

**SUMMARY OF THE SEVENTH MEETING
OF THE WORKING GROUP ON
ARTICLE 8(J) OF THE CONVENTION ON
BIOLOGICAL DIVERSITY:
31 OCTOBER - 4 NOVEMBER 2011**

The *Ad hoc* Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions under the Convention on Biological Diversity (CBD) met in Montreal, Canada, from 31 October - 4 November 2011. Approximately 250 participants attended the session, including representatives from governments, intergovernmental and non-governmental organizations, indigenous peoples and local communities, business and academia.

The Working Group held an in-depth dialogue on ecosystem management, ecosystem services and protected areas; and adopted eight recommendations on: progress in implementation of Article 8(j) and related provisions; Tasks 7, 10 and 12 (benefit-sharing from, and unlawful appropriation of, traditional knowledge) of the Article 8(j) Work Programme; development of elements of *sui generis* systems for the protection of traditional knowledge; mechanisms to promote the effective participation of indigenous and local communities (ILCs) in the work of the Convention, including a report of an expert group meeting of local community representatives; Article 10(c) (customary sustainable use) as a new major component of work on the Article 8(j) work programme; development of indicators relevant for traditional knowledge and customary sustainable use; recommendations from the UN Permanent Forum on Indigenous Issues (UNPFII); and terms of reference for the development of guidelines on repatriation.

The Working Group made progress on Article 10(c), recommending the development of an action plan on customary sustainable use and its phased implementation, and on repatriation. Delegates, however, faced difficulties in addressing: references to rights and legislation on lands, waters and resources in the context of, and to the impacts of climate change on, customary sustainable use; reference to international repatriation; and the need for prior informed consent for the continued use of repatriated traditional knowledge by the repatriating country. In addition, despite reiterated

recommendations from the UNPFII and the unprecedented expert group on local communities, the Working Group did not tackle the issue of revising the CBD terminology from ILCs to “indigenous peoples and local communities” and its implications for Convention’s work.

The Working Group recommendations will be submitted to the CBD Conference of the Parties (COP) at its eleventh meeting, to be held in October 2012.

A BRIEF HISTORY OF CBD ARTICLE 8(J)

The CBD was adopted on 22 May 1992, and entered into force on 29 December 1993. There are currently 193 parties to the Convention, which aims to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources. The Convention’s work under Article 8(j) (traditional knowledge) commenced at COP 3 (November 1996, Buenos Aires, Argentina). COP 4 (May 1998, Bratislava, Slovakia) established and adopted the terms of reference for an open-ended working group on Article 8(j).

ARTICLE 8(J) WG 1: At its first meeting (March 2000, Seville, Spain), the *Ad hoc* Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions considered

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elements for a programme of work on Article 8(j), and also addressed forms of protection for traditional knowledge.

COP 5: At its fifth meeting (May 2000, Nairobi, Kenya), the COP extended the Working Group's mandate to review progress in implementation; explored ways to increase participation; and adopted a programme of work on Article 8(j), comprising elements and tasks on participatory mechanisms, status and trends of traditional knowledge, traditional cultural practices for the conservation and sustainable use of genetic resources, benefit-sharing, exchange and dissemination of information, and monitoring and legal elements.

ARTICLE 8(J) WG 2: At its second meeting (February 2002, Montreal, Canada), the Working Group considered: an outline for the composite report on the status and trends of traditional knowledge; recommendations for the conduct of cultural, environmental and social impact assessments; participatory mechanisms; and the effectiveness of existing instruments impacting the protection of traditional knowledge, particularly intellectual property rights (IPRs).

COP 6: At its sixth meeting (April 2002, The Hague, the Netherlands), the COP adopted the Bonn Guidelines on access and benefit-sharing (ABS) and also considered the role of IPRs in the implementation of ABS arrangements. The COP identified actions to be taken with respect to the integration of Article 8(j) into the CBD thematic work programmes, and adopted the outline of the composite report.

ARTICLE 8(J) WG 3: At its third meeting (December 2003, Montreal, Canada), the Working Group considered: recommendations from the UN Permanent Forum on Indigenous Issues; potential socio-economic impacts of genetic use restriction technologies; elements for *sui generis* systems for the protection of traditional knowledge; participatory mechanisms; the Akwé: Kon guidelines for the conduct of cultural, social and environmental impact assessments; and the composite report.

COP 7: At its seventh meeting (February 2004, Kuala Lumpur, Malaysia), the COP adopted the Action Plan on capacity building for ABS, mandated the Working Group on ABS to negotiate an international regime on ABS and agreed on the terms of reference for such a negotiation. The COP also adopted the Akwé: Kon Guidelines.

ARTICLE 8(J) WG 4: At its fourth meeting (January 2006, Granada, Spain), the Working Group considered, *inter alia*: collaboration with the Working Group on ABS; participatory mechanisms; elements for an ethical code of conduct for the respect of the cultural and intellectual heritage of ILCs; genetic use restriction technologies; and the composite report.

COP 8: At its eighth meeting (March 2006, Curitiba, Brazil), the COP instructed the Working Group on ABS to complete its work with regard to the international ABS regime at the earliest possible time before COP 10; and requested the Working Group on Article 8(j) to, *inter alia*, contribute to the mandate of the Working Group on ABS.

ARTICLE 8(J) WG 5: At its fifth meeting (October 2007, Montreal, Canada), the Working Group did not reach agreement on inputs to the negotiation of an international ABS regime, due to divergence of views with regard to both procedural and substantive issues.

COP 9: At its ninth meeting (May 2008, Bonn, Germany), the COP adopted a roadmap for the negotiation of the international ABS regime before the 2010 deadline. The COP decided that the Working Group on Article 8(j) should work on: guidelines for documenting traditional knowledge, a plan of action for retention of traditional knowledge, participatory mechanisms for ILCs in the Convention, elements of *sui generis* systems, elements of the ethical code of conduct, and further work on the composite report.

ARTICLE 8(J) WG 6: At its sixth meeting (November 2009, Montreal, Canada), the Working Group adopted a series of recommendations, including an advanced draft of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of ILCs, and transmitted detailed views on the international ABS regime to the ABS Working Group.

COP 10: At its tenth meeting (October 2010, Nagoya, Japan), the COP adopted as a package: the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization; the CBD Strategic Plan for the period 2011-2020, including a mission, and strategic goals and targets aiming to inspire broad-based action by parties and stakeholders; and a decision on activities and indicators for the implementation of the Strategy for Resource Mobilization adopted at COP 9. The meeting also adopted the Tkarihwaié:ri Code of Ethical Conduct and decided to convene an intersessional Article 8(j) Working Group meeting. There are currently 66 signatories to the Nagoya Protocol, and no ratifications. Fifty ratifications are required for the Protocol to enter into force.

REPORT OF THE MEETING

On Monday, 31 October 2011, Kazuaki Hoshino (Japan), on behalf of the COP 10 President, opened the meeting. Charles Patton, Mohawk Nation, welcomed delegates to Mohawk traditional territory and conducted a ceremonial opening of the meeting. Iraqi Minister of Environment Sargon Lazar Slewa reported on national implementation of the Convention, and called for further technical support.

Co-Chair Hoshino underscored: recent achievements of the Working Group, including the adoption of the Tkarihwaié:ri Code of Ethical Conduct and the Nagoya Protocol; ILCs' role in contributing to the achievement of the Aichi Targets and the Convention's objectives; and the new major component on Article 10(c) (customary sustainable use).

CBD Executive Secretary Ahmed Djoghlafl highlighted that Aichi Target 18 (traditional knowledge) aims to integrate traditional knowledge in all CBD processes and that the Working Group should provide guidance on Article 10(c) in relation to the operationalization of the Nagoya Protocol.

The International Indigenous Forum for Biodiversity (IIFB) called for: using the term "indigenous peoples" under the CBD; considering the full and effective participation of indigenous peoples as an international standard; and respecting free, prior informed consent (PIC). The Indigenous Women's Biodiversity Network (IWBN) welcomed the culturally appropriate methodology of the capacity-building workshops held in Latin America and the Caribbean, and stressed the need to complete work on *sui generis* systems. The International Forum for Local

Communities (IFLC) called for the development of a mechanism to ensure the full and effective participation of local communities in the CBD process.

ORGANIZATIONAL MATTERS: Delegates adopted the meeting agenda and organization of work (UNEP/CBD/WG8J/7/1/Rev.1 and Add.1/Rev.1) without amendment. They elected Snežana Prokić (Serbia) as Rapporteur of the meeting; and appointed Gunn-Britt Retter, Lucy Mulenkei, Gam Shimray, Maria Eugenia Choque Quispe, Malia Nobrega, Yvonne Visina and Polina Shulbaeva as Indigenous Friends of the Bureau. Delegates further appointed Gunn-Britt Retter as Co-Chair of the Working Group.

In response to queries posed by ILC representatives in contact-group discussions on Tuesday, on Wednesday Co-Chair Hoshino made a statement on the practice of ILC participation in the Working Group, clarifying that: in light of its mandate and in the spirit of partnership, the Article 8(j) Working Group encourages the fullest participation possible of ILCs in all Working Group meetings, including in contact groups, and welcomes ILC representatives as Friends of the Co-Chairs, Friends of the Bureau and Co-Chairs of contact groups; this well-established practice is without prejudice to the applicable rules of procedure of the Conference of the Parties, establishing that representatives duly nominated by parties are to conduct the business of CBD meetings; and therefore any text proposal by ILC representatives must be supported by at least one party.

PROGRESS REPORT ON THE WORK PROGRAMME

On Monday, the Secretariat introduced the report on progress in the implementation of Article 8(j) (UNEP/CBD/WG8J/7/2), including its integration in thematic areas and cross-cutting issues. The EU urged parties to submit information related to the implementation of the work programme. Japan highlighted the need to ensure harmony between the Working Group's future work and the implementation of the Nagoya Protocol. Colombia called for further streamlining work under the CBD, the UN Framework Convention on Climate Change (UNFCCC) and the UN Convention to Combat Desertification (UNCCD) and to foster ILCs' participation under these conventions.

Ecuador reported on the ongoing ratification process of the Nagoya Protocol and the establishment of a national office to address biopiracy. Argentina, Malawi, Ukraine and Ethiopia announced their intention to sign the Nagoya Protocol. Sudan underscored national efforts to ratify the Nagoya Protocol. China reported on: legislation on protection of non-material heritage; protection of traditional medicine; a national strategy on protecting traditional knowledge; and establishment of a national repository for traditional knowledge. Thailand called for financial support to indigenous peoples for developing their plans and protocols. The World Intellectual Property Organization (WIPO) reported that its General Assembly renewed the mandate of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), requesting it to expedite text-based negotiations, with the objective of reaching agreement on an international legal instrument for the effective protection of genetic resources, traditional knowledge and traditional cultural expressions.

On requesting parties to provide information on the implementation of the work programme, Canada and the Republic of Korea questioned specific references to the Akwé: Kon Guidelines and the Tkarikwaie:ri Code of Ethical Conduct. Ukraine supported the examination of the fourth and fifth national reports to develop good practices on implementation of Articles 8(j) and 10(c), and related provisions. India and Ukraine supported holding one meeting of the Article 8(j) Working Group in the next inter-sessional period, with Canada requesting it be held back-to-back with the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA). The IIFB called for the full integration of Aichi Target 18 in revised and updated national biodiversity strategies and action plans (NBSAPs). Cameroon, for the African Group, emphasized strengthening ILCs' participation in national decision-making processes, and integrating traditional knowledge in conservation decision making.

On Wednesday, delegates considered a draft recommendation. On compiling good practices in the fourth and fifth national reports, Lebanon noted the importance to share not only good practices but also challenges encountered. On integrating Aichi Target 18 in NBSAPs, Benin suggested referring to traditional cultural practices concerning conservation and sustainable use; and Norway added reference to cultural knowledge. On financial support for ILCs to develop community plans and protocols, Australia, opposed by Guatemala, proposed to delete reference to the relevant section of the report of the expert group meeting of local community representatives, with Canada explaining that the Working Group lacked time to consult on the implications of the expert group's reports on Global Environment Facility (GEF) funding. On Friday, plenary considered an addendum to the recommendation on possible topics for the next in-depth dialogue, and adopted the recommendation without amendment, leaving the list of topics in brackets for COP 11 consideration.

Final Recommendation: In the recommendations on progress in the implementation of Article 8(j) and related provisions and its integration into the various areas of work under the CBD (UNEP/CBD/WG8J/7/L.2), the Working Group recommends that the COP:

- request parties to submit outstanding national reports, in consultation with ILCs, in time for the next Working Group meeting, and the Secretariat to analyze, summarize, and make available information from national works and to continue to report on progress;
- call upon parties to integrate Aichi Target 18 of the new Strategic Plan into revised NBSAPs, respecting traditional knowledge and customary practices that are of interest for the conservation and sustainable use of biodiversity;
- request the Secretariat to compile good practices, including to understand difficulties encountered in other geographical areas, on implementation of Article 8(j) and related provisions;
- decide that the Working Group will meet prior to COP 12;
- decide that a topic for the in-depth dialogue at the next Working Group meeting will be decided by COP 11; and
- note the lack of financial support for ILCs in developing community plans, including community protocols, and urge parties and request the GEF to support ILCs to organize

themselves to effectively participate in national and international dialogues on the CBD.

The recommendation includes 14 bracketed topics for the next in-depth dialogue (UNEP/CBD/WG8J/7/L.2/Add.1), including: marine biodiversity, inland waters, climate change, education and research, biosecurity, women's wisdom, food and the living planet, livelihoods, and economic sustainability of protected areas.

PARTICIPATORY MECHANISMS

On Monday, the Secretariat introduced the document on participatory mechanisms for ILCs (UNEP/CBD/WG8J/7/9). The IIFB called for: increased contributions to the Voluntary Fund as the main mechanism for indigenous participation in the CBD; funding of indigenous peoples in the development of indigenous-to-indigenous training programmes; and facilitating the use of national and community radios as culturally appropriate tools for communication, education and public awareness (CEPA). The EU called for facilitating additional capacity-building workshops subject to availability of funding, and increasing contributions to the Voluntary Fund, including funding local community representatives' participation.

Brazil supported translating relevant materials into national and local languages. Thailand recommended electronic translation efforts include national and local languages. Ecuador and Colombia cautioned against relying only on electronic means of communication, with India pointing to the technology gap and digital divide, and suggesting developing toolkits in local languages. Colombia supported the use of traditional means of communication. Mexico suggested encouraging parties to diversify means of communication.

Jordan expressed concern that the proposed exchange of expertise in Articles 8(j), 10(c) and 15 (access to genetic resources) will depend on available funding.

Colombia suggested ILC workshop methodology be based on consultations with ILCs and on their customary practices. Mexico, with Lebanon, preferred inviting ILC representatives through official channels. Botswana highlighted the role of community-based organizations. A representative of the Sámi Parliament from Norway encouraged continued development of mechanisms for promoting ILCs' full and effective participation, taking into account gender considerations, when selecting participants for meetings and expert groups, and when engaging in all other Convention activities. The IWBN called for increased support for the participation of remote communities, women, elders and youth in capacity-building workshops.

On ABS capacity building, Argentina and Brazil questioned reference to the Natural Resource Stewardship Circle guidelines concerning the sustainable use of biodiversity in the aromatic, perfume and cosmetic industry. New Zealand suggested avoiding duplication of work with the Intergovernmental Committee of the Nagoya Protocol (ICNP). Canada recommended that: future capacity-building workshops focus on implementation of the new Strategic Plan and achievement of the Aichi Targets; the COP encourage ILCs' full and effective participation in ICNP meetings; and parties increase participation of ILC representatives in official delegations to ICNP meetings.

On local communities, Senegal, for the African Group, recommended that each country be represented by at least one

ILC member, in addition to a government representative, at all regional CBD meetings. The Republic of Korea stated that the common characteristics of local communities identified by the expert group could serve as guidance for identifying local communities, while stressing the need for additional work on a possible definition.

On Wednesday, delegates discussed a draft recommendation. The EU requested consistently referring to ILCs, and adding "community to community" to "indigenous to indigenous" training projects. On integrating ILC representatives into other capacity-building efforts of the Secretariat, including the implementation of the Nagoya Protocol, Australia stressed that the Nagoya Protocol is not yet in force, and suggested deleting reference to its implementation. On ILC workshops, Brazil proposed raising awareness and facilitating participation in the Nagoya Protocol process. New Zealand noted that this is beyond the Working Group's mandate, with Canada cautioning against potential duplication of work with the ICNP. Delegates agreed to Iraq's proposal to refer to using national and local media, instead of national and community radios. On text urging governments to support translation of essential CBD documents into national languages, Ethiopia suggested translation into "national and local" languages and opposed reference to the verification of translations. An ILC representative, supported by Norway, suggested further inviting parties to share national laws, policies, protocols, instruments, programmes and other actions towards the implementation of Article 8(j) and related provisions.

On the Voluntary Fund, the EU, supported by New Zealand, called "for as broad participation as possible" by ILCs in regional and subregional capacity-building workshops; while Senegal, for the African Group, preferred to "ensure the participation of at least one ILC representative." Parties eventually agreed "to provide opportunities for participation of one ILC representative from each country."

On local communities, Guatemala, supported by an ILC representative and opposed by Australia, proposed inviting parties to "take into account," rather than "consider using" the report of the expert group meeting of local community representatives. Eventually, delegates agreed to "encourage" parties to consider the report. An ILC representative, supported by Senegal and the Philippines, suggested developing, based on the relevant sections of the expert group report, "mechanisms for local communities' effective participation" in the CBD work. New Zealand suggested, and delegates eventually agreed on, "taking note" of the relevant sections of the expert group's report "as potentially useful advice for developing measures and mechanisms to assist in the CBD implementation." The Amazon Cooperation Network, supported by the Philippines, proposed that the CBD declare 13 July as the international day of local communities, because that was the first day on which the unprecedented expert group meeting on local community representatives convened.

On Friday afternoon, delegates considered a final draft recommendation. The EU proposed to clarify a recommendation about sharing "information on" national laws and policies, and qualify reference to "protocols" with the addition of "as appropriate." On declaring 13 July local community day, New

Zealand noted that only the United Nations General Assembly can declare international days. Delegates agreed to bracket the provision. The document was adopted as amended.

Final Recommendation: The recommendation on participatory mechanisms for ILCs in the CBD's work (UNEP/CBD/WG8J/7/L.3) contains sections on: capacity building, CEPA, development of communication mechanisms and tools, participation including through the Voluntary Fund for Participation of ILC representatives, other initiatives, and local communities.

On capacity building, the Working Group recommends that the COP:

- request the Secretariat to continue its efforts to: implement COP decisions relating to capacity building, including through development of appropriate methodologies to increase the number of ILC representatives, particularly women; convene regional and subregional workshops for ILC capacity building, including in support of the Guidelines on Biodiversity and Tourism Development; and explore facilitating joint capacity-building workshops with other multilateral environmental agreements; and
- request parties, ILCs and others to collaborate with the Secretariat to facilitate ILC-specific workshops and, subject to the availability of funds, to develop strategies to raise awareness of and facilitate their full and effective participation in the CBD processes.

On developing communication mechanisms and tools, the Working Group recommends that the COP:

- request the Secretariat to continue to develop electronic, traditional and diverse means of communication;
- invite parties to share information on national laws, initiatives and protocols, as appropriate, to implement Article 8(j);
- invite parties and others to provide the needed means to ILCs and to partner with them to deliver "indigenous to indigenous" and "community to community" training projects, including "elders and youth" and "women and children" initiatives, focusing on the role of traditional knowledge and customary sustainable use; and
- invite governments to facilitate and encourage use of national and local media.

On participation, including through the Voluntary Fund, the Working Group recommends that the COP request the Secretariat to continue its efforts to promote the Voluntary Fund and provide opportunity for participation of one ILC representative from each country at regional and subregional capacity-building workshops; and invite governments and donors to contribute generously to the Voluntary Fund.

On local communities, the Working Group recommends that the COP:

- encourage parties to consider the report of the expert group meeting of local community representatives as a potentially useful input to the promotion of the full and effective participation of local communities in the CBD's work;
- take note of the characteristics listed in the annex to the report as potentially useful advice in identifying local communities within the CBD mandate, and developing measures and mechanisms to assist in the CBD implementation and to more efficiently encourage local community participation; and

- request the Secretariat to take practical steps to ensure that local community representatives have equitable access to the Voluntary Fund for participation in CBD meetings and capacity-building workshops, and to commence disaggregation of data and statistics on local community representatives.

MULTI-YEAR PROGRAMME OF WORK

ARTICLE 10(c): On Monday, Pernilla Malmer (Sweden) introduced the report of the expert group meeting on Article 10 with a focus on Article 10(c) (customary sustainable use) (UNEP/CBD/WG8J/7/5/Add.1). Co-Chair Hoshino introduced the document on Article 10(c) as a major component of the work programme on Article 8(j) (UNEP/CBD/WG8J/7/5). Thailand and the EU recommended reporting to SBSTTA on a regular basis on the integration of Articles 8(j) and 10(c) related issues in the CBD thematic programmes. The item was discussed in plenary on Monday and Tuesday, and in a contact group, co-chaired by Tone Solhaug (Norway) and Joji Cariño (IIFB), from Tuesday to Thursday.

South Africa, for the African Group, supported the development of: guidance on national and subnational legislation on customary sustainable use and traditional knowledge (task 3), and on economic opportunities for ILCs, such as geographic branding and other forms of creative intellectual property protection to promote unique products (task 6); and advice on the methods used to put value on biodiversity and ecosystem services to incorporate indigenous cultural and spiritual values with their PIC (task 7). On task 7, an ILC representative suggested comprehensively assessing the relationship between ecosystem services and customary use. Ecuador highlighted the need to ensure linkages with WIPO, particularly for task 3.

Australia: opposed references to land and resource rights and to IPRs in the context of task 6; preferred referring to "approval and involvement of" ILCs rather than PIC; suggested developing guidelines on the "establishment and management" of protected areas, rather than guidelines on protected area "legislation" (task 15); recommended consultation with WIPO in the development of information management mechanisms to facilitate the documentation of traditional knowledge and practices for customary sustainable use (task 13); and considered beyond the CBD mandate task 3 and the proposed review of national and subnational laws towards legal recognition of collective ownership and customary resource management (task 4).

New Zealand expressed similar concerns, including on inconsistency with CBD language. Argentina remarked that the proposed monitoring system on the relationship between customary sustainable use and ecosystem services and human well-being and sustainable development (task 11) is beyond the Working Group's mandate. Argentina and Brazil also considered tasks 3, 4 and 15 beyond the Working Group's mandate. Canada expressed concern about tasks 3, 4, 11 and 15.

The Republic of Korea cautioned against the proliferation of guidelines. On task 4, an ILC representative recommended referring to "land and resources rights of indigenous peoples and local communities" and including a task on encouraging parties to promote customary sustainable use in collaboration with ongoing local initiatives.

On Tuesday, Norway suggested linking the new major component more closely to the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity and other CBD work on sustainable use, including by SBSTTA. The EU emphasized that the new major component will contribute to meeting the Aichi Targets, especially Targets 18 and 14 (ecosystem services). Canada proposed additional tasks on: sustainable and healthy communities; sustainable livelihoods and local economies; lands, waters and resources; and education. The IIFB requested: reference to governance in task 1 on encouraging community-based resource management; application of all tasks to the traditional territories, lands and resources of indigenous peoples; retention of task 15 on protected areas; and additional tasks on climate change and gender issues, including indigenous women.

In the contact group, delegates debated whether to refer to the “full and effective participation and free PIC” or “approval and involvement” of ILCs, eventually agreeing to use the Nagoya Protocol language on “PIC or approval and involvement.”

Participants agreed on: developing guidelines to promote and encourage not only community-based natural resources management but also governance, and integrating both policy and practice on customary sustainable use in NBSAPs; and a new task proposed by an ILC representative on promoting and strengthening community-based initiatives and ILCs’ joint activities in the implementation of Article 8(j).

Delegates debated the need for developing guidelines for the development of mechanisms, legislation or other appropriate initiatives to assist parties to “recognize” customary sustainable use and traditional knowledge. Delegates then discussed the need to request parties to review, as appropriate, national and subnational laws and policies, to ensure that collective ownership and customary resource management are not hindered by conflicting legal instruments. An ILC representative suggested referring to ownership “of indigenous peoples and local communities’ lands, waters and natural resources,” which was not supported. A developing country, supported by a number of other parties, suggested replacing “collective ownership” with “collective and customary use of resources.” Another developing country suggested focusing only on policies, and not on “laws.”

Participants debated the need to ensure sustainability in customary use, with some parties cautioning that commodification of customary use could result in unsustainable use; and the relevance of intellectual property protection in developing guidelines on economic opportunities for ILCs.

Participants addressed a proposal to explore climate change impacts on customary sustainable use practices and traditional knowledge, with some participants arguing that this issue is under the purview of the UNFCCC and the Intergovernmental Panel on Climate Change, while others stressed that the UNFCCC does not consider customary use practices and traditional knowledge.

On Wednesday, the contact group considered an amended list of tasks. On a plan of action, delegates agreed to include a gap analysis with reference to multilateral environmental agreements and relevant Food and Agriculture Organization instruments, in collaboration with relevant agencies, and with ILCs’ full participation. A developed country regional group, opposed by

some developing countries, proposed that the plan of action contribute to the development of a toolbox on sustainable use and farmers’ rights by the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR). On education, a developing country opposed references to farmers’ varieties, landraces and local livestock breeds. ILCs requested specific references to ILC organizations, especially women.

On Thursday, the contact group considered a Co-Chairs’ text, containing an indicative list of tasks on customary sustainable use. A developed country regional group requested informing SBSTTA of the outcomes of the Working Group’s deliberations on customary sustainable use to contribute to its discussions. Delegates agreed and added, *inter alia*, further references to the indicative list of tasks on customary sustainable use and the Addis Ababa Principles and Guidelines.

On the plan of action, certain developed countries recommended that the development of the plan of action precede the plan of implementation, while certain developing countries proposed simultaneous consideration. One developing country stressed the need to identify funding for implementation.

In the evening, the contact group debated tasks related to legislation and land and resource rights. One developed country proposed “to explore best practices that support ILCs, including traditional institutions and authorities, as appropriate, to exercise responsible and accountable customary sustainable use.” An ILC representative stressed the need for enabling laws on tenure and on land and resource rights, and other supportive mechanisms. A developing country suggested clarifying that best practices “deal with resource rights.” A developing country group emphasized that continuing to gather case studies was not productive, preferring guidelines to develop legislation and other mechanisms to respect and promote customary sustainable use.

On Friday morning, plenary heard a report from Contact Group Co-Chair Solhaug on conclusion of work on sustainable customary use with the exception of two bracketed tasks on: reviewing national and subnational policies to ensure protection and encouragement of customary sustainable use; and exploring the relationship between climate change and customary sustainable use, and the value of customary sustainable use and traditional knowledge for climate change adaptation.

Plenary then discussed a draft recommendation. Canada, opposed by Mexico, proposed requesting the Secretariat to compile submissions from parties, ILCs and others on Article 10(c) as a major component for COP consideration. The EU explained that COP 11 is to develop an action plan, so submissions could take place afterwards.

Regarding the annexed list of indicative tasks, Australia noted the need to consult with its capital on the task on lands, waters and resources. On developing guidelines on community-based resource management, an ILC representative requested reference not only to consistency with national law, but also “with applicable international instruments.” Noting that the list of tasks is indicative, Canada proposed to unbracket the task on reviewing policies to ensure customary use is encouraged. Australia, opposed by Colombia and the Philippines, requested making the provisions subject to national legislation. The task remained bracketed.

On exploring the relationship between climate change and customary sustainable use, Brazil, supported by Canada, asked to keep it bracketed, expressing concerns about duplication of work with the UNFCCC. The EU underscored the relevance of the fourth meeting of the Working Group on the Review of Implementation of the Convention (WGRI) and SBSTTA 16 discussions. The task was retained in brackets.

In the closing plenary, delegates eventually agreed to: encourage parties to facilitate ILCs' full and effective partnership in the negotiation and elaboration of this new major component of work; and to remove brackets around a request to the Secretariat to compile submissions and provide the compilation to COP 11. Australia suggested that task 3 (the development of guidelines as input in developing mechanisms, legislation or other initiatives to assist parties to respect customary sustainable use and traditional knowledge) remain in brackets.

Final Recommendation: In the recommendations on Article 10(c) (sustainable customary use) as a major component of the Work Programme (UNEP/CBD/WG8J/7/L.6), the Working Group recommends that the COP recognize the importance of customary use of biodiversity for ILCs and encourage parties to facilitate ILCs' full and effective partnership in the negotiation and elaboration of this new major component of work; and request the Secretariat to compile submissions for COP 11 consideration.

The Working Group further recommends the COP:

- agree on the development of a plan of action on customary sustainable use;
- invite parties, ILCs and others to provide information for the development of the action plan considering, among others, the indicative list of tasks annexed to the decision;
- request the Secretariat to develop a plan of action building on the Addis Ababa Principles and Guidelines, the ecosystem approach and relevant materials based on the indicative list of tasks, submissions and other relevant information, including a gap analysis, and to include a proposal for phased implementation of the plan action;
- request the Working Group to review the draft plan of action at its next session, and to provide guidance about its implementation; and
- mandate the Working Group to provide views on the related issues directly to SBSTTA to integrate Articles 8(j) and 10(c) considerations as cross-cutting issues into the CBD thematic work programmes.

The recommendation includes an annex containing a list of 15 indicative tasks, organized under the following sections: guidance on sustainable use and related incentive measures for ILCs; measures to increase ILC and government engagement in Article 10 and implementation of the ecosystem approach; and Article 10(c) as a cross-cutting issue into the Convention's work programmes and thematic areas. Under the section on guidance on sustainable use and related incentive measures for ILCs, nine tasks are grouped under four subtitles on: customary sustainable use and diverse local economies; lands, waters and biological resources; targeted support and funding; and opportunities and knowledge gaps for further exploration.

Indicative tasks include to:

- develop guidelines to promote community-based resource management and governance consistent with national legislation and applicable international instruments;
- explore the nexus between customary sustainable use and sustainable use and related economic opportunities for ILCs;
- develop advice and expand on methods used to value biodiversity and ecosystem services to incorporate indigenous cultural and spiritual values with their PIC or approval and involvement, and assess the relationship between ecosystem services and customary sustainable use;
- identify best practices to, *inter alia*: promote, in accordance with national legislation and applicable international obligations, ILCs' full and effective participation and their PIC or approval and involvement in the establishment, expansion, governance and management of protected areas, including marine protected areas; encourage the application of traditional knowledge and customary sustainable use in protected areas; and promote the use of community protocols in assisting ILCs to promote customary sustainable use in those areas.

Tasks that remain bracketed are to:

- develop guidelines that may serve as input in developing mechanisms, legislation or other initiatives to assist parties to respect and promote customary sustainable use and traditional knowledge, considering ILCs' customary laws, community protocols and procedures in respect of traditional institutions and authorities;
- review national and subnational policies with a view to ensuring customary sustainable use is protected and encouraged; and
- explore the relationship between climate change and customary sustainable use, practices and traditional knowledge and their value for climate change adaptation.

TASKS 7, 10 AND 12: On Tuesday, the Secretariat introduced the document on Tasks 7 (benefit-sharing), 10 (development of standards and guidelines for the reporting and prevention of unlawful appropriation of traditional knowledge and associated genetic resources) and 12 (exchange and dissemination of information) of the Article 8(j) Work Programme (UNEP/CBD/WG8J/7/4).

Norway proposed: exchanging information between the Article 8(j) Working Group and WIPO to avoid duplication of work; and requesting the Secretariat to assess the tasks not covered by WIPO. Brazil agreed with continuing the exchange of information between WIPO and the Working Group, emphasizing that the CBD is the appropriate forum for discussion of *sui generis* systems.

Mexico highlighted that the three tasks are closely tied to the Nagoya Protocol, with Thailand suggesting that these tasks contribute to assisting parties in preparing for the ratification of the Nagoya Protocol. The EU and Brazil supported developing draft guidelines for each task, based on national experiences and best practices, while avoiding duplication with the Nagoya Protocol and with a view to complementing it. The EU also supported regular reporting to the ICNP. Ethiopia, for the African Group, opposed by Japan, supported convening an *Ad Hoc* Technical Expert Group (AHTEG) on Tasks 7, 10, and, supported by India, Task 12.

Canada and New Zealand considered it premature to address Tasks 7, 10 and 12 without first considering the outcome of the WIPO negotiations and the potential entry into force and implementation of the Nagoya Protocol, with the Republic of Korea noting that the commissioning of studies is acceptable at this stage. Australia preferred transmitting the proposed studies directly to the Working Group and the ICNP rather than to a proposed AHTEG. China and Guatemala noted that parallel work under the Working Group and the ICNP is compatible.

Colombia proposed pilot projects on PIC and access to traditional knowledge, and exchange of successful experiences on communities' negotiations on benefit-sharing. The Philippines recommended that the proposed study on standards and guidelines for the prevention of unlawful appropriation of traditional knowledge also address compliance with the Nagoya Protocol. The IIFB, supported by Guatemala, recommended that the Working Group implement Task 7, taking into account the lack of enforcement mechanisms on the unlawful appropriation of traditional knowledge of indigenous peoples. The Maritime Aboriginal Peoples Council stressed that ILCs are not involved in WIPO text-based negotiations. ECOROPA noted that a gap analysis would facilitate complementarity between activities of different international bodies.

Delegates established a contact group, co-chaired by José Luis Suter (Argentina) and Yvonne Vizina (IIFB) that convened on Tuesday. The contact group discussed whether and how to refer to work under WIPO, with one developing country proposing to delete reference to "urging the successful conclusion of the WIPO IGC text-based negotiations." A developing country suggested expanding cooperation with the UNPFII and the UN Educational, Scientific and Cultural Organization (UNESCO). Participants also discussed the need for studies and an AHTEG. One country proposed a study on compliance mechanisms under the Nagoya Protocol, including compliance with community protocols; while certain developed countries stressed that this should be considered by the ICNP.

On Thursday, plenary considered a draft recommendation produced by the contact group. Brazil, supported by the Philippines and China, proposed referencing the WIPO IGC, UNESCO and UNPFII in the preamble and, opposed by the EU and Norway, deleting references to the IGC in the operative text. Parties agreed to remove reference to the IGC in text on advancing Tasks 7, 10, and 12 and bracketed reference to the IGC in the rest of the recommendation. During the final plenary on Friday, Brazil presented compromise language on taking into account, as appropriate, the work of other relevant international bodies such as the WIPO IGC, UNESCO and UNPFII. A similar reference was included in the preambular paragraph on taking into account the work of other relevant international bodies. The document was adopted, as amended, without brackets.

Final Recommendation: In the recommendation on Tasks 7, 10 and 12 (UNEP/CBD/WG8J/7/L.4), the Working Group recommends that the COP:

- take into account the adoption of the Nagoya Protocol and the Tkarihwaí:ri Code of Ethical Conduct, work under other relevant international bodies, including the WIPO IGC, UNESCO and UNPFII, while building on CBD work on *sui generis* systems;
- decide to advance the tasks by initially identifying how their implementation could best contribute to work under the CBD and its Nagoya Protocol;
- request the Secretariat to: commission three studies on the respective Tasks 7, 10 and 12, subject to availability of financial resources, to identify how their implementation can best contribute to the work under the Convention and its Nagoya Protocol, taking into account the work of other relevant international processes, such as the WIPO IGC, UNESCO and UNPFII; and to make the studies available to the next Working Group meeting with a view to recommending to the COP further implementation of the tasks, including the possible convening of an expert meeting; and
- invite parties, ILCs and others to submit views on the draft studies, and the Working Group to inform the ICNP on progress of work under the tasks of relevance to the Nagoya Protocol implementation.

REPATRIATION: On Tuesday, the Secretariat introduced the document on Task 15, including draft terms of reference to develop guidelines to facilitate repatriation of information, including cultural property, in order to facilitate the recovery of traditional knowledge of biodiversity (UNEP/CBD/WG8J/7/4/Add.1).

The EU supported repatriation as a strategy to revitalize traditional knowledge, but cautioned against impeding the continued use of the knowledge by the repatriating party. Brazil stated that such use is subject to the PIC of the knowledge holders. China called for developing national and international guidelines on repatriation and, supported by Syria, sharing best practices. Mexico called for synergies with UNESCO's work on repatriation, proposing that UNESCO assess if repatriation of traditional knowledge is covered under its instruments. Argentina suggested the CBD Secretariat compile information about other processes.

Stressing that cultural property is not a subset of information, Canada pointed out that policies regarding repatriation of cultural objects differ from, but could be adapted to deal with, repatriation of information and insisted that the AHTEG compile information about already existing processes rather than develop guidelines. India supported developing best-practice guidelines for consideration at the next Working Group meeting. The Tulalip Tribe called for references to *sui generis* systems and indigenous PIC for use after repatriation.

On Thursday, plenary considered a draft recommendation, with delegates focusing on the annexed terms of reference for Task 15. Brazil suggested, opposed by the EU and Norway, that the guidelines aim at "repatriation of indigenous and traditional knowledge of biodiversity, including cultural property," rather than knowledge "relevant to the conservation and sustainable use" of biodiversity. The EU proposed, and delegates agreed, that the guidelines aim to facilitate "enhancement of the existing repatriation activities" of indigenous and traditional knowledge.

The EU then recommended "the repatriation of knowledge relevant to the customary sustainable use of biodiversity, including indigenous and traditional knowledge associated with cultural property, should not impede the continued use of such knowledge in the repatriating party." Brazil opposed,

drawing attention to the need to respect PIC for the use of such information. Referring to CBD Article 17 (exchange of information), the EU highlighted that knowledge on conservation should be widely available, even after repatriation, and that repatriation should ensure that the original knowledge holders benefit from it, without imposing new restrictions on the application of such knowledge. The Secretariat explained that CBD Article 17(2) concerns exchange of information and is not primarily concerned with access to traditional knowledge. The EU expressed concern that the use of PIC and mutually agreed terms on information already in the public domain would dissuade countries from voluntary repatriation efforts. Highlighting the distinction between information in the public domain and publicly available information, an ILC representative said that traditional knowledge should not be considered in the public domain, and that traditional laws and systems establish how to use and share that information. The proposal was retained in brackets.

Canada preferred referring to “indigenous and traditional knowledge or traditional knowledge.” Ethiopia emphasized the difficulty of defining “traditional” knowledge. Argentina, supported by New Zealand, cautioned against defining traditional knowledge, proposing deletion of two paragraphs on an understanding of “indigenous and traditional knowledge or traditional knowledge” and on the scope of information to be repatriated. Participants also debated references to the scope of information to be repatriated. Colombia, opposed by Australia and the EU, proposed deleting reference to publicly available sources. Following informal consultation, delegates agreed to bracket the two paragraphs for COP 11 consideration.

The EU proposed to make a list of stakeholders indicative and delete references to: academic societies and research scientists, opposed by Malawi; the private sector, opposed by Tanzania, Norway and ILCs; and “individuals as collectors, creators and members of the public.” Delegates eventually agreed to retain references to specific stakeholders, but only refer to “individuals” without further specification. The EU, opposed by Ethiopia, Brazil and others, requested deleting language on determining how Task 15 might be useful for the implementation of the Nagoya Protocol. Delegates agreed to retain it, by adding “when it enters into force.”

An ILC representative, supported by the Philippines, Colombia, Brazil and Ecuador, proposed developing guidelines not only for national but also for international repatriation of traditional knowledge. Canada, supported by the EU, preferred examining national repatriation before considering international repatriation. Participants bracketed the text for COP 11 consideration.

On Friday afternoon, delegates considered a revised draft recommendation. Regarding a bracketed paragraph on studies to be conducted, Brazil presented compromise language on taking into account, as appropriate, the work of other relevant international bodies such as the WIPO IGC, UNESCO and UNPFII. A similar reference was included in a preambular paragraph on taking into account the work of other relevant international bodies. The EU, opposed by Ethiopia and Brazil, suggested that repatriation of knowledge relevant to customary sustainable use, including indigenous and traditional knowledge

associated with cultural property, “be carried out in accordance with national legislation.” Delegates eventually agreed to retain in brackets an earlier EU proposal that repatriation should not impede the continued use of repatriated traditional knowledge from the repatriating country. On language referring to Task 15 being interpreted in accordance with the Convention, in particular Article 8(j), the EU requested bracketing references to “Article 8(j).” The document was adopted as amended.

Final Recommendation: In the recommendation on Task 15 (UNEP/CBD/WG8J/7/L.9), the Working Group recommends that the COP, *inter alia*:

- adopt the annexed Terms of Reference for Task 15;
- invite submissions on national and international best practices, and request the Secretariat to make available a compilation of the information for the next Working Group session;
- recognize that cultural property and heritage is under UNESCO’s mandate, while the CBD seeks to facilitate the exchange of information relevant to the conservation and sustainable use of biodiversity, including the repatriation of indigenous and traditional knowledge, and request the Secretariat to cooperate with UNESCO in analyzing whether and how international legal instruments on ILCs’ cultural property and heritage contribute to the repatriation of indigenous and traditional knowledge; and
- request the Secretariat to develop draft best-practice guidelines for consideration by the Working Group at its next meeting, in accordance with CBD Article 17(2), with reference to international repatriation remaining in brackets. The terms of reference for Task 15 include, among other elements, that:
 - the purpose of Task 15 is to develop best-practice guidelines to facilitate enhancement of existing repatriation of indigenous and traditional knowledge relevant to the conservation and sustainable use of biodiversity, including of indigenous and traditional knowledge associated with cultural property, in accordance with Articles 8(j) and 17(2), with reference to Article 8(j) remaining in brackets;
 - the repatriation of knowledge should not impede the continued use of such knowledge in the party that decides to repatriate it, which remains bracketed;
 - Task 15 is to be interpreted in accordance with the Convention, in particular Articles 8(j) and 17(2), with reference to Article 8(j) remaining in brackets;
 - stakeholders may include, *inter alia*, academic societies and research scientists, the private sector, and individuals; and
 - the Working Group will further determine how work on Task 15 might usefully complement the effective implementation of the Nagoya Protocol, when it enters into force.

The terms of reference further include a proposed understanding of “indigenous and traditional knowledge or traditional knowledge,” as well as an indication of the scope of information to be repatriated, which remain bracketed.

SUI GENERIS SYSTEMS: On Wednesday, delegates took up elements of *sui generis* systems for the protection of traditional knowledge (UNEP/CBD/WG8J/7/3). Thailand supported continued capacity-building efforts by the Secretariat to enhance ILCs’ capacity to communicate their experiences on *sui generis* systems, including workshops on the Nagoya

Protocol, NBSAPs, and the work programme on protected areas. The EU and Ecuador emphasized that WIPO is the primary forum on intellectual property rights and the protection of traditional knowledge.

The EU, Canada, Australia and South Africa, for the African Group, welcomed the proposed expansion of the dialogue on *sui generis* systems to the promotion and preservation of traditional knowledge, underscoring complementarity between the Nagoya Protocol and *sui generis* systems. Canada also recommended: relating traditional knowledge to the conservation and sustainable use of biodiversity; and adding references to the WIPO text-based negotiations and the Nagoya Protocol. Australia proposed that the Working Group focus on non-legal aspects, opposing an invitation to report on legal reforms.

Guatemala stated that the Working Group complements work under the WIPO IGC. Mexico emphasized that the Nagoya Protocol is the “greatest achievement of the international community on traditional knowledge associated with genetic resources.” Argentina, supported by Brazil, suggested continuing the compilation of information for consideration at the next meeting of the Working Group.

India stressed: the need to focus primarily on the protection of traditional knowledge; the relevance of the Akwé: Kon Guidelines in the context of *sui generis* systems; and the need to carefully consider the protection of traditional knowledge in the context of reducing emissions from deforestation and forest degradation (REDD). The IIFB proposed: requesting parties, indigenous peoples and local communities, and others to provide case studies on measures for *sui generis* systems of protection of traditional knowledge; holding an electronic discussion on this; and convening an AHTEG to prepare a report. The IWBN stressed that research should be subject to PIC and proposed encouraging joint research with ILCs’ full and effective involvement.

On Thursday, delegates discussed a draft recommendation. The EU suggested evaluating whether mechanisms for *sui generis* protection may be applicable in national contexts rather than whether they conform to national legislation. Colombia suggested that the Secretariat receive, compile, analyze, revise and complement information on *sui generis* systems, for the Working Group’s review at its next meeting. The EU proposed eliminating reference to organizing an AHTEG to prepare a report. Canada noted the need for terms of reference for the AHTEG. Delegates agreed to convene the AHTEG subject to availability of funds.

Colombia proposed, and delegates agreed, to study the advantages and disadvantages of documenting traditional knowledge, rather than “monitoring and evaluating” its advantages. Côte d’Ivoire objected to holding capacity-building workshops “on the margins of official meetings” and delegates agreed to hold them back-to-back, when possible.

On Friday morning, delegates continued discussing the draft recommendation, agreeing to delete: as suggested by Colombia, a request to the Secretariat to continue to inform the WIPO IGC on “other matters of mutual interest and to continue to positively contribute to the work of the WIPO IGC”; and, as suggested by Brazil, language welcoming the commencement of text-based negotiations on traditional knowledge by the WIPO IGC and

encouraging early progress. On text noting the Nagoya Protocol provides “a *sui generis* framework for national implementation of ABS from the use of traditional knowledge associated with genetic resources,” Brazil proposed “acknowledging” the Nagoya Protocol provides “the framework for national implementation,” while Colombia suggested, and parties eventually agreed on, stating that the Nagoya Protocol “provides a favorable framework for the development of *sui generis* systems and for ABS from the use of traditional knowledge.” On Friday afternoon, plenary adopted the recommendation with minor amendments.

Final Recommendation: In the recommendation on elements of *sui generis* systems for the protection of traditional knowledge (UNEP/CBD/WG8J/7/L.5), the Working Group recommends that COP 11:

- decide to broaden the dialogue regarding *sui generis* systems to include the preservation and promotion of traditional knowledge relating to biodiversity;
- acknowledge that the Nagoya Protocol provides a favorable framework for the development of *sui generis* systems for ABS from the use of traditional knowledge;
- invite parties, ILCs and others to: communicate their views regarding a broad range of *sui generis* systems, including community protocols, policy, administrative or legislative measures; and in light of the adoption of the Nagoya Protocol, to report on any regional measures that have been taken to protect transboundary traditional knowledge, including *sui generis* systems that are being developed and evidence of their effectiveness;
- request the Secretariat to: compile and analyze input and revise and complement the note on elements of *sui generis* systems for the protection, preservation and promotion of traditional knowledge and to include a new element on regional measures; carry out an electronic discussion on *sui generis* systems; facilitate capacity-building activities for ILCs, where possible back-to-back with other meetings; and to continue to inform the WIPO IGC on work undertaken regarding *sui generis* systems; and
- decide to organize an AHTEG, subject to availability of funds, for the preparation of a report on *sui generis* systems in the CBD Technical Series.

INDICATORS: On Wednesday, Co-Chair Hoshino noted COP 10’s adoption of two additional indicators on status and trends in land use change in traditional territories, and the practice of traditional occupations; and introduced the document on development of indicators relevant for traditional knowledge and customary sustainable use (UNEP/CBD/WG8J/7/10). Ethiopia, for the African Group, noted the sensitivity of land tenure issues and requested taking into account the legal provisions and existing realities on the ground, with India calling for flexibility to accommodate different national circumstances. China proposed expanding the work on indicators to the use of traditional medicine and species. Jordan recommended additional national and regional workshops, and support for the use of indigenous languages.

Norway, supported by the EU, urged integration with work on indicators for the Aichi Targets and opposed development of new indicators. Canada requested mainstreaming and operationalizing

existing indicators. Japan said that indicators should contribute to the clear and effective evaluation of the Aichi Targets.

The IIFB pointed to: challenges in enabling global aggregation of traditional knowledge-related indicators, stressing the importance of work at the national level and of community-based monitoring; the need for funding ongoing work on such indicators under the CBD; and UNPFII recommendations on continued work on monitoring the situation and well-being of indigenous peoples and implementation of UN Declaration on the Rights of Indigenous Peoples (UNDRIP), including through the development of indicators. The IWBNI requested reference to culturally appropriate methodologies and ILCs' full and effective participation.

On Friday, delegates considered a draft recommendation. On a request to organize a technical workshop on the mapping land cover, land use and land tenure security indicator by considering overlays of data, the EU, opposed by Ethiopia and Malawi, suggested the workshop focus on "the further development and refinement of indicators on status and trends in land use change and land tenure in ILCs' traditional territories, which may include the sharing of methodologies for" mapping land cover, land use and land tenure. After informal consultations, delegates agreed that the workshop further develop the "indicator on status and trends in land use change and land tenure in ILCs' traditional territory," with the understanding that land tenure security issues may be considered under land use issues. Plenary adopted the recommendation with minor amendments.

Final Recommendation: In the recommendation on the development of indicators relevant for traditional knowledge and customary sustainable use (UNEP/CBD/WG8J/7/L.7), the Working Group requests the Secretariat to consider the development of indicators to contribute to broader processes of updating and refining global indicators for the new Strategic Plan and the Aichi Targets and to inform SBSTTA on the development of indicators.

The Working Group recommends that the COP, *inter alia*:

- note the complementarity among indicators on traditional knowledge and customary sustainable use;
- request the Working Group, SBSTTA, the IIFB, and interested parties to refine the three indicators (status and trends in land use change and land tenure in ILCs' traditional territories, status and trends in the practice of traditional occupations, and status and trends in linguistic diversity and numbers of speakers of indigenous languages) with ILCs' full and effective participation for COP 12 consideration;
- request parties, in collaboration with ILCs, to pilot test indicators and to report to the Working Group;
- invite UNESCO to compile and analyze data on linguistic diversity and the status and trends of indigenous language speakers for the Working Group;
- invite the International Labour Organization, in collaboration with ILCs and relevant organizations, to develop pilot projects and monitor data on the practice of traditional occupations for the Working Group's consideration;
- invite relevant agencies and ILCs to develop pilot projects to collect information on the indicator on status and trends in land-use change and land tenure in ILCs' traditional territories for the next Working Group's meeting; and

- recommend the Secretariat organize a technical workshop to develop and refine this indicator.

UNPFII RECOMMENDATIONS

On Wednesday, delegates considered recommendations arising from the ninth and tenth sessions of the UNPFII to the CBD (UNEP/CBD/WG8J/7/7). An ILC representative, supported by the African Group, considered it imperative to address two UNPFII recommendations on encouraging the UN and states to adopt a human rights-based approach and reiterating to CBD parties the need to respect and protect indigenous peoples' rights to genetic resources consistent with UNDRIP. Guatemala emphasized the UNPFII recommendation to consider the adoption of the term "indigenous peoples" under the CBD. The International Union for Conservation of Nature (IUCN) highlighted the importance of exploring indigenous rights issues in establishing and managing World Heritage Sites.

On Thursday, delegates considered a draft recommendation. An ILC representative recommended: "taking into account" rather than "noting" UNPFII recommendations, which was supported by the Philippines and opposed by Canada; and requesting the Secretariat to organize a workshop in collaboration with the IIFB at the next UNPFII session, focusing on the Nagoya Protocol, the Ethical Code of Conduct and Article 10(c), which was supported by Canada, if subject to the availability of resources. On Friday, plenary adopted the recommendation without amendment.

Final Recommendation: On the recommendations arising from the ninth and tenth sessions of the UNPFII to the CBD (UNEP/CBD/WG8J/7/L.8), the Working Group:

- requests the Secretariat, subject to availability of resources, to organize a workshop, in collaboration with the IIFB at the next meeting of the UNPFII, on the Nagoya Protocol, the Tkarihwaí:ri Code of Ethical Conduct, and Article 10(c) on customary sustainable use;
- recommends that COP 11 note UNPFII recommendations from its ninth and tenth sessions; and
- requests the Secretariat to continue to inform the UNPFII on developments of mutual interest, *inter alia*: the revised work programme, Article 10(c), the implementation of the Nagoya Protocol, the Tkarihwaí:ri Code of Ethical Conduct, and the Akwé: Kon Guidelines.

IN-DEPTH DIALOGUE

On Thursday, Co-Chair Hoshino introduced the in-depth dialogue on ecosystem management, ecosystem services and protected areas (UNEP/CBD/WG8J/7/6), with the Secretariat explaining that the dialogue will be reflected in an annex to the meeting report and inviting submissions on topics for future in-depth dialogues (UNEP/CBD/WG8J/7/L.1/Add.1).

The Secretariat emphasized the linkages between ecosystem management, ecosystem services, and protected areas with Aichi Target 11 on governance, participation and equity. Peter Cochrane, National Parks Australia, highlighted: an increase in indigenous protected areas; indigenous rangers' role in protecting culturally significant sites; and pilot projects for fire management in indigenous areas in the context of voluntary carbon markets. Jon Petter Gintal, Norwegian Sámi Parliament, described an

agreement on consultation procedures between state authorities and the Sámi Parliament, and Sámi representation on national park and protected area management boards.

Mohammed Baten, The Innovators, reported on the protection, sustainable use and ecosystem services provided by the Sundarbans, the world's largest area of mangroves, located in India and Bangladesh, pointing to tensions between state permits to access resources and the recognition of traditional resource users' rights. Onel Masardule, Foundation for the Promotion of Indigenous Knowledge, presented on a protected area in the Kuna Yala territory in Panama that was established following the Kuna people's initiative to prevent illegal land invasions and resource use. Marie Kvarnström, Swedish Biodiversity Centre, illustrated a participatory process in developing management structures for the Laponian Area World Heritage Site, where Sámi people live, highlighting shared values of biodiversity protection, promotion of customary sustainable use, and mutual recognition of different forms of knowledge.

Kid James, South Central Peoples Development Association, presented his people's initiative on community mapping of traditional knowledge and customary use of biodiversity, leading to a management plan for the Wapichan territory in Guyana and demarcation of conservation areas, which was undertaken jointly with the government. Mdmuiseni Wisdon Dlamini, Swaziland National Trust Commission, underscored the integration of traditional practices into protected areas regulation, such as traditional hunting, as well as ongoing efforts to introduce new categories of protected areas to integrate local communities and the private sector in protected areas management and governance. Sakda Saenmi, Inter Mountain Peoples Education and Culture in Thailand Association, presented a case of joint management between government and indigenous communities in Ob Luang National Park, illustrating a transition from conflict to collaborative management and the need for the legal framework to recognize indigenous rights.

In the ensuing discussion, participants addressed, *inter alia*: legal reforms; tensions between patenting processes and traditional knowledge ownership; community mapping processes; state involvement in the management of indigenous lands; and indigenous rights to collect genetic materials.

CLOSING PLENARY

On Friday afternoon, Co-Chair Hoshino introduced the draft report of the meeting (UNEP/CBD/WG8J/7/L.1 and Add. 1). The Philippines requested the meeting report reflect his statement on the need for the COP Bureau to consider UNPFII recommendations about the use of the term "indigenous peoples" in CBD processes. The report was adopted with further minor amendments.

Cameroon, on behalf of the African Group, stressed the importance of: ensuring equitable benefit-sharing from access to traditional knowledge and contributing to the livelihoods of traditional knowledge holders; effectively realizing the three CBD objectives; and carrying out a dialogue on the revised work programme for Article 8(j) in other relevant international platforms. Brazil emphasized the importance of local communities' participation in CBD processes. Canada praised the in-depth dialogue as an opportunity to discuss the ILCs' role in contributing to the CBD objectives.

The Maritime Aboriginal Peoples Council recommended: the Bureau develop a mechanism to standardize language on indigenous peoples and free PIC under the CBD; the Bureau make a recommendation to the COP on a more appropriate manner for states to conform with UNDRIP Article 43 (role of the UN and states in promoting the respect for the full application of UNDRIP); and greater participation opportunities for indigenous peoples and local communities at all CBD sessions, including more informal conduct of business in working groups and contact groups.

The IIFB and IWNB underscored: the link between the effective involvement of indigenous peoples and local communities and the achievement of the CBD goals; parties' responsibilities to carry out their work on the premise of the rights of indigenous peoples as enshrined in UNDRIP and in coordination with the UN bodies specifically dealing with indigenous issues; progress in the discussions on a plan of action on Article 10(c), although more discussion is needed on legislation and rights to indigenous lands and resources.

The IFLC pledged to support UNDRIP and the IIFB positions and underscored the need to: ensure equitable access to the Voluntary Fund and capacity building for local communities; develop more action-oriented language on local communities; ensure the PIC of local communities and women as caretakers and leaders in the conservation and sustainable use of biodiversity; declaring an international day for local communities; and respecting the international obligations enshrined in the Nagoya Protocol concerning the rights of indigenous peoples and local communities to genetic resources and traditional knowledge in interpreting the CBD and the Protocol.

CBD Executive Secretariat Djoghlaif emphasized the special role of ILCs as Co-Chairs of the Working Group. Co-Chair Hoshino gavelled the meeting to a close at 5:03 pm.

UPCOMING MEETINGS

CBD SBSTTA 15: The 15th meeting of the CBD Subsidiary Body on Scientific, Technical and Technological Advice will address: indicators and other tools and guidance for assessing progress in implementing the Strategic Plan for Biodiversity 2011-2020; ways and means to support ecosystem restoration; the sustainable use of biodiversity, including revised recommendations of the Liaison Group on Bushmeat, options for small-scale food and income alternatives and report on how to improve sustainable use in a landscape perspective; and Arctic biodiversity. **dates:** 7-11 November 2011 **location:** Montreal, Canada **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=SBSTTA-15>

UNFCCC COP 17 and COP/MOP 7: The 17th session of the UNFCCC Conference of the Parties (COP 17) and the seventh session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP 7) will continue negotiations on a post-2012 regime the Kyoto Protocol. **dates:** 28 November - 9 December 2011 **location:** Durban, South Africa **contact:** UNFCCC Secretariat **phone:** +49-228-815-1000 **fax:** +49-228-815-1999 **email:** secretariat@unfccc.int **www:** <http://unfccc.int/> or <http://www.cop17durban.com>

WIPO IGC 20: The 20th session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore will undertake text-based negotiations on provisions related to genetic resources. **dates:** February 2012 (tentative) **location:** Geneva, Switzerland **contact:** WIPO Secretariat **phone:** +1-41-22-338-9111 **fax:** +41-22-733-5428 **www:** <http://www.wipo.int/tk/en/igc/index.html>

ICNP-2: The second meeting of the Intergovernmental Committee for the Nagoya Protocol on Access to Genetic Resources and Equitable sharing of Benefits arising from their Utilization will consider guidance to the financial mechanisms and on resource mobilization, and the need for, and modalities of, a global multilateral benefit-sharing mechanism. **dates:** 9-13 April 2012 **location:** New Delhi, India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/meetings/>

WIPO IGC 21: The 21st session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore will undertake text-based negotiations on provisions related to traditional knowledge. **dates:** April/May 2012 (tentative) **location:** Geneva, Switzerland **contact:** WIPO Secretariat **phone:** +1-41-22-338-9111 **fax:** +41-22-733-5428 **www:** <http://www.wipo.int/tk/en/igc/index.html>

CBD SBSTTA 16: The 16th meeting of the CBD Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA 16) will address, *inter alia*, the in-depth review of the implementation of the work programme on island biodiversity, marine and coastal biodiversity, and biodiversity and climate change. **dates:** 30 April - 4 May 2012 **location:** Montreal, Canada **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=SBSTTA-16>

WGRI 4: The fourth meeting of the CBD *Ad hoc* Open-ended Working Group on Review of Implementation (WGRI 4) will review implementation of the new Strategic Plan for Biodiversity (2011-2020), including the Aichi Biodiversity Targets. **dates:** 7-11 May 2012 **location:** Montreal, Canada **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/meetings/>

UNPFII 11: The 11th session of the UN Permanent Forum on Indigenous Issues (UNPFII) will consider the doctrine of discovery as a special theme. **dates:** 7-18 May, 2012 **location:** UN Headquarters, New York. **contact:** UNPFII Secretariat **phone:** +1-917-367-5100 **fax:** +1-917-367-5102; **email:** IndigenousPermanentForum@un.org **www:** http://www.un.org/esa/socdev/unpfii/en/session_eleventh.html

UN Conference on Sustainable Development: The UNCSDD will mark the 20th anniversary of the UN Conference on Environment and Development, which convened in Rio de Janeiro, Brazil. **dates:** 20-22 June 2012 (tentative new dates) **location:** Rio de Janeiro, Brazil **contact:** UNCSDD Secretariat **email:** uncsd2012@un.org **www:** <http://www.uncsd2012.org/>

WIPO IGC 22: The 22nd session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore will undertake text-based negotiations on provisions related to

traditional cultural expressions. **dates:** July 2012 (tentative) **location:** Geneva, Switzerland **contact:** WIPO Secretariat **phone:** +1-41-22-338-9111 **fax:** +41-22-733-5428 **www:** <http://www.wipo.int/tk/en/igc/index.html>

UN Expert Mechanism on the Rights of Indigenous Peoples: The fifth session of the UN Expert Mechanism on the Rights of Indigenous Peoples will discuss, *inter alia*, the World Conference on Indigenous Peoples. **dates:** July 2012 (tentative) **location:** Geneva, Switzerland **contact:** Office of the High Commissioner for Human Rights **phone:** +41-22-928-9676 **fax:** +41-22-928-9066 **email:** expertmechanism@ohchr.org **www:** <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx>

IUCN World Conservation Congress 2012: The Congress theme will be “Nature+,” a slogan that captures the fundamental importance of nature and its inherent link to every aspect of people’s lives. **dates:** 6-15 September 2012 **location:** Jeju, Republic of Korea **contact:** IUCN Congress Secretariat **phone:** +41-22-999-0336 **fax:** +41-22-999-0002 **email:** congress@iucn.org **www:** <http://www.iucnworldconservationcongress.org/>

CBD COP 11: The 11th meeting of the CBD Conference of the Parties (COP 11) will consider, among other items, the recommendations adopted at the seventh session of the Working Group on Article 8(j). **dates:** 8-19 October 2012 **location:** Hyderabad, India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/meetings/>

GLOSSARY

ABS	Access and Benefit-sharing
AHTEG	<i>Ad hoc</i> Technical Expert Group
CBD	Convention on Biological Diversity
CEPA	Communication, education and public awareness
COP	Conference of the Parties
GEF	Global Environment Facility
ICNP	Intergovernmental Committee of the Nagoya Protocol
IFLC	International Forum of Local Communities
IGC	WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
IIFB	International Indigenous Forum on Biodiversity
ILCs	Indigenous and local communities
IPRs	Intellectual property rights
IWBN	Indigenous Women’s Biodiversity Network
NBSAP	National Biodiversity Strategy and Action Plan
PIC	Prior informed consent
SBSTTA	Subsidiary Body on Scientific, Technical and Technological Advice
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNESCO	UN Educational, Scientific and Cultural Organization
UNFCCC	UN Framework Convention on Climate Change
UNPFII	UN Permanent Forum on Indigenous Issues
WIPO	World Intellectual Property Organization



International Institute for Sustainable Development Reporting Services (IISD RS) Knowledge Management Resources

IISD RS, publisher of the *Earth Negotiations Bulletin*, also maintains online knowledgebases that are updated daily with information regarding meetings, publications and other activities related to international sustainable development policy and its implementation.

Each knowledgebase project consists of several integrated resources, to help the sustainable development policy and practice communities assess trends and activities at the international level. These resources are:

- Daily news reports researched and written by our own experts and organized in a **freely accessible, searchable on-line knowledgebase**;
- A **comprehensive calendar of upcoming events** related to international sustainable development policy, which can be downloaded to your own online calendar;
- And a **community listserve**, which exclusively delivers email updates of the most recent additions to our knowledgebases, as well as announcements by listserve members regarding their organizations' sustainable development activities.

Each knowledgebase focuses on a specific environmental challenge or region, as noted below:



Sustainable Development Policy & Practice
<http://uncsd.iisd.org/>



Climate Change Policy & Practice
<http://climate-l.iisd.org/>



SIDS Policy & Practice
<http://sids-l.iisd.org/>



Biodiversity Policy & Practice
<http://biodiversity-l.iisd.org/>



Latin America & Caribbean Regional Coverage
<http://larc.iisd.org/>



African Regional Coverage
<http://africasd.iisd.org/>