nagoya Protocol is the first international instrument of particular relevance to indigenous and local communities negotiated since the adoption of the UN Declaration on the rights of indigenous peoples (September 2007). As such it is a significant step in mainstreaming indigenous rights as a cross-cutting issue in international negotiations.

The purpose of the Protocol is to effectively implement one of the three core objectives of the Convention: the fair and equitable sharing of benefits arising from the utilization of genetic resources. It builds on the access and benefit-sharing provisions of the Convention.

The Preamble provides a context for the interpretation of the text of the Protocol. The preamble contains seven paragraphs relevant to ILCs and TK. These paragraphs includes references to article 8(j), the interrelationship between GR and TK and their inseparable nature, the diversity of circumstances in which TK is owned or held (including by countries), the identification of the rightful holders of TK, the Declaration on the rights of indigenous peoples and the non-extinguishment of existing rights.

At the core of the Protocol are obligations related to access to genetic resources, the fair and equitable sharing of benefits arising out of genetic resources, as well as compliance with prior informed consent

¹ UNPFII's seven socio-cultural regions are Africa; Asia; Central and South America and the Caribbean; the Arctic; Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.

and mutually agreed terms. In addition, to support compliance Parties have the obligation to take measures to monitor the utilization of genetic resources, including through the designation of check points and reporting requirements. Furthermore, an internationally recognized certificate of compliance issued by the providers of genetic resources will serve as evidence that genetic resources have been accessed in accordance with prior informed consent and that mutually agreed terms have been established. The issuance of certificates of compliance will be made available to the Access and Benefit-sharing Clearing House established under the Protocol.

The Protocol also contains significant provisions relating to traditional knowledge associated with genetic resources held by indigenous and local communities, as well as to genetic resources held by indigenous and local communities where the rights of these communities over these resources have been recognized.

The Protocol sets out clear obligations to seek the prior informed consent of indigenous and local communities in these situations. It also provides for the sharing of benefits arising from the use of traditional knowledge associated with genetic resources, as well as benefits arising from the use of genetic resources in accordance with domestic legislation. Benefit sharing must be based on mutually agreed terms.

In addition, Parties to the Protocol must ensure that their nationals comply with the domestic legislation and regulatory requirements of provider countries related to access and benefit-sharing of traditional knowledge associated with genetic resources.

It should also be noted that the Decision of the Conference of the Parties contains a review clause related to developments in the World Intellectual Property Organization (WIPO). To be more specific, four years after the entry into force of the Protocol, the Conference of the Parties serving as the Meeting of the Parties to the Protocol is to undertake an evaluation of the effectiveness of the Protocol. In this context, the Conference of the Parties decided that the implementation of the article related to compliance with domestic legislation or regulatory requirements on access and benefit-sharing for traditional knowledge associated with genetic resources should be reviewed in light of developments in other relevant international organizations, including the World Intellectual Property Organization.

Finally, the article of the Protocol addressing the relationship with international agreements and instruments may also be of interest. It refers to the possibility for Parties to develop and implement other relevant international agreements, including other specialized access and benefit-sharing agreements, provided that they are supportive of and do not run counter to the objectives of the Convention and the Protocol. It also refers to the need to pay due regard to ongoing work under relevant international organizations.

Work Programme on Article 8(j) of the Convention (traditional knowledge)

Sui Generis systems of protection for traditional knowledge

Regarding article 8(j) and related provisions, the Conference of the Parties requested the Secretariat to continue its work on sui generis systems by collated and analyzing information including evidence about the effectiveness of sui generis measures that have been taken at the local, sub-national, national, or regional levels. An essential element of sui generis systems is prior and informed consent.

The Tkarihwaié:ri code of ethical conduct

At its tenth meeting, the COP also finalized the negotiation of and adopted the Code of Ethical Conduct on Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity (“the Tkarihwaié:ri^[1] code of ethical conduct) and invited Parties and Governments to make use of its elements to guide the developments of models of codes of ethical conduct for research, access to, use, exchange and management of information concerning traditional knowledge. The code provides for Prior informed consent and/or approval and involvement

New Tasks of the 8(j) programme of work and Prior and Informed Consent

The COP also adopted a revised multi-year programme of work for Article 8(j) including the initiation of new tasks related to the recently adopted Nagoya Protocol and its implementation, including: (i) guidelines for benefit sharing and obtaining prior informed consent from indigenous and local communities, (ii) the identification of obligations of provider and user countries, and (iii) guidelines for the national implementation of Article 8(j) and related provisions and standards and guidelines for the reporting and prevention of unlawful appropriation of traditional knowledge and related genetic resources. The COP also decided to initiate work on the development of guidelines for the repatriation of information, including cultural property.

The COP also adopted two additional indicators for traditional knowledge to complement the already adopted indicator on status and trends in traditional languages. They are: (i) status and trends in land-use and land tenure in the traditional territories of indigenous and (ii) local communities and status and trends in practice of traditional occupations. Future indicators work will consider indicators for customary sustainable use (Article 10(c)).

Sustainable Development

The COP decided on a major new component of work on sustainable use of biodiversity with a focus on customary sustainable use, as well as an expert meeting for local community representatives to better understand the concept of local community under the mandate of the Convention and to engage them more effectively in the work of the Convention.

The International Conference on Article 10, with a focus on 10(c) is planned to occur in 13-15 July in Montreal and the expert meeting for local communities will also occur in Montreal, 11-13 July 2011. The workshops requested by COP 10 concerning operationalising the three indicators for traditional knowledge and considering indicators for article 10(c) will be facilitated as sub-working groups on the international conference on article 10.

The 7th meeting of the WG 8(j) will occur from 31 October to 4 November 2011, back to back with SBSTTA at a venue yet to be determined.

Other Matters

Another key achievement of COP 10 - the adoption of the new strategic plan of the Convention for the next decade (2011-2020). The purpose of the Strategic Plan for the period 2011-2020 is to promote effective implementation of the Convention through a strategic approach comprising a shared vision, a mission, strategic goals and targets that will inspire broad-based action by all Parties, rights-holders and stakeholders. The mission of the Strategic Plan is to take effective and urgent action to halt the loss of biodiversity in order to ensure that, by 2020, ecosystems are resilient and continue to provide essential services, thereby securing the planet’s variety of life, and contributing to human well being and poverty eradication.

(ii). What are some of the obstacles your agency has encountered in implementing the recommendations of the Permanent Forum, including those addressed specifically to your agency?

Recommendations to the Secretariat

The Secretariat of the Convention, serves 193 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, and Article 8(j) applies to specifically to knowledge, innovations and practices of indigenous and local communities relevant for conservation and sustainable use, and related provision article 10(c) deals with customary of biodiversity, making it essential to receive recommendations within the scope of its mandate, so that action, where possible, can be taken.

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), for their consideration and possible adoption for action.

When decisions are adopted by the Governing Body (COP), and directed to the Secretariat for action, they usually stipulate “pending the availability of funds”, and for the most part funds for these purposes are voluntary and come from donor Parties. In 2010 and 2011 there is a worldwide economic downturn that has significantly reduced the funds available for these activities. Furthermore, the biennium process and long political negotiations makes it difficult to report on concrete outcomes to the UNPFII 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 a limited number of 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. Attention will need to be paid to follow-up of in-depth dialogues as reporting back opportunities within the new working methods are limited.

In recent years a number of recommendations were directed to the Secretariat of the CBD regarding the ABS process. Some committed UNPFII members to follow-through negotiations and to produce legal analysis’s of the draft protocol at various stages in order to draw attention to minimal standards applicable to indigenous peoples and with a view to assisting indigenous and local communities in the lobbying and negotiation process. The Secretariat of the Convention, on an exceptional basis, was able to fund the Chairperson of the UNPFII to participate in the resumed ninth meeting of the Working Group on ABS (July 2011, Montreal) and also sent regular updates including articles and research to assist the members with their work. However the negotiation process extended over five meetings during 2010, including the on-going negotiations during COP 10, and there was no follow-through to complete this work in a timely manner. Individual UNPFII members were largely without support or resources to address their own recommendation. The Protocol was adopted without any input from the UNPFII. However the out-going members have informed the SCBD that a report will be complete in 2012, which limits its effectiveness.

It is crucial for the success of the UNPFII that it can follow up its own recommendations and also support² other agencies who are implementing UNPFII recommendations. To ensure a budget is available for the timely completion of work, when recommendations are being considered during the UNPFII annual session, programme budgetary implications for such activities must be address in the adoption of recommendations. That said and given the broad mandate of the UNPFII, it is clear that the work of the SPFII and the members of the UNPFII remains under-resourced and additional staff and resources are required if the UNPFII is to be proactive and effective.

Recommendations to Parties

² Support need not be monetary but can include political will, timely advice and responsiveness.

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 take them into account and implement them and report on them through their national reports³. The fourth national reports were due by 30th March, 2009 and the fifth national reports will contribute to COP 11 in 2012. 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 approximately seventy of the fourth national reports was made available for the consideration of the 6th meeting of the Working Group on Article 8(j). A more thorough analysis of the fourth national reports will be prepared for the seventh meeting of the Working Group on Article 8(j).

In the analysis and overall assessment by the Secretariat of the Third and Fourth National 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.

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.

(iii). What are some of the factors that facilitate your agency's implementation of the recommendations of the Permanent Forum, including those addressed specifically to your agency?

The Secretariat would like to emphasize that the 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 but greater efforts are required by the SPFII to assume of leadership role in this mechanism, in collaboration with the rotating chairpersons from the various agencies. 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

³ 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.

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.

2. Given the Forum’s recommendation for the adoption of policies on indigenous peoples’ issues, please specify whether your agency has:

(i). A policy or other similar tool on indigenous peoples’ issues;

The Secretariat to the Convention is a treaty implementation body that serves 193 governments and facilitates interaction with various stakeholders including indigenous and local communities. As such, the Secretariat as such does not have an internal policy of indigenous peoples nor the mandate to develop one. However, the Convention itself, has adopted a number of guidelines and instruments 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, the Bonn Guidelines on access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization, the Nagoya Protocol on Access and Benefit Sharing and the “the Tkarihwaí:ri⁴ Code of Ethical Conduct on Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity. The Convention remains the only Multi-lateral Environmental Treaty to have established a voluntary fund for indigenous and local community participation in meetings held under the Convention.

(ii). Recent programmes on indigenous peoples’ issues;

An in-depth review was conducted on the programme of work for article 8(j) and related provisions at its seventh meeting and recommendations arising from that were considered by the tenth meeting of the Conference of the Parties, resulting in some excited new developments. Most note-worthy is the new direction in the form of a major component of work, being pursued (as before mentioned) concerning Article 10 and 10 (c) on sustainable and customary use of biodiversity. For the 2011-12 biennium the programme of work has twenty-one projects specifically for ILCs (refer annex II).

(iii). Budgetary allocations for indigenous peoples’ issues;

Decisions directed to the Secretariat for action require voluntary donations from Parties which have significantly declined in line with the global economic downturn. That said modest donations have been worth-coming in early 2011 allowing planning to be advanced for the international conference on article 10 and the expert group meeting for local community representatives. 2011 funds for ABS capacity building and the NB-Subs workshops, will include the participation of indigenous and local community representatives. Three full-time staff positions are funded from the core budget.

(iv) Projects/activities on indigenous peoples’ issues,

The Convention is the only MEA to have a voluntary fund for the participation of ILCs in meetings of relevance to them held under the Convention. It also has three full-time staff dedicated to these issues and as focal points for ILCs to assist them to effectively participate in the Convention processes. The Secretariat also works with donors to ensure that opportunities occur regularly for ILCs for capacity building to ensure they can effectively participate in Convention processes. The programme of work for

⁴ Pronounced {Tga-ree-wa-yie-ree}, a Mohawk term meaning “the proper way”.

article 8(j) and related provisions for the 2011-12 biennium has twenty-one projects specific for ILCs (refer annex I).

However, as 8j is a cross-cutting issue there is an expectation that all programmes under the Convention incorporate issues relevant to indigenous and local communities, particularly concerning traditional knowledge and customary use. The progress reports prepared for each meeting of the Working Group on Article 8(j) include what is being done within the SCBD (thematic areas) but also includes what is being done at the national level (through an analysis of the most recent national reports). Considering the extraordinary lengths gone to by the Secretariat to mainstream indigenous and local community issues across all programmes, therefore the Secretariat would caution against a methodology that simply assesses the quantify of indigenous specific programmes being carried out. Such an approach will not capture mainstreaming efforts and could potentially ghettoize indigenous issues.

For a detailed report concerning projects and activities at both the national and international level the full report (UNEP/CBD/WG8J/6/2) to the most recent 6th meeting of the Working Group is available at <https://www.cbd.int/doc/?meeting=WG8J-06>

3. Does 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?

The Secretariat staff and in particular the programme officers for the thematic areas are briefed regularly on developments relevant to the programme of work on article 8(j) and related provisions, through brown-bag lunches, regular staff meetings and the annual staff retreat but more significantly SCBD staff work collaboratively with the staff of 8(j) at all times, to ensure that indigenous and local communities effectively participate in all areas of interest to them.

4. 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

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Social Economic and Legal Matters.

Mr. Djessy Monnier

Programme Assistant for Traditional Knowledge, Innovations and Practices, Focal point for Indigenous and Local Community Women
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5. Please provide a list of conferences and other meetings organized or supported by your agency on indigenous issues for the current year as well as next year.

For a complete list of regularly updated meetings please go to: <https://www.cbd.int/meetings/>
For the application form for travel grants to participate in meetings held under the Convention please go to: <https://www.cbd.int/traditional/fund.shtml>

Annex I

ARTICLE 8(J) AND RELATED PROVISIONS Projects POST COP 10
(2011-12)

I. Mechanisms to promote the effective participation of indigenous and local communities in the work of the Convention

A. Capacity-building efforts

Regional and sub-regional capacity-building workshops

B. Development of communications, mechanisms and tools to facilitate the effective participation of indigenous and local communities in the work of the Convention including Designation of national focal points for Article 8(j) and related provisions

C. Participation of indigenous and local communities in the work of the Convention, including through the Voluntary Fund for Facilitating the Participation of Indigenous and Local Communities in Convention Processes

D. Other initiatives - Creative initiatives and partnerships between private-sector representatives and indigenous and local community representatives, in pursuit of the Goals of the Convention,

II. Elements of sui generis systems for the protection of traditional knowledge

III. Promotion of code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities and other standards and guidelines including the Akwe:Kon Guidelines

IV. Multi-year programme of work on the implementation of Article 8(j) and related provisions of the Convention on Biological Diversity including:

(i) Progress reports

(ii) Tasks including 1, 2, 4, 7, 10, 12 ⁵

⁵ 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

(iii) Task 15 ⁶

(iv) Article 10 - Convene, an international meeting on Article 10 with a focus on Article 10(c), to provide advice on the content and implementation of the new major component for consideration at the seventh meeting of the Working Group on Article 8(j) and Related Provisions to assist the Working Group to develop a strategy to integrate Article 10, with a focus on 10(c), as a cross-cutting issue into the Convention's various programmes of work and thematic areas, beginning with the programme of work on protected areas;

(v) Revised agenda for the Working Group on Article 8(j) and Related Provisions

The COP decided to include a new agenda item on future meetings of the Working Group on Article 8(j) and Related Provisions, commencing at its seventh meeting, entitled: "In-depth dialogue on thematic areas and other cross-cutting issues"; The in-depth dialogue at the seventh meeting of the Working Group on Article 8(j) and Related Provisions, is entitled: Ecosystem management, ecosystem services and protected areas;

(vi) Indicators

The COP adopted the following proposed indicators:

- of
- (a) Status and trends in land-use change and land tenure in the traditional territories indigenous and local communities;
 - (b) Status and trends in the practice of traditional occupations;
to complement the adopted indicator on status and trends of linguistic diversity and numbers of speakers of indigenous languages, focal area - protection of traditional knowledge, innovations and practices, in order to assess progress towards the post-2010 biodiversity target, as well as to assess progress in the implementation of the revised Strategic Plan;

The Secretariat was authorized to pursue the ongoing refinement and use of the proposed indicators, also bearing in mind the implementation of Article 10 and the post 2010 revised Strategic Plan,

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.

⁶ the draft terms of reference is set out in annex to UNEP/CBD/WG8J/6/2/Add.2.

(vii) Participation - Local communities - Convene an ad hoc expert group meeting of local-community representatives, bearing in mind geographic and gender balance, with a view to identify common characteristics of local communities, and to gather advice on how local communities can more effectively participate in Convention processes, including at the national level, as well as how to develop targeted outreach, in order to assist in the implementation the Convention and achievement of its goals;

(vii) Community education and public awareness

(viii) Technical guidelines for recording and documenting traditional knowledge, innovations and practices (in partnership with WIPO)

Issues (ix) Addressing recommendations of the United Nations Permanent Forum Indigenous

SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY
RESPONSE TO RECOMMENDATIONS
ARISING FROM THE 8TH AND 9TH SESSIONS
OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

Note by the Executive Secretary

INTRODUCTION

1. New recommendations arising from both the 7th session (2008) and the 8th session (2009) of the United Nations Permanent Forum on Indigenous Issues (UNPFII) made to the Convention were considered by the sixth meeting of the Working Group on Article 8(j) and related provisions, when it met in Montreal, Canada, on 2-6 November, 2009. The resulting draft decisions were then forwarded to the tenth meeting of the Conference of the Parties, October 2010, Nagoya, Japan for their consideration and action, as appropriate. Recommendations arising from the 9th and 10th sessions of the UNPFII will be considered by the seventh meeting of Working Group on Article 8(j) and related provisions, when it meets on 31 October- 4 November, 2011 (venue is yet to be determined) and draft recommendations will then be forwarded to the eleventh meeting of the Conference of the Parties (November 2012, India) for consideration and possible adoption.

2. It is important to note that some of the recommendations arising from the report of the UNPFII at its 8th session are already in the process of being addressed as they are related to previous recommendations and current or ongoing processes. The Secretariat therefore takes this opportunity to provide a quick update on these current or ongoing recommendations in Section I of the present document. Section II draws attention to recommendations to be considered at the seventh meeting of the Working Group in 2011 and the COP in 2012. The annex contains the response of the Governing Body to the recommendations transmitted to it by the 6th meeting of the Working Group on Article 8(j).

3. At its eighth session in 2009, the UNPFII has adopted a new method of work. Each year, up to six agencies may self-nominate to participate in an in-depth dialogue with the members of the Forum. The CBD Secretariat committed to an in-depth dialogue in 2010 at the 9th session of the UNPFII in 2010. The result of the in-depth dialogue was that a great deal of interest was stimulated in the work of the Convention, reflected in a large number of recommendations directed to the SCBD (12 specific recommendations and 3 general recommendations) from the 9th session of the UNPFII. However, the opportunities to report back on the recommendations arising from the in-depth dialogue at the following session are extremely limited. At this stage reporting back after the in-depth dialogue is limited to responding to a generic questionnaire and providing a report in less than 4,000 words. This is an important weakness in the new working method that needs to be addressed in order for the in-depth dialogue to be a real value.

**I. RESPONSE TO RECOMMENDATIONS MADE BY THE UNPFII AT ITS 8TH SESSION,
TO THE CONVENTION ON BIOLOGICAL DIVERSITY**

21 April – 2 May 2009
E/2008/43 and E/C.19/2008/14

Paragraph 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.

Response by the SCBD

After seven years of negotiation, the tenth meeting of the Conference of the Parties finalized the negotiations of and adopted the “the Tkarihwaí:ri⁷ Code of Ethical Conduct on Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity” in Decision X/42, inviting Parties and governments to make use of the code and to undertake education and awareness-raising and develop communication strategies that assists relevant Government departments and agencies, academic institutions, private sector developers, potential stakeholders in development and/or research projects, extractive industries, forestry and the public at large to be made aware of elements of the code of ethical conduct, for incorporation, as appropriate, into policies and processes at the transnational, national level and local level governing interactions with indigenous and local communities. The COP also invited those secretariats of intergovernmental agreements, as well as agencies, organizations and processes whose mandates and activities are related to biological diversity to take into consideration and implement in their work the elements of the code of ethical conduct and finally invited the Global Environment Facility, international funding institutions and development agencies and relevant non-governmental organizations, where requested, and in accordance with their mandates and responsibilities, to consider providing assistance to indigenous and local communities, particularly women, to raise their awareness and to build capacity and understanding of the elements of the code of ethical conduct.

Copies of the Tkarihwaí:ri Code of Ethical Conduct will be made available at the tenth session of the UNPFII in the six UN official languages.

Paragraph 7. The Permanent Forum welcomes such initiatives as the indigenous and local community, business and biodiversity consultation, held at United Nations Headquarters in New York on 12 and 13 May 2009, as a useful dialogue between the private sector and indigenous peoples, and encourages further discussions with a view to ensuring the effective implementation of the United Nations Declaration on the Rights of Indigenous Peoples while stimulating community-level businesses based on the sustainable use of biodiversity through such creative partnerships.

Response by the SCBD

The tenth meeting of the Conference of the Parties in its decision X/40, welcomed creative initiatives and partnerships between private-sector representatives and indigenous and local community representatives, taking note of the Indigenous and Local Communities, Business and Biodiversity Consultation and requested the Executive Secretary to report on such continuing efforts at the seventh meeting of the Working Group on Article 8(j) and Related Provisions.

Further to this, the private sector and in particular the aromatic, flavorings, cosmetic and perfumery industrial sector, has expressed interest in building their capacity to adhere to the

⁷ Pronounced {Tga-ree-wa-yie-ree}, a Mohawk term meaning “the proper way”.

Nagoya Protocol and opportunities will be provided to the private sector as well as ILCs for capacity building on the Protocol in this biennium,

**II NEW RECOMMENDATIONS ARISING FROM 9TH SESSION OF THE UNPFII TO BE
CONSIDERED BY THE SEVENTH MEETING OF THE
WORKING GROUP ON ARTICLE 8(J)
November 2011
(Refer E/2010/43 AND E/C.19/2010/15)**

The following recommendations will be considered at the seventh meeting of the Working Group on article 8(j) when it meets 31 October to 4 November 2011 and the draft recommendations arising from the 7th meeting of the Working Group will be considered for possible adoption at COP 11, India October 2012. Where possible initial responses have been provided where the work is been on-going and/or builds on previous recommendations.

GENERAL RECOMENDATIONS

13. The Permanent Forum recognizes the importance of indigenous peoples knowledge systems as the basis of their development with culture and identity and therefore recommends that ongoing international processes, such as negotiations on the international regime on access and benefit-sharing of the Convention on Biological Diversity, the Ad Hoc Working Group on Long-term Cooperative Action of the United Nations Framework Convention on Climate Change, and the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization, should recognize and integrate the crucial role and relevance of indigenous knowledge systems in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.

Response by the SCBD

The Nagoya Protocol on Access and Benefit Sharing was adopted at COP 10, and fully recognizes the importance of traditional knowledge systems.

The purpose of the Protocol is to effectively implement one of the three core objectives of the Convention: the fair and equitable sharing of benefits arising from the utilization of genetic resources. It builds on the access and benefit-sharing provisions of the Convention.

Regarding associated traditional knowledge

The Preamble provides a context for the interpretation of the text of the Protocol. The preamble contains seven paragraphs relevant to ILCs and TK. These paragraphs includes references to article 8(j), the interrelationship between GR and TK and their inseparable nature, the diversity of circumstances in which TK is owned or held (including by countries), the identification of the rightful holders of TK, the Declaration on the rights of indigenous peoples and the non-extinguishment of existing rights.

The Protocol also contains significant provisions relating to traditional knowledge associated with genetic resources held by indigenous and local communities, as well as to genetic resources held by indigenous and local communities where the rights of these communities over these resources have been recognized.

The Protocol sets out clear obligations to seek the prior informed consent of indigenous and local communities in these situations. It also provides for the sharing of benefits arising from the use of

traditional knowledge associated with genetic resources, as well as benefits arising from the use of genetic resources in accordance with domestic legislation. Benefit sharing must be based on mutually agreed terms.

In addition, Parties to the Protocol must ensure that their nationals comply with the domestic legislation and regulatory requirements of provider countries related to access and benefit-sharing of traditional knowledge associated with genetic resources.

23. The Permanent Forum welcomes the “International Conference on Biological and Cultural Diversity: Diversity for Development and Development for Diversity” (8-10 June 2010, Montreal, Canada) as a useful dialogue on the interface of diversities and development and notes its goal to consider a future collaborative programme of work between the Secretariat of the Conference on Biological Diversity, the United Nations Educational, Scientific and Cultural Organization (UNESCO), other relevant agencies, including the Forum and relevant indigenous organizations and non-governmental organizations, and decides to send the Chair of the Forum to report on the outcomes of the ninth session of the Permanent Forum regarding the theme.

Response by the SCBD

The “International Conference on Biological and Cultural Diversity: Diversity for Development and Development for Diversity” produced a report and recommendations which were considered by the tenth meeting of the Conference of the Parties in October 2010. The resulting joint programme of work between SCBD and UNESCO appears in annex I for easy reference. Indigenous and local communities are key partners in the implementation of the joint programme of work.

24. The Permanent Forum calls upon UNESCO, the Secretariat of the Conference on Biological Diversity, UNDP, the United Nations Children’s Fund (UNICEF), the United Nations Population Fund, the World Intellectual Property Organization and the United Nations Development Group to support indigenous peoples in their process of cultural heritage restoration and strengthening. This process should be guided by indigenous peoples in order to avoid the misuse and distortion of indigenous peoples’ culture, practices and knowledge and to respect their perspectives and aspirations.

Response by the SCBD

COP 10 revised the programme of work for Article 8(j) and related provisions, to prioritize amongst other tasks, task 15 concerning the development of 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. The seventh meeting of the Working Group on Article 8(j) has been asked to develop best practice guidelines for the consideration of the COP.

29. The Permanent Forum recommends that UNESCO, the Convention on Biological Diversity, UNICEF and other relevant United Nations agencies convene an expert meeting, in conjunction with the Forum, comprising intercultural and educational experts and United Nations agencies to explore themes and concepts related to bilingual, intercultural and multilingual education in the context of teaching in mother tongue indigenous languages.

Response by the SCBD

Although the Convention works on community education and public awareness, as well as capacity building, the Convention does not have a mandate to pursue bilingual, intercultural and multilingual education in the context of teaching in mother tongue indigenous languages, however many Parties to the Convention have reported on such initiatives in their efforts to respect, promote, protect and promote

traditional knowledge. Hence the Convention is happy to participate in and contribute to discussions on this issue lead by the relevant agencies and in particular with UNESCO who holds a mandate in this area.

SPECIFIC RECOMMENDATIONS DIRECTED TO THE SECRETARIAT OF THE CONVENTION ON BIODIVERSITY OR ITS SECRETARIAT

Recommendations

106. The Permanent Forum notes with concern the slow progress made in the negotiations on the final protocol on access and benefit-sharing. The Permanent Forum reiterates its requests to the parties to the Convention to take into account the United Nations Declaration on the Rights of Indigenous Peoples in the negotiation, adoption and implementation of the access and benefit-sharing protocol.

The Nagoya Protocol

A major accomplishment at COP 10 was the adoption of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from the Utilization of Genetic Resources of the Convention on Biological Diversity (Nagoya Protocol) following six years of intense negotiations. Indigenous and local communities participated, including those on government delegations, throughout the negotiations. The Nagoya Protocol is the first international instrument of particular relevance to indigenous and local communities negotiated since the adoption of the UN Declaration on the rights of indigenous peoples (September 2007). As such it is a significant step in mainstreaming indigenous rights as a cross-cutting issue in international negotiations.

The purpose of the Protocol is to effectively implement one of the three core objectives of the Convention: the fair and equitable sharing of benefits arising from the utilization of genetic resources. It builds on the access and benefit-sharing provisions of the Convention.

The Preamble provides a context for the interpretation of the text of the Protocol. The preamble contains seven paragraphs relevant to ILCs and TK. These paragraphs includes references to article 8(j), the interrelationship between GR and TK and their inseparable nature, the diversity of circumstances in which TK is owned or held (including by countries), the identification of the rightful holders of TK, the Declaration on the rights of indigenous peoples and the non-extinguishment of existing rights.

At the core of the Protocol are obligations related to access to genetic resources, the fair and equitable sharing of benefits arising out of genetic resources, as well as compliance with prior informed consent and mutually agreed terms. In addition, to support compliance Parties have the obligation to take measures to monitor the utilization of genetic resources, including through the designation of check points and reporting requirements. Furthermore, an internationally recognized certificate of compliance issued by the providers of genetic resources will serve as evidence that genetic resources have been accessed in accordance with prior informed consent and that mutually agreed terms have been established. The issuance of certificates of compliance will be made available to the Access and Benefit-sharing Clearing House established under the Protocol.

The Protocol also contains significant provisions relating to traditional knowledge associated with genetic resources held by indigenous and local communities, as well as to genetic resources held by indigenous and local communities where the rights of these communities over these resources have been recognized.

The Protocol sets out clear obligations to seek the prior informed consent of indigenous and local communities in these situations. It also provides for the sharing of benefits arising from the use of traditional knowledge associated with genetic resources, as well as benefits arising from the use of genetic

resources in accordance with domestic legislation. Benefit sharing must be based on mutually agreed terms.

In addition, Parties to the Protocol must ensure that their nationals comply with the domestic legislation and regulatory requirements of provider countries related to access and benefit-sharing of traditional knowledge associated with genetic resources.

It should also be noted that the Decision of the Conference of the Parties contains a review clause related to developments in the World Intellectual Property Organization (WIPO). To be more specific, four years after the entry into force of the Protocol, the Conference of the Parties serving as the Meeting of the Parties to the Protocol is to undertake an evaluation of the effectiveness of the Protocol. In this context, the Conference of the Parties decided that the implementation of the article related to compliance with domestic legislation or regulatory requirements on access and benefit-sharing for traditional knowledge associated with genetic resources should be reviewed in light of developments in other relevant international organizations, including the World Intellectual Property Organization.

Finally, the article of the Protocol addressing the relationship with international agreements and instruments may also be of interest. It refers to the possibility for Parties to develop and implement other relevant international agreements, including other specialized access and benefit-sharing agreements, provided that they are supportive of and do not run counter to the objectives of the Convention and the Protocol. It also refers to the need to pay due regard to ongoing work under relevant international organizations.

107. The Permanent Forum congratulates the secretariat of the Convention on Biological Diversity for considering the important role of indigenous peoples in its activities related to the International Year of Biodiversity in 2010 and recommends that it fund and organize a workshop on indigenous peoples and biological diversity as part of its celebration of the Year.

The support of the UNPFII including partnerships on matters of mutual interest is highly appreciated by the SCBD. The international year was so successful the General Assembly has decided on a Decade for Biodiversity to highlight its importance and to draw attention to the newly established 2020 Targets. A report of the Decade for Biological Diversity will be provided to the next session of the UNPFII.

108. The Permanent Forum welcomes the initiative of the secretariat of the Convention on Biological Diversity and the United Nations Educational, Scientific and Cultural Organization to host the International Conference on Biological and Cultural Diversity: Diversity for Development (8-10 June 2010, Montreal, Canada) to develop a joint programme of work on biological and cultural diversity, and requests that future work include broad partnerships with the Permanent Forum, other relevant agencies, indigenous peoples' organizations and non-governmental organizations.

As reported earlier in this document, the “International Conference on Biological and Cultural Diversity: Diversity for Development and Development for Diversity” produced a report and recommendations which were considered by the tenth meeting of the Conference of the Parties in October 2010. The resulting joint programme of work between SCBD and UNESCO appears in annex I for easy reference. Indigenous and local communities are key partners in the implementation of the joint programme of work.

109. The Permanent Forum decides to send a member of the Forum to participate in the Conference to present the outcome of its ninth session on the question of development with culture and identity.

Response by the SCBD

At the high level round-table discussion on the first day of the Conference, Dr. Ahmed Djoghlaif, Executive Secretary of the Convention moderated a session which considered biological and cultural diversity for sustainable development, introducing Ms. Elisa Canqui Mollo, distinguished representative of the United Nations Permanent Forum on Indigenous Issues, who presented on development with culture and identity. Also presenting on the round-table were Mr. Kazuhiko Takemoto, Vice-Minister for Global Environmental Affairs, Ms. Veerle Vandeweerd, Director, Environment and Energy Group, United Nations Development Programme, and Mr. Hans d'Orville (UNESCO), Interim Deputy Director-General and Assistant Director-General for Strategic Planning, UNESCO. The SCBD was the proud sponsor of Ms. Canqui Mollo to this event.

110. The Permanent Forum welcomes the capacity-building efforts being carried out by the secretariat of the Convention on Biological Diversity with the Indigenous Women's Biodiversity Network for the Latin American and Caribbean Region, thanks to the patronage of the Government of Spain, and encourages other donor Governments to consider sponsoring similar efforts in other regions, in particular in Africa and in the Pacific region.

Response by the SCBD

2010 and 2011 has seen a drop in voluntary funding for such initiatives as a result of the global economic downturn however the SCBD has acquired significant funds for capacity-building regarding the recently adopted Nagoya Protocol and are endeavoring to ensure that ILCs are represented in these events. The Government of Japan has provided some funding for essential 8(j) activities in 2011 and will consider funding for 8(j) specific capacity building efforts in 2012. Furthermore the Government of Japan has provided funding for a significant number of regional and sub-regional NB-Subs workshops and ILCs will be included to assist their participation in national reporting processes.

111. The Permanent Forum notes the general capacity-building efforts on access and benefit-sharing in the African region carried out under Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) of Germany and encourages further efforts to bolster indigenous participation in those workshops and also in developing workshops specifically for indigenous peoples and local communities.

Response by the SCBD

Please refer to previous response.

112. The Permanent Forum calls upon the parties to the Convention on Biological Diversity 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.

Response by the SCBD

This request will be considered at 7 WG8j and COP 11. Indigenous and local communities remains the text of the Convention however in various COP decisions to date, the terms have been used inconsistently.

113. The Permanent Forum reiterates to the parties to the Convention on Biological Diversity that, consistent with international human rights law, States have an obligation to recognize and protect the rights of indigenous peoples to control access to the genetic resources that originate in their lands and waters and any associated indigenous traditional knowledge. Such recognition must be a key element of the proposed international regime on access and benefit-sharing, consistent with the United Nations Declaration on the Rights of Indigenous Peoples.

Response by the SCBD

Parties to the Convention recognize the rights of indigenous peoples, however given the immense diversity of national circumstances enjoyment of rights is negotiated at the national level. A comprehensive report on the Nagoya Protocol demonstrates how indigenous rights were incorporated into this instrument. Furthermore the Nagoya Protocol requires that access to associated traditional knowledge requires the prior and informed consent of ILCs and where they retain rights to genetic resources in accordance with domestic legislation, prior and informed consent is also required for access to genetic resources.

114. The Permanent Forum invites United Nations bodies with expertise on human rights, cultural rights and the traditional knowledge of indigenous peoples to provide legal and technical comments on the revised draft protocol to the Convention on Biological Diversity on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization for transmission to parties to the Convention for consideration in their final negotiations.

Response by the SCBD

Nothing was received in response to this recommendation.

115. The Permanent Forum decides to appoint Michael Dodson and Victoria Tauli- Corpuz, Members of the Permanent Forum, as Special Rapporteurs to organize and undertake a technical review of the proposed international regime on access and benefit-sharing, as recommended in paragraph 48 (i) of the report of the international expert group meeting on the international regime on access and benefit-sharing and indigenous peoples' human rights of the Convention on Biological Diversity (E/C.19/2007/8).

Response by the SCBD

The SCBD was a proud sponsor of the Chairperson of the UNPFII, which allowed Vicky Tauli-Corpus to participate in the resumed 9th meeting of the WG ABS, however she was not available to participate in the four other negotiations also held in 2011. A lack of resources and adequate support has resulted in the non-completion of this recommendation which in order to be effective needed to be completed before COP 10 (October 2010). The Secretariat has been informed by Michael Dodson that a report is being finalized and will be made available to the 10th session of the UNPFII.

116. The Permanent Forum recommends that the Ad Hoc Working Group on Access and Benefit-sharing consider at its next meeting the report of the international indigenous and local community consultation on access and benefit-sharing and the development of an international regime (UNEP/CBD/WG-ABS/5/INF/9).

Response by the SCBD

This was made available to the WG ABS as requested.

117. The Permanent Forum decides to appoint a member to participate in any future meetings of the Working Group on access and benefit-sharing and the tenth Conference of the Parties to the Convention.

Response by the SCBD

The UNPFII Chairperson was funded for the resumed 9 WG ABS by the SCBD. The member was not available to participate in the on-going negotiations including further meetings held in September and in the negotiations at COP 10. No funds were made available by the SPFII to assist members in completing this task.

Annex I

DECISION X/20

Cooperation with other conventions and international organizations and initiatives

16. *Notes* the 2010 Declaration on Bio-cultural Diversity and *welcomes* the joint programme of work between UNESCO and the Secretariat of the Convention on Biological Diversity,⁸ as useful coordination mechanism to advance the implementation of the Convention and deepen global awareness of the inter-linkages between cultural and biological diversity and *invites* Parties and other relevant stakeholders to contribute to and support the implementation of this joint programme;

Joint Programme of Work

THE INTERNATIONAL CONFERENCE ON CULTURAL AND BIOLOGICAL DIVERSITY FOR DEVELOPMENT

The 2010 Declaration on Bio-cultural Diversity

We, the participants of the International Conference on Cultural and Biological Diversity for Development, held from 8-10 June 2010, in Montreal, Canada:

Expressing our gratitude to the Secretariat of the Convention on Biological Diversity (SCBD), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Canadian Commission for UNESCO, the Canada Chair for Ethno-ecology and Biodiversity (University of Montreal), the International Economic Forum of the Americas and the host Mohawk Nation, for providing a forum to discuss the links between cultural and biological diversity for development,

Appreciating that the Conference has been organized in the context of the 2010 International Year on Biological Diversity and the 2010 International Year for the Rapprochement of Cultures,

Considering the vital importance of cultural and biological diversity for present and future generations,

Recognizing the importance of biological and cultural diversity for the survival and well-being of contemporary societies, both in urban and rural areas,

Recognizing also that biological and cultural diversity are intrinsically and inextricably linked and together hold the key to sustainable development and are critical for the achievement of the Millennium Development Goals,

Expressing deep concern about the threats to both cultural and biological diversity, particularly in the face of the homogenizing forces of globalization,

Acknowledging the important progress made in building the knowledge on the links between biological and cultural diversity and to mainstream it into practices to ensure environmental, economic, social and cultural sustainability and human well-being,

⁸ The programme of work and the Declaration are contained in the report of the International Conference on Biological and Cultural Diversity for Development, held in Montreal from 8 to 10 June 2010 (UNEP/CBD/COP/10/INF/3).

Also acknowledging the challenges and opportunities of a prospective International Regime on Access and Benefit-sharing for indigenous and local communities who hold critical knowledge, customs and practices associated with biodiversity,

Committing to take action towards significant reduction in biodiversity loss, and promotion of cultural diversity,

Call upon Governments and Parties to all the relevant Conventions, including the 1972 World Heritage Convention, 1992 Convention on Biological Diversity, the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, as well as inter-governmental and non-governmental organizations, academia, indigenous peoples and local communities, the private sector and civil society, to strengthen collaboration and coordination and to adopt, contribute to and support the joint programme between CBD and UNESCO on the links between biological and cultural diversity.

JOINT PROGRAMME BETWEEN THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION AND THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY

Vision

A world in which the global community sustains biological⁹ and cultural diversity¹⁰ for present and future generations.

Mission

With the Convention on Biological Diversity acting as global focal point for biodiversity¹¹ and UNESCO acting as global focal point for cultural diversity, strengthen the linkages between biological and cultural diversity initiatives, and enhance synergies between interlinked provisions of conventions and programmes dealing with biological and cultural diversity at relevant scales.

Timeframe: To 2020 with mid-term review at the end of 2015, to also contribute to the Millennium Development Goals.

General principles for the implementation of the joint programme

- Full and effective participation of all relevant actors, and in particular indigenous and local communities in the establishment and implementation of the joint programme.
- Collaborative engagement of policy and decision-makers, governmental and non-governmental organizations, academia, private sector and civil society in both rural and urban contexts.
- A holistic approach consistent with cultural and spiritual values, worldviews and knowledge systems and livelihoods that contribute to conservation and sustainable and equitable use of biodiversity.

Specific objectives

1. To build bridges between ongoing work on biodiversity and cultural diversity where such bridges are relevant and do not already exist.
2. To promote synergies and information sharing among already existing programmes, projects and activities that focus on links between biological and cultural diversity.
3. To further explore conceptual and methodological issues related to the links between biological and cultural diversity and the role of indigenous peoples and other communities in enhancing those links.

⁹ As defined by the Convention on Biological Diversity (<http://www.cbd.int/>)

¹⁰ As defined in the 2001 UNESCO Declaration on Cultural Diversity
<http://unesdoc.unesco.org/images/0012/001271/127160m.pdf#link>

¹¹ Noting CBD's role as convener of the Biodiversity Liaison Group.

4. To promote the collection, compilation and analysis of information from on-the ground activities linking biological and cultural diversity from, among others, biosphere reserves and World Heritage sites, and from the experiences provided by indigenous and local communities.
5. To support and foster learning networks on bio-cultural approaches, linking grassroots and community initiatives with local, national, regional and global policy processes.
6. To raise awareness about the importance of interdependent biological and cultural diversity in resource management and decision-making processes as well as for the resilience of socio-ecological systems.

Key action points

Building bridges between legal instruments

- Finalize in-depth analysis of the provisions linking cultural and biological diversity under CBD and UNESCO culture related Conventions.
- Analyze and provide recommendations for the implementation of the interlinked provisions of CBD and UNESCO culture related Conventions in a mutually reinforcing and coordinated manner.
- Collaborate with other international programmes and legal instruments towards the protection of the interdependent biological and cultural diversity.

Building the knowledge base

- Building on the existing scientific, local and indigenous knowledge, develop robust interdisciplinary conceptual and methodological frameworks for addressing the links between biological and cultural diversity.
- Develop a set of guiding principles, including ethical principles, for future research, management, practice and policy work to sustain the interdependent biological and cultural diversity for present and future generations.
- Advance knowledge on the ways in which cultures have shaped and continue to shape biodiversity in sustainable way (e.g. cultural landscapes, traditional agricultural systems, sacred sites, culturally significant species and urban biodiversity).
- Synthesize and advance knowledge on contemporary processes that simultaneously impact biological and cultural diversity and the responses to address those processes and their impacts.
- Support the development of indicators and other means of measuring status, trends and values of diversity, including linguistic diversity by building and maintaining expert networks, providing platforms for the exchange and sharing of information.
- Promote inter-cultural and inter-faith dialogues on the links between biological and cultural diversity.

Raising awareness and educating

- Develop communication materials and other tools to raise awareness on the importance of the links between biological, cultural and linguistic diversity, for human well-being and environmental sustainability.
- Promote and develop multilingual and intercultural education as well as non-formal intergenerational transmission of knowledge on links between biological and cultural diversity in the framework of the UN Decade of Education for Sustainable Development.
- Develop education kits for students as well as local decision makers, including in cities and urban environments.
- Promote the use of UNESCO chairs for further systematic study of the links between biological and cultural diversity.

Acting

- Mainstream principles and knowledge about the interdependence of biological and cultural diversity in the relevant CBD's programmes of work and UNESCO's conventions and programmes, including in the management of UNESCO biosphere reserves and World Heritage

sites.

- Launch pilot projects in appropriate sites, including in biosphere reserves and World Heritage sites, to apply the knowledge on the links between biological and cultural diversity in equitable management and governance practices.
- Support indigenous and local communities to assess the possible challenges relating to implementation of the interlinked provisions of CBD and UNESCO culture related Conventions and make recommendations for improving their full and effective participation in the implementation of these provisions.
- Build national and local capacities to mainstream principles and knowledge about the interdependence of biological and cultural diversity in sustainable development policies.

Annex II

Response by COP 10 to UNPFII Recommendations from the 7th and 8th sessions

Decision X/43

Recommendations of the United Nations Permanent Forum Indigenous Issues

26. *Takes note* of the United Nations Permanent Forum Indigenous Issues recommendation which “requests Parties to consider, in the development, negotiation and adoption of the code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant to the conservation and sustainable use of biological diversity, that the standard established in the code adequately reflect relevant international standards, including the Declaration on the Rights of Indigenous Peoples”;

27. *Takes note also* of the report of the Indigenous and Local Community, Business and Biodiversity Consultation (UNEP/CBD/WG8J/6/INF/11), held at United Nations Headquarters in New York on 12-13 May 2009, and encourages further discussions with a view to ensuring the effective implementation of the Convention on Biological Diversity, through creative partnerships between stakeholders, while stimulating community-level businesses based on the sustainable use of biodiversity;

28. *Requests* the Executive Secretary to inform the United Nations Forum on Indigenous Issues at its next session of progress made on the code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant to the conservation and sustainable use of biological diversity.