



## ARTICLE 8(J) WG-3 HIGHLIGHTS: MONDAY, 8 DECEMBER 2003

The third meeting of the Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity (CBD) began on Monday with an indigenous opening ceremony. Delegates convened in Plenary and sub-working group sessions. Plenary heard opening statements, addressed organizational matters, and considered progress reports on the implementation of the work programme on Article 8(j) and its integration into the CBD's thematic areas. While Sub-Working Group I (SWG-I) considered a composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities, Sub-Working Group II (SWG-II) began discussing *sui generis* systems for their protection.

### OPENING CEREMONY

Representatives of the Mohawk nation welcomed other nations to their territory, calling for maintaining the Mother Earth's integrity. The Thunderhawk Singers then led delegates into the Plenary hall with a stump dance.

### PLENARY

**OPENING STATEMENTS:** Hans Hoogeveen (the Netherlands), President of the CBD Conference of the Parties (COP), stressed the role of indigenous and local communities for implementation of the CBD.

CBD Executive Secretary Hamdallah Zedan thanked the Spanish government for its financial support to allow indigenous participation, and outlined the meeting's agenda.

Nehemiah Rotich, on behalf of the UN Environment Programme (UNEP) Executive Director Klaus Töpfer, called for full and effective participation of indigenous and local communities at all levels and in all sectors of society.

**ORGANIZATIONAL MATTERS:** Delegates agreed that COP President Hoogeveen would chair the Working Group, and the COP-6 Bureau would act as the Working Group Bureau. They elected Esther Camac, Vladimir Bocharnikov, Debra Harry, Jannie Lasimbang, and Myrle Traverse as indigenous Friends of the Bureau.

Delegates adopted the agenda and organization of work (UNEP/CBD/WG8J/3/1 and Add.1/Rev.1), agreeing to establish two sub-working groups. They agreed that SWG-I would also address remaining issues from the ninth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA-9) regarding technology transfer and cooperation, and that SWG-II would consider progress reports on the integration of the work programme into thematic areas of the CBD, including the

report of the *Ad Hoc* Technical Expert Group on genetic use restriction technologies. Delegates agreed to convene a brief daily Plenary to review progress.

John Herity (Canada) and Earl Stevenson (Peguis First Nation) were elected as SWG-I co-Chairs, and Diann Black Layne (Antigua and Barbuda) and Lucy Mullenkei (African Indigenous Women Organization) as SWG-II co-Chairs. Soumayila Bance (Burkina Faso) was elected as meeting Rapporteur.

**STATEMENTS FROM INDIGENOUS GROUPS AND STAKEHOLDERS:** The INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY (IIFB) reported on the indigenous forum, highlighting the need to: consider *sui generis* systems based on customary law for the protection of traditional knowledge; recognize indigenous peoples' rights over their traditional knowledge; and establish a financial mechanism to support indigenous participation. The INDIGENOUS PEOPLES OF SAINT LUCIA said the proposals of the indigenous peoples of the Caribbean Antilles may differ from those of other indigenous communities. The KITASOO XAI' XAIS FIRST NATION asked that COP-7 consider using the model of indigenous and local communities' participation in the Working Group on Article 8(j) for the Working Group on Access and Benefit-sharing (ABS).

Italy, on behalf of EC Member States and acceding countries (EU), stressed the need for a common understanding of conservation concepts and collaboration among international fora addressing traditional knowledge. TANZANIA gave examples of community involvement in forest and wildlife management. UGANDA underscored domestic recognition of customary land ownership, traditional medicine and practices, and prior informed consent (PIC) of local communities for access to genetic resources. NAMIBIA said the cultural wealth of indigenous and local communities has been depleted by the appropriation of knowledge. IRAN reported on its involvement of local communities in resource management, and PAKISTAN in managing protected areas (PAs). CANADA highlighted the UN Development Programme's Equator Initiative, stressing local communities' role in achieving sustainable livelihoods. YEMEN and ETHIOPIA stressed the need to raise awareness and recognize the diversity of indigenous practices, with YEMEN calling for further work on agricultural biodiversity. TURKEY raised concerns about the disappearance of traditional agricultural communities, and their knowledge and practices. SOUTH AFRICA highlighted its pending legislation on traditional knowledge protection and traditional healers' rights. KENYA drew attention to indigenous and local communities' participation in national decision-making processes. MEXICO reported on regional meetings related to cultural and biological specificities in implementing the ecosystem approach.



The Food and Agriculture Organization (FAO) said indigenous peoples' and farmers' rights are recognized by the International Treaty on Plant Genetic Resources for Food and Agriculture. An indigenous representative, on behalf of the MILLENNIUM ECOSYSTEM ASSESSMENT (MA), highlighted the MA's recognition of the importance of traditional knowledge in policy making and its analysis of community knowledge. The World Intellectual Property Organization (WIPO) described the work of its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The UN PERMANENT FORUM ON INDIGENOUS ISSUES outlined its recommendations to the CBD.

**REPORTS:** The Secretariat introduced progress reports on the implementation of the work programme on Article 8(j) (UNEP/CBD/WG8J/3/3), and its integration into the CBD's thematic areas (UNEP/CBD/WG8J/3/2). IUCN - The World Conservation Union called on Parties to support SBSTTA-9's recommendation to address indigenous and local communities' involvement in the work programme on PAs. The PERUVIAN NATIONAL INDIGENOUS ORGANIZATION called for defending indigenous rights and territories.

### SUB-WORKING GROUP I

**STATUS AND TRENDS:** The Secretariat introduced the composite report on the status and trends of indigenous and local communities' knowledge, innovations and practices (UNEP/CBD/WG8J/3/4, INF/1 and INF/3 to 10). UNEP- The World Conservation Monitoring Centre (UNEP-WCMC) reported on the report's elaboration.

The EU stressed its interest in agrobiodiversity-related traditional knowledge and practices, and described its programme for rural development that integrates local knowledge protection. SWEDEN described its protection of Saami traditional knowledge. The RUSSIAN ASSOCIATION OF INDIGENOUS PEOPLES OF THE NORTH (RAIPON) highlighted difficulties in defining traditional knowledge and the need to identify social and economic causes for the disappearance of lifestyles and populations.

Care Earth, on behalf of several Indian NGOs, noted the need to share experiences with registers of traditional knowledge. The COORDINATING BODY OF INDIGENOUS ORGANIZATIONS IN THE AMAZON BASIN (COICA) said traditional knowledge is threatened by commercialization. ARGENTINA requested time to compile data on indigenous and local communities. The IIFB called for: full and effective indigenous participation; consideration of biological and cultural specificities; integration of recommendations from regional workshops; and, supported by NORWAY, peer-review the report. CANADA recommended, *inter alia*, a focused work programme, field studies, incentive mechanisms and, with NORWAY, elements for a strategy or action plan as an ongoing process for elaborating the report.

PAKISTAN reported on national projects involving indigenous communities in PA management. ITALY highlighted a project promoting traditional food products and, with POLAND said the European situation is not adequately reflected in the report. IUCN recommended prioritizing: measures for addressing threats; financial resources for indigenous participation, particularly in PA management; and land ownership issues.

RAIPON said the Russian report was prepared without indigenous participation, and highlighted projects on indigenous rights and sacred sites. POLAND highlighted small farmers' knowledge. LITHUANIA called for links with the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The NETHERLANDS proposed reviewing codes of ethics of research institutions. SWG-I co-Chair Herity said a Chair's text will be prepared.

### SUB-WORKING GROUP II

**SUI GENERIS SYSTEMS:** The Secretariat presented a document on elements for a *sui generis* system for the protection of traditional knowledge (UNEP/CBD/WG8J/3/7).

The IIFB and UGANDA said the system should recognize the inherent, inalienable and proprietary rights of indigenous peoples over their resources and knowledge, and expressed concern regarding the documents' focus on the commercialization of traditional knowledge and the use of mainstream intellectual property instruments. The IIFB said national authorities granting access to traditional knowledge violate the right to self-determination.

Namibia, on behalf of the AFRICAN GROUP, called for empowering indigenous communities to participate in the development of a *sui generis* system and an international ABS regime. SOUTH AFRICA asked that a *sui generis* system include, *inter alia*, disclosure of origin, PIC and a code of ethics and, with the UN UNIVERSITY and indigenous representatives, emphasized the importance of customary laws and practices.

INDIA and COSTA RICA highlighted traditional knowledge registers and benefit-sharing issues. ARGENTINA supported a single register, while SAINT LUCIA and FRIENDS OF THE EARTH INTERNATIONAL recommended that registers be developed by indigenous peoples. NAMIBIA and BRAZIL expressed concern over the security of information in traditional knowledge databases. A QUECHUA representative called for reintegrating traditional knowledge from registers into communities. JAMAICA and the TULALIP TRIBES supported the creation of a glossary of terms.

Many stressed the need to avoid duplicating work done by WIPO, and MEXICO noted that WIPO can be useful in identifying elements of traditional knowledge pertaining to intellectual property. CANADA asked for collaboration with the World Health Organization and FAO, called for focusing on preservation of traditional knowledge, and suggested that WIPO undertake research on traditional medicine. He recommended compiling information on customary laws and elaborating a work programme on *sui generis* systems. HAITI called for protecting local traditional religions. The IIFB recommended cooperation with, and focus of, the ABS Working Group on traditional knowledge.

### IN THE CORRIDORS

While participants danced their way into the Plenary Hall, several delegates turned a deaf ear to the Mohawks' invitation to clear their mind from other thoughts, as the previous week's discussions on the international ABS regime were echoed in several statements. Recalling COP decision VI/24 on ABS, which requests the Working Group to consider the Bonn Guidelines, many delegates pointed at their striking absence from the meeting's agenda.

As SWG-I took up the composite report on status and trends, several delegates were concerned about its lack of accurate information and lamented insufficient indigenous participation in its elaboration.

Many feared that SWG-II discussions on the *sui generis* system would repeat the all-too-familiar debates on intellectual property rights and WIPO's mandate regarding traditional knowledge. Some delegates seemed surprised at indigenous representatives' categorical rejection of, and discontent with, existing registers.

## THINGS TO LOOK FOR TODAY

**SUB-WORKING GROUP I:** SWG-I will convene at 10:00 am in Room I to discuss draft guidelines for the conduct of cultural, environmental and social impact assessments. Discussions on this item will continue in the afternoon. Look for a Chair's text on the composite report on status and trends.

**SUB-WORKING GROUP II:** SWG-II will convene at 10:00 am in Room II to address participatory mechanisms. Discussions on this item will continue in the afternoon. Look for a Chair's text on *sui generis* systems to protect traditional knowledge.

**PLENARY:** Plenary will meet at 5:30 pm to review progress.