



## FIRST MEETING OF THE *AD HOC* OPEN-ENDED INTER-SESSIONAL WORKING GROUP ON ARTICLE 8(J) 27-31 MARCH 2000

The first meeting of the *Ad Hoc* Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity (CBD) begins in Sevilla, Spain, today and will continue until 31 March 2000.

The working group is mandated to address five specific areas: application and development of legal and other forms of protection for the knowledge, innovations and practices of indigenous and local communities; implementation of Article 8(j) and related provisions; development of a programme of work; priorities, opportunities for collaboration and implementation of the work programme; and measures to strengthen cooperation among indigenous and local communities. Delegates are expected to meet in two sub-working groups. Regarding the development of a work programme, Sub-Working Group I will consider: participatory mechanisms for indigenous and local communities; equitable sharing of benefits; and legal elements. Sub-Working Group II will address: status and trends in relation to Article 8(j) and related provisions; traditional cultural practices for conservation and sustainable use; exchange and dissemination of information; and monitoring elements.

The results of the session will be forwarded for consideration to the fifth Conference of the Parties (COP-5) to be held in Nairobi, Kenya, from 15-26 May 2000.

### A BRIEF HISTORY OF ARTICLE 8(J) AND RELATED PROVISIONS UNDER THE CBD

The CBD, negotiated under the auspices of the United Nations Environment Programme (UNEP), entered into force on 29 December 1993. To date, 176 countries have become Parties. Article 8(j) of the CBD specifically states that Parties will, subject to national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biodiversity; promote their wider application with the approval and involvement of such knowledge-holders; and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.

Article 10(c) calls upon Parties to protect and encourage customary use of biological resources in accordance with traditional cultural practices. Article 17.2 addresses scientific and technical information exchange with specific reference to indigenous and traditional knowledge. Finally, Article 18.4 states that Parties shall encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, pursuant to the objectives of the Convention.

Additionally, discussions on cross-cutting themes, such as the ecosystem approach, access and benefit-sharing, the Clearing-House Mechanism (CHM) and the specific ecosystem themes have also addressed the integration of considerations relating to Article 8(j) and indigenous and local communities.

**SBSTTA-1:** The first session of the Subsidiary Body for Scientific, Technical and Technological Advice (SBSTTA) met in Paris, France, from 4-8 September 1995, and referred to indigenous and local communities and their knowledge in recommendations on the implementation of Article 6 on general measures for conservation and sustainable use and marine and coastal biodiversity.

**COP-2:** The second COP met in Jakarta, Indonesia, from 6-17 November 1995. Discussion of traditional knowledge was limited to Decision II/12 on intellectual property rights (IPR). The decision calls for consultation with all stakeholders, particularly indigenous and local communities, to improve the understanding of the needs and concerns of such groups, as well as a preliminary analysis of IPR systems, which could focus on the preservation and maintenance of traditional knowledge and practices of indigenous and local communities.

**SBSTTA-2:** The second session of SBSTTA met in Montreal, Canada, from 2-6 September 1996. Delegates discussed indigenous knowledge with regard to: preserving the knowledge, innovations and practices of indigenous communities; promoting their wider application; and encouraging the equitable sharing of benefits arising from their use. Recommendation II/4 encourages representatives of indigenous communities to prepare information on their views regarding the implementation of Article 8(j), and recommends that the COP request advice from the SBSTTA on relevant technical and scientific issues.

**COP-3:** The third COP met in Buenos Aires, Argentina, from 4-15 November 1996. Delegates adopted Decision III/14, which, *inter alia*: requests Parties to develop national legislation to implement Article 8(j); invites case studies on the implementation of Article 8(j) and related provisions; requests the interim financial

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mechanism to examine support of capacity-building projects for indigenous and local communities; and establishes an intersessional process to advance work on the implementation of Article 8(j) with specific goals for organizing an intersessional workshop.

**SBSTTA-3:** The third session of SBSTTA met in Montreal, Canada, from 1-5 September 1997. Discussions and recommendations on inland water biodiversity, forest biodiversity and environmental assessments addressed the role and knowledge of indigenous and local communities.

**WORKSHOP ON TRADITIONAL KNOWLEDGE:** The Workshop on Traditional Knowledge and Biological Diversity was convened in Madrid, Spain, from 24-28 November 1997 to produce recommendations for the COP on how to proceed further with the implementation of Article 8(j). The workshop produced a report on the implementation of Article 8(j), which contains an extensive list of options and recommendations in the following areas: participatory mechanisms; status and trends in relation to Article 8(j); traditional cultural practices for conservation and sustainable use; equitable sharing of benefits; exchange and dissemination of information; monitoring; and legal elements. The report also includes recommendations for actions at the national and international levels, and suggests terms of reference for establishing an open-ended working group or a subsidiary body on Article 8(j).

**COP-4:** The fourth COP met in Bratislava, Slovakia, from 4-15 May 1998. Delegates discussed the development of a work programme on Article 8(j) and the formation of an *ad hoc* working group. Decision IV/9 establishes a working group to provide advice on the development of a work programme and its implementation based on the report of the Madrid meeting. The decision also calls for, *inter alia*: representation from indigenous and local communities to the widest possible extent; annual working group meetings in conjunction with SBSTTA; short- and medium-term work programmes; case studies relating to Article 8(j); and application for observer status to and development of a memorandum of understanding with the World Intellectual Property Organization. COP-4 decisions on the CHM, inland waters, marine and coastal biodiversity, access and benefit-sharing, and relations with other biodiversity-related agreements also included references to indigenous and local communities.

**SBSTTA-4:** The fourth session of SBSTTA met in Montreal, Canada, from 21-25 June 1999. SBSTTA recommendations on dryland biodiversity, the control of plant gene expression and environmental impact assessments addressed the role and knowledge of indigenous and local communities. Additionally, discussions on sustainable use and tourism highlighted the potential socio-economic and cultural impacts on such groups.

**ISOC:** The first Intersessional Meeting on the Operations of the Convention (ISOC) met in Montreal, Canada, from 28-30 June 1999. Discussion of traditional knowledge and indigenous and local participation arose in deliberations on the review of access to genetic resources and benefit-sharing, as well as IPR and the Agreement on Trade-Related Aspects of Intellectual Property Rights.

#### **RECENT MEETINGS RELATED TO THE CBD AND ARTICLE 8(j)**

**PANEL OF EXPERTS ON ACCESS AND BENEFIT-SHARING:** The Panel of Experts met in San José, Costa Rica, from 4-8 October 1999. COP Decision IV/8 called for the establishment of a regionally balanced panel of experts on access and

benefit-sharing, which received guidance from the ISOC. The meeting was co-hosted by the Governments of Costa Rica and Switzerland, and focused on four items: access and benefit-sharing arrangements for scientific and commercial purposes; review of legislative, administrative and policy measures at national and regional levels; review of regulatory procedures and incentive measures; and capacity-building. The Panel developed a set of recommendations, which include general conclusions and specific points on prior informed consent, mutually agreed terms, information needs and capacity-building.

**CARTAGENA PROTOCOL ON BIOSAFETY:** The resumed session of the Extraordinary Meeting of the Conference of the Parties for the Adoption of the Protocol on Biosafety to the CBD was held in Montreal, Canada, from 24-28 January 2000. Following four days of informal consultations and five days of formal negotiations, delegates adopted the Cartagena Protocol on Biosafety. The Protocol addresses the safe transfer, handling and use of living modified organisms (LMOs) that may have an adverse effect on biodiversity with a specific focus on transboundary movements. It establishes an advance informed agreement procedure for imports of LMOs, incorporates the precautionary principle and details information and documentation requirements.

**SBSTTA-5:** The fifth session of SBSTTA met in Montreal, Canada, from 31 January – 4 February 2000. Most delegates were satisfied with the progress and efficiency of work during the week, although some expressed hope that future agendas would be more focussed. SBSTTA-5 developed recommendations on, *inter alia*: inland water biodiversity; forest biodiversity; agricultural biodiversity; marine and coastal biodiversity, including coral bleaching; a programme of work on dry and sub-humid lands; alien species; the ecosystem approach; biodiversity indicators; the pilot phase of the Clearing-House Mechanism; the second national reports; and *ad hoc* technical expert groups.

**FOURTH INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY:** Approximately 80-100 participants attended the forum, which met in Sevilla, Spain, from 25-26 March 2000. Three working groups were convened to: undertake a gap analysis of the documentation for the First Meeting of the *Ad Hoc* Open-ended Inter-Sessional Working Group on Article 8(j), including, *inter alia*, incorporation of outcomes from the Madrid Workshop on Traditional Knowledge, land rights, women's issues, and synergies; draft a political statement for release later in the meeting; and formulate strategies for indigenous participation at the working group meeting. A caucus on Indigenous Women and Biodiversity met on 26 March to discuss: women as key role-players and custodians of indigenous knowledge; identification of resources toward the inclusion of women in research; and references to women in the meeting's documentation. A drafting group within the caucus prepared a political statement to be released with the Indigenous Forum's document.

#### **THINGS TO LOOK FOR TODAY**

**OPENING CEREMONY:** An opening ceremony conducted by indigenous groups will start at 9:00 am in the Plenary hall.

**PLENARY:** The meeting will start at 10:00 am in the Plenary hall to hear opening remarks and statements from the Indigenous Forum.