



Earth Negotiations Bulletin

SBSTTA 19
Article 8(j)-9

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SBSTTA 19 AND WG8(J)-9 HIGHLIGHTS: WEDNESDAY, 4 NOVEMBER 2015

The Working Group on Article 8(j) opened on Wednesday morning. In the afternoon and into the night, SBSTTA 19 finalized six recommendations.

ARTICLE 8(J) WORKING GROUP

Otsi.tsa.ken:RA (Charles Patton) of the Mohawk Nation welcomed delegates to Mohawk traditional territory and opened the meeting in the way of his ancestors. Article 8(j) Working Group Co-Chair Tia Stevens (Australia) identified as the Working Group's most important task to give voice to IPLCs in the work of the Convention. Balakrishna Pisupati, on behalf of UNEP Executive Director Achim Steiner, underscored, among other things, regional and international cooperation with regard to shared traditional knowledge (TK). CBD Executive Secretary Dias highlighted, among the agenda items, guidelines for the effective implementation of Article 8(j) and related provisions.

ORGANIZATIONAL MATTERS: Co-Chair Stevens introduced the agenda and organization of work (UNEP/CBD/WG8J/9/1 and Add1/Rev1), which were adopted without amendment. Natalya Minchenko (Belarus) was elected as Article 8(j) Working Group rapporteur, and seven IPLC representatives were elected as Friends of the Bureau, including Onel Masardule Arias (Latin America) as Co-Chair of the Working Group.

The IIFB called for applying in SBI the modalities for IPLCs' participation of the Article 8(j) Working Group, and building upon rights recognized in other international fora. Senegal for the AFRICAN GROUP urged the Working Group to do anything possible to protect TK and consider it alongside other types of knowledge. Japan for ASIA AND PACIFIC noted that the Working Group and the Nagoya Protocol should avoid duplication of work. Luxembourg for the EU expressed commitment to the full and effective implementation of the Article 8(j) work programme. The CEE noted that changes in lifestyles are having a negative impact on TK.

INDICATORS: The Secretariat introduced the document on indicators related to Article 8(j) and related provisions (UNEP/CBD/WG8J/9/INF.3), proposing that this be considered by SBI at its first meeting, which was agreed by delegates. The EU encouraged IPLCs' contribution to sixth national reports and monitoring progress on Aichi targets. UNPFII suggested ensuring links in the indicators between cultural integrity, biodiversity, Mother Nature and food security. LOCAL COMMUNITIES underscored their role in providing information for indicators on TK and customary sustainable use.

GUIDELINES ON TRADITIONAL KNOWLEDGE: The Secretariat introduced draft guidelines on prior informed consent (PIC) or approval and involvement, and on benefit-sharing in relation to TK (UNEP/CBD/WG8J/9/2 and Add.1). MEXICO emphasized the intangible and collective nature of TK, and the broader notion of TK under Article 8(j) than under the Nagoya Protocol, recommending that the guidelines should not be limited to the latter. The EU suggested that the guidelines remain within the scope of the Convention. Guatemala for the LMMC noted that access to biodiversity and TK should respect sovereign and IPLCs' rights. NORWAY noted that: this agenda item is important for the Convention and the Nagoya Protocol; and decisions for the Nagoya Protocol have to be taken by its COP/MOP. SWITZERLAND recommended that the guidelines be within the scope of the CBD and mutually supportive of the Nagoya Protocol and other agreements and processes, such as the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) of the World Intellectual Property Organization (WIPO).

The REPUBLIC OF KOREA said that mechanisms on PIC or approval and involvement should enhance legal certainty and transparency. The PHILIPPINES called for: explicit mention of the primacy of customary laws; clarification of the steps involved in PIC, respecting customary decision-making processes; and checkpoints to monitor compliance. INDONESIA proposed referring to Convention language on "indigenous and local communities" rather than IPLCs. AUSTRALIA requested a reference to potential users seeking to renegotiate mutually agreed terms (MAT) if the terms vary significantly from the original purpose or if TK is to be marketed or commercialized, in line with national laws.

Sudan for the AFRICAN GROUP suggested including in the guidelines TK systems that are not taken into account by other international agreements. BOLIVIA requested references to the 2015 Peoples' World Conference on Climate Change and the Defense of Life and to non-commodification. INDIA underscored the need for PIC and benefit-sharing for TK both publicly owned and in the public domain. The IIFB recommended that the guidelines should: recognize the primacy of customary laws and community protocols; not imply concessions of intellectual property over TK to users; include, as benefit-sharing, tenure security and safeguards for traditional land and resource rights, as well as cultural and spiritual elements; and clarify that IPLCs, based on their customary laws and protocols, determine whether benefit-sharing is fair and equitable.

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SBSTTA

INDICATORS: On collaboration between the CBD and other conventions regarding assessments of the Aichi targets, PERU proposed the inclusion of the UNFCCC. The EU suggested including in the Clearing-house Mechanism available guidance on the use of national indicators and approaches to monitor progress towards the Aichi targets, drawing upon the AHTEG report and related documents. BRAZIL suggested adding ‘as appropriate’ in reference to the AHTEG report, as not all parties agreed with its conclusions.

BIODIVERSITY MAINSTREAMING: BRAZIL suggested adding “industry” to a list of sectors relevant for mainstreaming, SWEDEN “health,” and FRANCE “trade and finance.” The EU, supported by SWITZERLAND and NORWAY, and opposed by MEXICO, BRAZIL, ARGENTINA and TIMOR LESTE, suggested replacing language emphasizing the need for strengthening the means of implementation including financial resources, with a reference to decision XII/1, which notes the need for an overall substantial increase in total biodiversity-related funding for the Strategic Plan implementation. Following informal consultations, delegates agreed to recall decision XII/1, which “emphasizes the need for enhanced efforts to achieve the Aichi targets, in particular those targets where least progress has been made, and the need to strengthen implementation, including through enhanced technical and scientific cooperation, capacity-building support, and an overall substantial increase in total biodiversity-related funding.”

On the promotion of open-data access to support biodiversity mainstreaming into policies and planning, following deliberations, delegates agreed to add reference to decision XI/2 (review of progress in NBSAPs implementation and related capacity-building support to parties). FRANCE, supported by the UK, questioned a request to the Secretariat for technical guidance on mainstreaming, and delegates agreed to delete it. The UK, supported by FINLAND but opposed by SENEGAL and the DRC, proposed requesting the Secretariat to develop a ‘road map,’ rather than a ‘draft plan of action,’ on ecosystem restoration for consideration by SBSTTA 20. NORWAY and SWITZERLAND suggested eliminating text on ecosystem restoration. Following informal consultations, delegates agreed to request the Secretariat, in preparing for SBSTTA 20, to prepare in consultation with relevant conventions, key elements for a short-term action plan on ecosystem restoration for COP 13 consideration.

On requesting the Secretariat to engage in the process to promote biodiversity under the UN Economic and Social Council (ECOSOC), the UK proposed “to engage in relevant dialogues under the High-level Political Forum on Sustainable Development under the auspices of” ECOSOC. SWITZERLAND suggested that COP 13 request the Secretariat to present options to SBSTTA prior to COP 14 on how to further enhance the implementation of the work programmes in light of mainstreaming needs and the Strategic Plan.

SCIENTIFIC AND TECHNICAL NEEDS: The UK, supported by SWEDEN, NEW ZEALAND, ICELAND and SWITZERLAND, proposed exploring through the Biodiversity Liaison Group (BLG) the benefits of developing a collaborative framework on the conservation of threatened species, with FINLAND also recommending a gap analysis. ETHIOPIA, COLOMBIA and UGANDA urged the development of an action plan. Eventually, delegates agreed to request the Secretariat through the BLG to “develop actions for and enhanced collaborative framework” to guide the conventions and assist parties in meeting Aichi target 12 (threatened species).

On encouraging parties to promote open access to biodiversity-related data and transparency in developing derived metrics, delegates eventually agreed to consider the voluntary

guidance annexed to the draft recommendation, as appropriate. SWITZERLAND suggested removing text on subjecting requests to the Secretariat to resource availability. On encouraging parties to identify further biodiversity monitoring, assessment and research needs at the national level, BRAZIL suggested adding project implementation needs. FRANCE suggested making full use of the Clearing-house Mechanism to share information. A paragraph on promoting communication between the Convention and international monitoring, assessment and research programmes was deleted, following lengthy discussion. On encouraging parties to provide funding for monitoring and assessment, delegates: replaced “funding” with “support,” deleted reference to “internationally coordinated programmes,” and added reference to “project implementation and research.” On supporting the development of DNA sequence-based technology and associated DNA barcode reference libraries, FRANCE suggested increasing awareness of the GTI and implementation of capacity building, and SOUTH AFRICA proposed a reference to academic training.

GEOENGINEERING: ARGENTINA objected to “taking note of the Preliminary Report on Contribution of the Aichi Targets to Land-based Climate Mitigation,” as the report is not finalized. BRAZIL objected to a preambular paragraph noting that IPCC AR5 has not addressed, in detail, the impacts of geoengineering on biodiversity and ecosystems, but the proposed deletion was not accepted. BOLIVIA proposed including reference to “life sciences” in addition to recognizing the importance of taking into account IPLCs’ knowledge.

FOREST BIODIVERSITY: On noting congruence among forest-related targets, goals, activities and guidelines, BOLIVIA proposed recognizing ‘alternative policy approaches such as the joint mitigation and adaptation approach for the integral and sustainable management of forests,’ which was approved by delegates. On a recommended COP decision welcoming other initiatives to reduce forest loss, BRAZIL, supported by BOLIVIA and ARGENTINA, suggested deleting reference to the New York Declaration on Forests. NORWAY opposed, and the reference was bracketed. On inviting the CPF to identify tools useful to parties, BOLIVIA suggested adding text on ‘taking into account visions, approaches, models and tools to improve integrated management of forests, including development of technical capacity.’ COLOMBIA proposed ‘strengthening,’ rather than just ‘continuing,’ the Secretariat’s work with CPF members and other relevant organizations and initiatives.

IPBES: Following lengthy deliberations, delegates agreed in the preamble to recall the intention to undertake a final assessment of the Strategic Plan implementation and inform the discussion for the strategic plan beyond 2020. Delegates also agreed on requesting the Secretariat, when developing draft guidelines for sixth national reports, to consider biodiversity mainstreaming concerns, including crosscutting policy frameworks and evaluation of their effectiveness, best practices and lessons learned. On the establishment of the SBI, following lengthy discussions, delegates agreed on its role to provide guidance to parties to support the implementation of the Convention, its protocols and the Strategic Plan.

IN THE CORRIDORS

Wednesday proved to be another busy, long day, with the start of the Article 8(j) Working Group followed by afternoon and night discussions in an effort to finalize all SBSTTA 19 recommendations. As negotiations continued “as fast as the speed of light,” and became even more challenging after an evening wine reception, some wondered whether the creation of contact groups on topics such as indicators and a proposed action plan on threatened species would have avoided the late-hour overload in plenary.