

WG8J 10 & SBSTTA 21 HIGHLIGHTS: WEDNESDAY, 13 DECEMBER 2017

On Wednesday morning, the tenth meeting of the CBD Working Group on Article 8(j) opened with a Mohawk prayer. Delegates considered the draft Rutzolijirisaxik voluntary guidelines for the repatriation of traditional knowledge of indigenous peoples and local communities (IPLCs) relevant for the conservation and sustainable use of biodiversity; and the glossary of relevant terms and concepts within the context of CBD Article 8(j) and related provisions.

In the afternoon and evening, SBSTTA plenary addressed draft recommendations on: scenarios for the 2050 vision; new and emerging issues; the fifth edition of the Global Biodiversity Outlook (GBO 5); health and biodiversity; and sustainable wild meat.

WORKING GROUP ON ARTICLE 8(J)

OPENING PLENARY: Mohawk elder Alex Sonny Diabo, Kahnawake, welcomed delegates to Mohawk territory, and noted women's biodiversity stewardship. Working Group Co-Chair Edda Fernandez Luiselli, Mexico, for the COP-Presidency, said the Working Group represents an important space for IPLCs' voices under the CBD. CBD Executive Secretary Cristiana Paşca Palmer underscored opportunities for IPLCs' positioning in the post-2020 framework and expressed commitment to working on greater protection for environmental defenders with other international organizations.

Organizational matters: The provisional agenda (UNEP/CBD/WG8J/10/1) was adopted without amendments, and the organization of work (UNEP/WG8J/10/1/Add.1) was adopted with minor amendments. Sergei Melnov (Belarus) was elected rapporteur.

GUIDELINES FOR THE REPATRIATION OF TRADITIONAL KNOWLEDGE: The Secretariat introduced the draft guidelines (CBD/WG8J/10/2). MEXICO recommended: IPLCs' full participation in the recording, documentation, and digitalization of traditional knowledge in accordance with their practices; respect for sacred practices, confidential information and restricted access to knowledge; and a reference to CBD Articles 17 and 18 (exchange of information and scientific cooperation). CANADA noted that cultural property and intellectual property rights (IPRs) do not fall within the scope of the CBD.

SOUTH AFRICA, supported by the PHILIPPINES, emphasized the voluntary nature of the guidelines, noting that their effect depends on whether parties translate them into national law. Calling for more time to consider the draft, AUSTRALIA stressed that the guidelines should: remain voluntary and be applied according to national circumstances; recognize the variety of IPLCs; and be focused on traditional knowledge relevant to biodiversity. Noting, with ARGENTINA, that the draft needs improvement, BRAZIL

highlighted prior informed consent (PIC) and mutually agreed terms (MAT) before the publication of information associated with traditional knowledge. ARGENTINA requested reference to businesses, as they often acquire and use traditional knowledge.

The EU considered the draft a solid basis to finalize negotiations; and underscoring, with the REPUBLIC OF KOREA, the need to remain within the scope of the Convention, questioned language on proactive identification of the origin of traditional knowledge and on benefit-sharing from ongoing use of traditional knowledge. The PHILIPPINES proposed adding reference to circumstances that led to the acquisition of traditional knowledge, whenever identifiable, and clarifying that any resulting product or derivative from the acquisition of traditional knowledge should be shared with the knowledge holder. SWITZERLAND considered the purpose of the guidelines unclear, and recommended eliminating the definition of repatriation and provisions foreseeing retroactive benefit-sharing.

The IIFB, supported by the PHILIPPINES and ECUADOR, suggested adding that: any legal measures should not prejudice the future recognition of rights; and the guidelines address issues that are not settled in international law, particularly traditional knowledge in the public domain.

INDIA suggested supporting IPLCs' preparedness to receive repatriated traditional knowledge. COLOMBIA called for clarifying the kind of traditional knowledge that is subject to repatriation; and pointed to intercultural dialogue and additional work on gender-specific knowledge. ECUADOR called for distinguishing between owners and users of traditional knowledge, and suggested, supported by BOLIVIA, that efforts to repatriate and restore traditional knowledge should be under MAT with the IPLCs where the knowledge originated.

NORWAY suggested inviting the UN Educational, Scientific and Cultural Organization (UNESCO) to take the voluntary guidelines into account. MOROCCO proposed urging facilitation of the application of the guidelines. BOLIVIA proposed broadening language on benefit-sharing and PIC; and full involvement of IPLCs in repatriation. CHINA welcomed the draft guidelines as instrumental to traditional knowledge repatriation. Working Group Co-Chair Fernandez Luiselli announced that a contact group will be convened on Thursday.

GLOSSARY: The Secretariat introduced the relevant documentation (CBD/WG8J/10/3). Noting, with SWITZERLAND and COLOMBIA, that it is not to be used for purposes of interpreting the Convention and be limited to the context of Article 8(j), the EU welcomed the revised glossary, and requested: a footnote clarifying that cultural heritage impact assessment should be consistent with the definition of cultural heritage in the glossary; and that there should be reference to traditional biological resources throughout. SWITZERLAND noted potential conflicts

with other fora, and preferred “taking note” or “welcoming,” rather than “agreeing to,” the glossary. ARGENTINA suggested preambular language stating that the glossary should not be understood as providing an evolutionary interpretation of the Convention. COLOMBIA considered that the glossary does not prejudice discussions under other international instruments. INDIA emphasized, with AUSTRALIA, the voluntary nature of the glossary; and indicated that the terms are subject to national legislation. ECUADOR suggested clarifying that the guidelines serve as a guide for parties adopting legislation concerning traditional knowledge in the framework of Article 8(j). The PHILIPPINES raised issues concerning customary law.

GUATEMALA suggested specifying references to traditional knowledge, customary and sustainable use, IPLCs and sacred places. JAPAN expressed concern about including terms such as environmental impact assessments (EIAs), social impact assessments and strategic environmental assessments (SEAs) as these tools are not specific to Article 8(j). TIMOR LESTE proposed eliminating reference to “free PIC.”

The IIFB considered the glossary useful and, supported by BOLIVIA, CANADA, and others, recommended periodic reviews of the glossary as a living document, with IPLCs’ participation. The ICCA (Indigenous Peoples’ and Community Conserved Areas and Territories) CONSORTIUM recommended referring to the most recent terminology “IPLC conserved territories and areas” and clarifying that ICCAs could be recognized as “protected areas” or “indigenous peoples’ protected areas” subject to free PIC and national circumstances.

RESOURCE MOBILIZATION: The Secretariat introduced documentation on assessing the contribution of IPLCs’ collective actions and safeguards in biodiversity financing mechanisms (CBD/WG8J/10/5 and 6), noting that the draft recommendations will be forwarded to SBI 2. Underscoring that resource mobilization is fundamental for the Strategic Plan and Aichi Targets, AUSTRALIA requested to defer discussions to SBI 2.

SBSTTA

SCENARIOS FOR THE 2050 VISION FOR

BIODIVERSITY: On a draft SBSTTA recommendation welcoming the ongoing work of the scientific community, BRAZIL and CANADA, opposed by BOLIVIA and the EU, requested eliminating reference to research on “land use change.” BELGIUM proposed referring also to “land use.”

On inviting scientific communities to work on scenarios, including by identifying potential constraints and trade-offs related to biodiversity that should be considered in efforts to achieve the SDGs, BRAZIL, opposed by AUSTRIA and the PHILIPPINES, requested deleting reference to “constraints” and referring to “synergies” instead. Eventually delegates agreed to refer to identifying “potential synergies, trade-offs and limitations related to biodiversity that should be considered to identify effective measures and policies to enable the achievement of the SDGs.”

On inviting the scientific community to take into account issues which are relevant to the development of the post-2020 global biodiversity framework, delegates agreed to add “taking into account not only negative but also positive impacts of productive sectors to biodiversity conservation and sustainable use.”

BOLIVIA proposed new language on emerging technologies that may affect the CBD objectives, and IPLCs’ way of life. The ETC GROUP supported the proposal and suggested, opposed by BRAZIL, GERMANY, CHINA, and COLOMBIA, additional reference to horizon scanning of destructive technologies and evaluation of their impacts. MEXICO, the UK, and BRAZIL pointed to other sections of the draft recommendation already encompassing similar ideas.

On the draft recommendations to COP, the UK, supported by BELGIUM, suggested “welcoming,” rather than “taking note,” of SBSTTA conclusions on scenarios. On emphasizing the need for capacity building to enable participation in developing and applying scenarios, delegates eventually agreed to request the Secretariat “facilitate capacity building, in accordance with Decision XIII/23” (short-term action plan on capacity building). Delegates agreed to request the Secretariat to promote the use of scenarios as a communication tool and to foster the participation of all stakeholders, in particular academia and celebrity ambassadors.

Delegates discussed an annex containing SBSTTA conclusions on the scenarios. On deploying measures for attaining the goals reflected in the 2050 vision, BOLIVIA requested, and delegates agreed on, reference to both provision of key ecosystem “functions” and services, and to climate change “adaptation” and mitigation. BRAZIL opposed: including specific examples of policy mixes, with delegates agreeing to refer to the three pathways of GBO 4 to illustrate such examples; and references to “global versus local coordination,” with delegates agreeing to refer to the “degree of global and local coordination.”

NEW AND EMERGING ISSUES: Delegates approved a draft recommendation without any amendments.

GBO 5: Delegates considered a draft recommendation, agreeing to, among others: requesting a GBO 5 summary for policy-makers; continuing collaboration with other processes for GBO 5 review, in addition to its preparation; and referring to “accurate and reliable” data and data updates on biodiversity status and trends.

BIODIVERSITY AND HEALTH: Delegates agreed on integrating One Health policies in their NBSAPs and, “as appropriate,” national health plans and other instruments. On inviting WHO to consider ecosystem-based approaches, delegates agreed to extend the invitation also to the World Animal Health Organization and FAO. Delegates further agreed to “request the Secretariat and invite the Inter-Agency Liaison through their members, in collaboration with WHO and other partners, as appropriate” to perform a list of tasks related to biodiversity and human health, with the Secretariat reporting on progress at SBSTTA 23 and a future meeting of SBI.

SUSTAINABLE WILD MEAT: Delegates considered a draft recommendation and agreed to: referring to SDG 2 (zero hunger) and food security in relation to integrated wildlife management; adding to an invitation to parties and others to use the voluntary guidance “in accordance with national law”; and deleting a reference to unsustainable consumption rates of wildlife in the Amazon and Congo Basins.

IN THE CORRIDORS

As the temperatures in Montreal kept dropping, so did the speed of SBSTTA deliberations. After delegates treaded painstakingly through the draft recommendation on scenarios for the 2050 vision, discussing at length language on emerging technologies, some remarked that the short draft on new and emerging issues, which was swiftly approved, no longer addresses a possible review of the process through which these issues are selected. “It is practically impossible to meet all the criteria,” sighed a delegate. “Is this process a pretext to exclude new issues?” Others, however, noted pragmatically that new issues, including emerging technologies of potential concern, still find their way into the SBSTTA agenda, hinting at the expert meeting on synthetic biology held just before SBSTTA 21, which, according to the well-informed, was quite constructive. With a mere half day left to complete SBSTTA deliberations, several participants were left wondering how SBSTTA will wrap up a rather unwieldy draft recommendation on biodiversity mainstreaming.