

## Article 8(j) Working Group Highlights: Thursday, 21 November 2019

The 11th meeting of the *Ad Hoc* Open-ended Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity (CBD) continued its deliberations in plenary in the morning to discuss: the contribution of indigenous peoples and local communities (IPLCs) in the post-2020 global biodiversity framework; links between nature and culture in the post-2020 framework; the recommendations from the UN Permanent Forum on Indigenous Issues (UNPFII); and a conference room paper on the in-depth dialogue.

Delegates further heard a report from Francis Ogwal (Uganda) and Basile van Havre (Canada), Co-Chairs of the Open-ended Working Group on the Post-2020 Framework. A contact group met in the afternoon, focusing on IPLCs and the post-2020 framework.

### *Links between Nature and Culture in the Post-2020 Framework*

CANADA stressed that indigenous languages are an important part of indigenous and cultural identity. She further emphasized that terminology in the post-2020 framework must be in line with the glossary developed during the 14th CBD Conference of the Parties (COP).

ARGENTINA and others applauded the inter-agency work between the CBD Secretariat, the UN Educational, Scientific and Cultural Organization (UNESCO), the International Union for Conservation of Nature (IUCN), and other relevant bodies. COLOMBIA suggested incorporating actions to strengthen the link between nature and culture in the document's annex, further proposing to support the application of national and sub-national plans in line with national circumstances.

JAPAN, with IUCN, drew attention to ongoing work on biocultural diversity by the UN University Institute for the Advanced Study of Sustainability (UNU-IAS). UNU-IAS drew attention to the expert thematic workshop on landscape approaches.

SOUTH AFRICA urged establishing a diverse set of policies to encourage collective work for the necessary transformational change, identifying implementation means and setting quantitative targets. ETHIOPIA stressed the need to harmonize specific ways of implementation relevant to environmental conservation. CAMEROON drew attention to reconstituting oral traditions.

NORWAY suggested reference to the Liaison Group of Biodiversity-related Conventions; and the PHILIPPINES to the free, prior and informed consent of IPLCs.

IUCN stressed that the connection between culture and nature provides an untapped potential for achieving the 2050 vision of living in harmony with nature. He further highlighted the need to

respect linguistic diversity and the suggestion for a global alliance for nature and culture. The INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY (IIFB) underscored the need for full and effective participation of IPLCs, including women and youth, in all aspects of work on the post-2020 framework, including the development of indicators.

A conference room paper (CRP) will be prepared.

### *Recommendations from the UN Permanent Forum on Indigenous Issues*

The Secretariat introduced the relevant document (CBD/WG8J/11/6), which outlines recommendations to the CBD from UNPFII.

JORDAN called on the CBD and IUCN to partner with relevant bodies and fora to take the necessary measures to guarantee the protection of biodiversity in the post-2020 framework. ETHIOPIA proposed including language on the "equitable sharing of benefits of natural resources and biodiversity" among IPLCs.

TIMOR LESTE suggested stating that the recommendation should "promote and respect the full provisions of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)"; that "protected areas" be added to language on the contributions of indigenous peoples to the management of ecosystems and the protection of biodiversity; and, with the REPUBLIC OF KOREA, that language in the draft recommendations refer to IPLCs, rather than "indigenous peoples" and "local communities" separately.

AUSTRALIA, with CANADA, recommended changes to ensure that decisions on the Article 8(j) work programme and the post-2020 framework take place in parallel without prejudging outcomes of the post-2020 framework. CANADA, with COLOMBIA, recommended that requests to the Secretariat take into account the availability of resources.

Responding to a question from Japan, the Secretariat clarified that, with regards to a recommended comparative legal study that analyzes the rights of indigenous peoples and the emerging rights of local communities, other relevant bodies such as the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) would take the lead. The INDIGENOUS WOMEN'S NETWORK (IWN) requested that the legal study be performed by indigenous experts. The REPUBLIC OF KOREA said that the study should be done under the scope of the Convention.

AUSTRALIA highlighted national initiatives on incorporating IPLCs in decision making and implementation of protected areas. Highlighting the importance of land tenure, and the innovations and traditional practices of indigenous peoples, MEXICO stressed that application of the Convention should be done at the community

level. CAMEROON emphasized the importance of including IPLCs in sharing the benefits derived by genetic resources and information, and said that the three objectives of the Convention should be treated equally.

IUCN reported on its activities, including in engaging with indigenous peoples to support their participation in the CBD and the UN Framework Convention on Climate Change (UNFCCC) COPs. The INTERNATIONAL PLANNING COMMITTEE FOR FOOD SOVEREIGNTY (IPC) reminded parties that UNDRIP requires acknowledgement and respect.

### ***In-Depth Dialogue***

Delegates addressed a CRP (CBD/WG8J/11/CRP.1).

A lengthy discussion took place on a provision calling for a holistic approach based on “bioculturally grounded planning.” BRAZIL, supported by ARGENTINA and MALAWI, and opposed by the EU, requested deletion. CHINA and ETHIOPIA proposed deleting “grounded.” BRAZIL, opposed by SWITZERLAND, suggested adding a reference to the fair and equitable sharing with indigenous peoples of the benefits arising out of the utilization of traditional knowledge associated with genetic resources.

CANADA, supported by ETHIOPIA and SWITZERLAND, offered compromise language referring to the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the utilization of genetic resources. The EU concurred, suggesting adding reference to access. ETHIOPIA and ARGENTINA suggested referring to “biodiversity conservation and sustainable use” rather than “nature conservation.”

Following informal consultations, delegates agreed to replace “bioculturally grounded planning” with language “recognizing the importance of the three objectives of the Convention for biocultural diversity”.

Regarding a paragraph inviting parties to fully acknowledge and incorporate the contribution of IPLCs in the development and implementation of the post-2020 framework, a lengthy debate focused on whether “fully acknowledging” is necessary, as well as the relationship between the framework’s development and its implementation. Following informal consultations, delegates agreed to remove language on the “development” of the post-2020 framework.

Delegates further agreed to amend a paragraph referring to considerations, voluntary guidelines, and principles on the links between cultural and biological diversity so as to remove language related to “mechanisms for the protection, development, and management of traditional knowledge, innovations, and practices”.

The CRP was approved with these amendments.

### ***IPLCs and the Post-2020 Global Biodiversity Framework***

Francis Ogwal (Uganda) and Basile van Havre (Canada), Co-Chairs of the Open-ended Working Group on the Post-2020 Global Biodiversity Framework, gave a brief overview of the process for the development of the post-2020 framework.

The Co-Chairs described three phases to the process: a broad consultation across the UN regions, which was completed with the first Working Group meeting in August 2019; a deeper dive into thematic areas, including ecosystem restoration, marine and coastal biodiversity, capacity building, resource mobilization, and access and benefit-sharing; and text-based negotiations starting with the zero draft, to be published on 13 January 2020, until the draft’s approval, scheduled for the third Working Group meeting in July 2020.

Consultation feedback so far revealed that the key messages of the post-2020 framework must be easy to communicate and provide a clear link between a 2030 mission and the 2050 vision of living

in harmony with nature. Targets and indicators should be specific, measurable, achievable, realistic, and time-bound (SMART), with a special focus on geographical scope, and on planning, reporting, and accountability. Synergies with other fora and processes, in particular relating to climate change, should be pursued. The targets should explicitly include aspects related to gender, IPLCs, youth, and the private sector.

The Co-Chairs reminded participants of the mandate of the Working Group on Article 8(j) to add potential recommendations relevant to the post-2020 framework and to develop its future programme of work.

### ***Contact Group on IPLCs and the Post-2020 Global Biodiversity Framework***

In the afternoon, Rosemary Paterson (New Zealand) and Lucy Mullenkei (IIFB) co-chaired a contact group on the development of a fully integrated programme of work on Article 8(j) within the post-2020 global biodiversity framework. They clarified the two tasks of the contact group, which was mandated to: work through the draft recommendations to COP 15 in a non-paper; and to consider what advice the Working Group on Article 8(j) might want to provide to the Working Group on the Post-2020 Framework on issues relating to Article 8(j).

Relating to the first task, delegates and participants raised a number of issues. They strived to make sure that the draft recommendations clearly reflect that the COP stands at the transition between the 2011-2020 Aichi Targets and the corresponding elements within the post-2020 framework. They also addressed issues around the status of voluntary guidelines and standards related to Article 8(j) and related provisions. They further discussed institutional arrangements for IPLCs in the post-2020 framework.

Discussions continued into the evening.

### ***In the Corridors***

Sunlight came through the windows of the venue for the first time during Thursday’s discussions, but participants may have had their head too deeply stuck in conference text to notice.

Seasoned delegates expressed frustration at how granular discussions had become, with the meeting’s co-chairs asking parties to stay concise. “Full plenary discussions of text can bring out the worst in parties,” one newer delegate commented, noting that disagreements could be resolved informally before being brought back to text. “That way, the plenary could actually advance on agreed-upon sections in the meantime.” Experienced participants seemed to agree, with a senior delegate wryly suggesting that the negotiated text for the non-paper on indigenous peoples and local communities, and the post-2020 framework was becoming “less intelligible than it was originally.”

One sticking point was the still-nebulous nature of local communities in the discussion. Some delegates were concerned that negotiating around the language of rights could lead to undesirable or dangerous outcomes for indigenous peoples. “Indigenous peoples have poured blood, sweat, and tears to develop the UN Declaration on the Rights of Indigenous Peoples since 1977,” one said, pointing out the right to self-determination. “Indigenous rights are separate rights. If the Convention starts confusing the rights of local communities with indigenous rights, you can bet that local communities won’t see a stronger framework. It will be indigenous rights that will get weaker.”

Despite this, spirits remained strong as participants went into a contact group to finish the day’s exchange. “The SBSTTA is only a few days away,” one commented. “We have to work together now, for the sake of the framework. We don’t have any time to lose.”