



**CONVENTION ON  
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DIVERSITY**

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AD HOC OPEN-ENDED INTER-SESSIONAL WORKING GROUP  
ON ARTICLE 8(j) AND RELATED PROVISIONS OF THE  
CONVENTION ON BIOLOGICAL DIVERSITY

First meeting

Seville, 27-31 March 2000

Items 4 and 5 of the provisional agenda\*

INDICATIVE LIST OF ACTIVITIES THAT COULD BE CARRIED OUT UNDER THE TASKS  
IDENTIFIED IN THE PROGRAMME OF WORK ON ARTICLE 8 (j) AND RELATED  
PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY

Note by the Executive Secretary

1. The Executive Director is circulating herewith an indicative list of activities that could be carried out under the tasks identified in the programme of work on Article 8(j) and related provisions of the Convention on Biological Diversity. The list builds on the proposed programme of work as contained in the note by the Executive Secretary on the subject prepared for 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 (UNEP/CBD/WG8J/1/3). The annex to that document also contains a proposed allocation of tasks among the Convention bodies and other organizations, arranged by operational objective.

2. The present document outlines the source, rationale, operational objectives, expected outcomes/products and activities for each of the tasks enumerated in the proposed programme of work. In preparing the document, the Executive Secretary has taken into account the previous decisions of the Conference of the Parties, as well as the report of the Workshop on Traditional Knowledge and Biological Diversity, which was held in Madrid in November 1997 (UNEP/CBD/COP/4/10/Add.1), and the comments made by the members of the liaison group that met in Montreal on 25-26 November 1999 to provide technical input to the pre-session documentation for the first meeting of the Working Group. Where a proposed operational objective draws on the Madrid report, the appropriate citation is provided in parentheses.

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\* UNEP/CBD/WG8J/1/1.

**Programme element 1: Participatory mechanisms for indigenous and local communities**

*Task 1. Enhance and strengthen, with the approval of, and in cooperation with indigenous and local communities, the capacity of indigenous and local communities to be effectively involved in the promotion of the wider application of their knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity.*

Source

Decisions addressing capacity-building of indigenous and local communities: decision IV/5, annex, section C, programme element 2.1 (e); decision III/5, paragraph 4; decision III/5, paragraph 5; decision III/11, paragraph 15 (f); decision III/14, paragraph 5; decision III/15, paragraph 3; and decision III/18, paragraph 5.

Rationale

The execution of the programme of work requires the primary involvement of indigenous and local communities to the fullest extent possible. This involvement will be required at all levels: individual, community, territorial, regional, national and international. It has also come to be understood that the holders and practitioners (both individual and collective) of traditional biodiversity-related knowledge (TBRK) <sup>1/</sup> are near to extinction, face increasing pressure and demands on their knowledge, and comprise a group with the fewest economic resources. As a result, their involvement in the execution of the programme of work will require an enhancement and support of existing capacity, particularly human and financial.

Operational objective 1.1

To develop strategies and guidelines for the development and strengthening of human, institutional and other relevant capacity-building programmes and projects with the full involvement of local and indigenous communities:

- (a) For the preservation and maintenance of their knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity; and
- (b) For the participation of indigenous and local communities in activities and processes related to the implementation of Article 8(j).

Expected outcome/products

Strategies and guidelines to enhance the capacity of indigenous and local communities.

Activities

- 1.1.1. Prepare a document identifying the capacity-building needs of indigenous and local communities, including, institutional, financial, human resource, scientific, technical, legal, business, management, and training as provided by the Parties.
- 1.1.2. Identify and assess currently available funding sources, including guidelines and procedures for appropriateness to indigenous and local community capacity-building needs and provide recommendations to the Working Group for change or additions as appropriate.
- 1.1.3. Develop strategies and recommendations to create and obtain new sources of funding for consideration of the Working Group.

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<sup>1/</sup> Throughout the present document, the term “traditional biodiversity-related knowledge (TBRK)” is used to mean “knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity”. Likewise, the term “indigenous and local communities is used to mean “indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity”.

- 1.1.4. Develop and disseminate, to indigenous and local communities, and concurrently to the Parties, information, guidelines, model proposals and funding strategies for capacity-building.

*Task 2. Develop mechanisms and guidelines to ensure the full participation of indigenous and local communities in decision-making, policy planning and development and implementation of the conservation and sustainable use of biological resources at international, regional, national and subnational levels, including access and benefit-sharing and the designation and management of protected areas, taking into account the ecosystem approach.*

#### Source

Reference is made to the Madrid report (UNEP/CBD/COP/4/10/Add.1), annex II, part one, 2/ paragraphs 132, 141, 157, 159 and 160.

#### Rationale

Indigenous and local communities around the world have been conserving, managing and sustainably using components of marine and terrestrial biological diversity both in areas in which they hold title and in protected areas under management agreements. It is now widely acknowledged that the maintenance of much of the world's biodiversity and the food and medicinal security of much of the world's population depends on the continued involvement of indigenous and local communities in biodiversity conservation and sustainable use. Many Governments have policies on management agreements involving indigenous and local communities both for protected areas and for vulnerable species. Acknowledgement for continued and broader involvement of indigenous and local communities, however, has not been adequately translated into practical measures to ensure the participation of such communities in the planning and implementation of management policies and programmes for the conservation and sustainable use of biological resources. The development of guidelines will assist Governments, indigenous and local communities, and international and regional development agencies to develop appropriate policies, programmes and capacity-building measures to promote such participation. In doing so, it is necessary to recognize the significance of transboundary issues for indigenous and local communities. Further, draft guidelines for management agreements can be formulated to harmonize the implementation of Article 10(c) of the Convention and the involvement of indigenous and local communities generally in the work of Article 8.

#### Operational objective 2.1

Encourage multilateral institutions, international agencies, private corporations, research institutions and non-governmental organizations to involve indigenous and local communities in incorporating traditional biodiversity-related knowledge, innovations and practices in their plans and programmes for the conservation and sustainable use of biological diversity (see paragraph 133 (a) of the Madrid report).

#### Expected outcomes/products

Database containing relevant information with regard to multilateral institutions, international agencies, private corporations, research institutions and non-governmental organizations, their plans, activities and programmes, and indigenous and local communities as a tool to facilitate interaction at the appropriate levels.

#### Activities

- 2.1.1. Identify those multilateral institutions, international agencies, private corporations, research institutions and non-governmental organizations whose plans, activities and programmes would

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2/ Part one of annex II is entitled "Assessment of priorities for future work by Parties and by the Conference of the Parties (decision III/14, annex 1 (e))" and "Provision of advice to the Conference of the Parties on the possibility of developing a workplan on Article 8 (j) and related articles including the modalities for such a workplan (decision III/14, annex 1 (f))".

benefit from the involvement of indigenous and local communities and the incorporation of their traditional biodiversity-related knowledge in their plans, activities and programmes.

- 2.1.2. Establish databases at international and regional levels with the view to facilitating linkages between indigenous and local communities and their traditional biodiversity-related knowledge and relevant multilateral institutions, international agencies, private corporations, research institutions and non-governmental organizations at their level of operation.
- 2.1.3. Make such information available through the clearing-house mechanism.

#### Operational objective 2.2

In consultation with indigenous and local communities, to develop mechanisms and guidelines for the participation of indigenous and local communities in the planning, decision-making processes and implementation, including in the development and implementation of legislation, environmental action plans and impact studies, concerning the sustainable management of biological resources at the national and subnational levels. Such guidelines to include criteria for determining the extent of such participation in biological resources management (see paragraph 134 (e) of the Madrid report).

#### Expected outcomes/products

Set of guidelines for the promotion of indigenous and local community participation in national and regional planning and implementation schemes regarding the conservation and sustainable management of biological diversity, and criteria for monitoring such participation.

#### Activities

- 2.2.1. SBSTTA to prepare a set of preliminary draft guidelines for the participation of indigenous and local communities and criteria for monitoring this participation.
- 2.2.2. Test guidelines and criteria, and report to SBSTTA.
- 2.2.3. Revision, as appropriate, and, after the endorsement by the Conference of the Parties, dissemination of guidelines.

#### Operational objective 2.3

In consultation with indigenous and local communities, to develop guidelines for the Parties to integrate into their overall frameworks for national strategies and action plans for the conservation and sustainable use of biological diversity, the traditional knowledge, innovations and practices of indigenous and local communities, such guidelines to cover all sectors, thematic areas, programmes and policies (see paragraph 162 of the Madrid report).

#### Expected outcomes/products

Set of guidelines that are also applicable to sectoral and thematic areas.

#### Activities

- 2.3.1. SBSTTA to develop guidelines for the integration of traditional knowledge, innovations and practices into the on-going and new thematic areas and cross-cutting issues and criteria for monitoring this integration.
- 2.3.2. Test guidelines and criteria.
- 2.3.3. Revise guidelines and criteria, as appropriate, and, after their endorsement by the Conference of the Parties, disseminate and encourage wide use of the guidelines and criteria.

#### Operational objective 2.4

To review and improve existing guidelines for the selection, establishment and management of protected areas and areas where special measures need to be taken to conserve biological diversity, and their implications on indigenous and local communities.

#### Expected outcomes/products

Report of the review with summary of findings and improved guidelines.

#### Activities

- 2.4.1. Compile existing guidelines for the selection, establishment and management of protected areas and areas where special measures need to be taken at the international, regional and national levels.
- 2.4.2. Revise them taking into account all categories of protected areas as redefined by IUCN/World Commission on Protected Areas (see paragraph 161 of the Madrid report) and define criteria to assess their effectiveness.
- 2.4.3. Test them and assess their possible impacts on the protection of knowledge, innovations and practices of indigenous and local communities
- 2.4.4. Revise guidelines and criteria, as appropriate, and, after endorsement by the Conference of the Parties, disseminate and encourage their wide use.

#### Operational objective 2.5

To undertake research on types of management used by indigenous and local communities in areas where special measures need to be taken to conserve biological diversity.

#### Expected outcomes/products

1. Technical report on management/co-management regimes of indigenous and local community for the conservation and sustainable use of biological diversity in areas where special measures need to be taken to conserve biological diversity.
2. Review and evaluation of the current state of management and co-management of protected areas.

#### Activities

- 2.5.1. Desk study to gather and synthesise information on types of management of indigenous and local communities in areas where special measures need to be taken to conserve biological diversity.
- 2.5.2. Draw lessons for dissemination and integration in guidelines (see operational objective 2.4 above).

*Task 3. Establish a roster of indigenous and local community experts (and corresponding database) to provide advice on aspects of the implementation of Article 8(j) and related articles.*

#### Source

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 133 (a) and (c), 134 (b)-(d) and 136-138.

#### Rationale

For successful implementation of Article 8(j) and related provisions of the Convention, it is important to strengthen the role of indigenous and local communities in international biodiversity forums, in conservation actions and in sustainable-development options, and to ensure the full participation of indigenous and local communities in all aspects and phases of the planning, management,

implementation and evaluation of such initiatives. Establishment of a roster of indigenous and local community experts would appear to be an appropriate exercise in capacity-building which would facilitate the direct involvement of indigenous and local communities in the work of the Convention.

### Operational objective 3.1

To establish a roster of indigenous and local community experts, the roster to reflect the principle of gender equity and the recognition of geographic and linguistic diversity.

#### Expected outcomes/products

A roster of indigenous and local community experts (including women) reflecting the diverse sectors and thematic areas dealt with under the Convention.

#### Activities

- 3.1.1 Invite Governments, research institutions, and indigenous and local community organizations to submit names of suitable people for inclusion in the roster of experts to be made available through the clearing-house mechanism, in particular, find best ways through which indigenous and local community experts could be identified and included.
- 3.1.2 Investigate the possibility of establishing a common roster of indigenous and local community experts accessible to the Secretariat and other relevant bodies associated with the work of the Convention on Biological Diversity (for example, WIPO, WTO/TRIPs Council, CITES, Working Group on Indigenous Peoples of the Commission on Human Rights, ILO, the Ramsar Convention, Desertification Convention, United Nations Convention on the Law of the Sea, Intergovernmental Forum on Forests and the United Nations Framework Convention on Climate Change), or rosters that are linked for easy accessibility.

## **Programme element 2: Status and trends in relation to Article 8(j) and related provisions**

*Task 4. Prepare a composite report on the current status and trends regarding the knowledge, innovations and practices of indigenous and local communities, taking into account:*

- (a) *The state of retention of traditional biodiversity-related knowledge and its application in the conservation and sustainable use of biodiversity in each of the major sectors of biodiversity, namely, human health, Arctic, agricultural, forest, dryland, marine and coastal, inland water and mountains;*
- (b) *The identification and an assessment of factors, including gender and familial factors, which cause loss of traditional biodiversity-related knowledge and associated language and customary practices;*
- (c) *The identification of activities, actions, policies, and legislative and administrative constraints that particularly discourage the respect, preservation and maintenance of traditional biodiversity-related knowledge;*
- (d) *The identification and assessment of a range of measures, including policy, legal, legislative and administrative measures, and incentive and capacity-building measures, which could be implemented to reverse the loss of traditional biodiversity-related knowledge and promote its retention, preservation and maintenance; and*
- (e) *Trends regarding the implementation of Article 8(j) taking into account national contexts and any constraints affecting its implementation, and the effectiveness of such trends.*

#### Source

Reference is made to the Madrid report (UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 142-145, 147-150, 152-154, 194.

## Rationale

Indigenous and local community traditional biodiversity-related knowledge and the languages that sustain it are being lost at an astounding rate. Many communities fear that much of this precious knowledge will be lost with the passing of the current generation of elders. The erosion of this knowledge is an irrevocable loss to our storehouse of knowledge of the Earth's biological diversity, its conservation, management and sustainable use, and represents a grave threat to food and medicinal security and indigenous and local community livelihoods. It is therefore imperative that the various socio-economic, political, gender, familial and cultural factors which lead to this loss are understood so that positive measures to counteract them can be put in place. There is also a need to know the current state of the respect, preservation and maintenance of traditional biodiversity-related knowledge and the status of its application in those ecosystems currently used and traditionally maintained by indigenous and local communities.

### Operational objective 4.1

To prepare a suitable format in order to standardise the preparation and submission of the sectoral reports covering the status and trends regarding the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles taking into account each of the five elements identified above.

### Expected outcomes/products

Format for sectoral reports.

### Activities

- 4.1.1. Draft a suitable standard format for the preparation and submission of sectoral reports on the knowledge, innovations and practices of indigenous and local communities.
- 4.1.2. Request reports covering all thematic areas and cross-cutting issues, and addressing each of the five elements identified under the operational objective above, making sure the involvement of holders and practitioners of traditional knowledge and representatives of indigenous and local communities and their organizations within the respective biodiversity sectors.

## **Programme element 3: Traditional cultural practices for conservation and sustainable use**

*Task 5. Develop guidelines for the respect, preservation and maintenance of traditional knowledge, innovations and practices and their wider application.*

### Source

Articles 8(j) and 10(c) of the Convention on Biological Diversity.

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 144-151, 159, 162, 164, 173, 174, 191 and 203.

### Rationale

Article 8(j) requires, in part, that the traditional knowledge of indigenous and local communities relevant for the conservation and sustainable use of biological diversity should be respected, preserved and maintained and its wider application promoted. However, in order to achieve this, it is necessary to look at the full context in which traditional knowledge exists in any country and formulate a wide and comprehensive range of strategies to ensure that these requirements of Article 8(j) are met.

### Operational objective 5.1

In consultation with indigenous and local communities, develop guidelines for case-studies concerning the identification and documentation of indigenous and local community traditional knowledge, innovations and practices, in particular, cultural practices and their benefits taking into account:

/...

- (a) Their distinct roots and special nature, including protocols, ceremonial requirements, the role of gender, and the relationship between traditional knowledge and rights;
- (b) Their scope in the conservation and sustainable use of biological diversity, including matters of human health;
- (c) Their potential for application at local, national and international levels (see paragraphs 151, 159 and 173 of the Madrid report).

#### Expected outcomes/products

Guidelines for the preparation and submission of case-studies concerning the identification and documentation of traditional knowledge, innovations and practices.

#### Activities

- 5.1.1. Develop guidelines for case-studies addressing indigenous and local community traditional knowledge, innovations and practices, in particular, cultural practices and their benefits, taking into account in particular the programmes of work on agrobiodiversity, drylands and mariculture.
- 5.1.2. Encourage submission of case-studies based on the developed guidelines.

*Task 6. Develop a set of guiding principles and standards to strengthen the complementary use of traditional knowledge and other forms of knowledge for the conservation and sustainable use of biological diversity, taking into account the role that traditional knowledge can play with respect to the ecosystem approach, in situ conservation, taxonomy, biodiversity-monitoring and environmental impact assessments in all biodiversity sectors.*

#### Source

Decision IV/1 B, paragraph 2 - referring to the ecosystem approach: paragraph 15 (g) of the report on the Workshop on the Ecosystem Approach, Malawi principles 2 and 11; decision IV/1 D, paragraph 8; decision IV/4, annex I, section A, paragraph 9 (l) and section C, paragraph 14, decision IV/5, annex, section B, paragraph 9, and part C; decision IV/7, annex; decision IV/10 C, paragraph 1, decision III/14, ninth preambular paragraph and paragraph 3.

Reference is also made to subparagraphs 39 (c) (ii) and (v) of the note by the Executive Secretary on implementation of Article 8(j) and related provisions prepared for the fourth meeting of the Conference of the Parties to the Convention (UNEP/CBD/COP/4/10); and SBSTTA recommendations II/1, paragraph 7, and II/2, paragraph 8, and their endorsement, inter alia, in decision III/10, paragraph 3.

Additional reference is made to the Madrid report (UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 156, 158, 162, 166(a), 167(d), 173, 180, 187 and 189.

#### Rationale

The Conference of the Parties has recognized that traditional knowledge should be given the same respect as any other form of knowledge in the implementation of the Convention (decision III/14, ninth preambular paragraph; and decision IV/9, seventh preambular paragraph). SBSTTA has also recommended, inter alia, that it should be recognized that traditional taxonomic systems offer a valuable perspective on biological diversity and should be considered part of the total taxonomic knowledge base at national, regional and subregional levels (recommendation II/2, paragraph 8). It is also evident from a number of case-studies received by the Executive Secretary in response to decision III/14, paragraph 3, that many successful collaborative efforts are under way involving both traditional and scientific knowledge and management practices. However, the successful integration or complementary use of traditional and scientific knowledge still remains, for many, uncharted territory as a means of achieving the objectives of the Convention. It is therefore necessary to draw from the experiences offered to date and, in collaboration with scientific and traditional-knowledge experts, develop guiding principles and standards which will further promote the use of both to advance the objectives of the Convention in such



areas as taxonomy, ecosystem and species monitoring, environmental impact assessments and the restoration of degraded habitats.

#### Operational objective 6.1

To develop a clear understanding of the scope of traditional biodiversity-related knowledge in the conservation and sustainable use of biological diversity, noting paragraph 165 of the background document of the Secretariat prepared for the Madrid meeting (UNEP/CBD/TKBD/1/2) and paragraph 159 of the Madrid report.

#### Expected outcomes/products

Background document containing:

- (a) A compilation of key terms and concepts, including the role of gender, as they apply to the traditional knowledge innovations and practices of indigenous and local communities; and
- (b) A description and analysis of the scope of traditional biodiversity-related knowledge to the conservation and sustainable use of biological diversity.

#### Activities

- 6.1.1 Compile information, including from the case-studies and relevant information submitted in accordance with decisions III/14 and IV/9, and elaborate key terms related to traditional knowledge in order to clarify and contextualize its application in the service of the Convention.

#### Operational objective 6.2

To prepare a synthesis of case-studies and other relevant information, submitted in response to decisions IV/9, paragraph 10, and IV/10 C, paragraph 1, in which the complementary use of traditional and other forms of knowledge has been applied to some aspect of the conservation, management or sustainable use of biological diversity (see paragraph 180 of the Madrid report), for example, in environmental impact assessments with regard to development proposals (see paragraph 187 of the Madrid report), species identification, management of protected areas, ecosystem/species monitoring, determination of sustainable harvest levels for a species, etc.

#### Expected outcomes/products

A report of the synthesis regarding the complementary use of traditional and other forms of knowledge, together with recommendations, for the consideration of the Conference of the Parties.

#### Activities

- 6.2.1. Develop and compile case-studies regarding the complementary use of traditional and other forms of knowledge, ensuring a representative spread of such case-studies across all sectoral and thematic areas and cross-cutting issues under the Convention (see paragraph 162 of the Madrid report).

#### Operational objective 6.3

To develop, in conjunction with the relevant indigenous and local communities, methods to identify and assess those indigenous and local community practices and uses of biodiversity which are unsustainable with a view to developing sustainable practices, in accordance with Articles 8(j) and 10(c) (see paragraph 189 of the Madrid report)

#### Expected outcomes/products

A methodology, complete with relevant criteria and indicators, to assist indigenous and local communities to identify and evaluate those of their practices, or particular components of them, which result in the unsustainable use of biodiversity.

### Activities

6.3.1. Identify and compile information on indigenous and local community practices regarding conservation and use of biodiversity which might be considered unsustainable.

6.3.2. Propose ways that will make those uses sustainable.

*Task 7. Develop guidelines and proposals for the establishment of national incentive schemes for indigenous and local communities to preserve and maintain their traditional knowledge, innovations and practices and for the application of such knowledge, innovations and practices in national strategies and programmes for the conservation and sustainable use of biological diversity.*

### Source

Article 11 of the Convention on Biological Diversity; decision III/14, paragraphs 2, 3, and 10 (a); decision III/18, fourth preambular paragraph

Reference is made to the Madrid report (UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 163 and 194.

### Rationale

Many indigenous and local communities are struggling to maintain their traditional lifestyles in the face of global trade, industrial and economic developments currently taking place in contemporary society, with great consequences for the continued maintenance and development of the genetic diversity on which such communities depend. The conservation and sustainable use of biological diversity are further threatened, as are such communities themselves, by the accelerating loss of traditional knowledge. In order to stem both the loss of biological diversity and the traditional knowledge and lifestyles that sustain it, a diverse range of monetary and non-monetary incentives, which can be tailored to suit the specific needs of particular communities, need to be explored and the experiences shared. Likewise, a clear understanding of those activities and impacts that act as disincentives for the conservation of biological diversity and associated traditional knowledge will also need to be gained. A comprehensive strategy can then be developed for the application of a range of incentives that can help ensure the maintenance of traditional knowledge and the biological diversity that benefits from it.

### Operational objective 7.1

(a) To identify relevant incentives which promote the retention and the strengthening of the use of traditional knowledge, innovations and practices of indigenous and local communities relevant to the conservation, sustainable use and management of biological diversity (see paragraph 163 of the Madrid Report); and

(b) To identify disincentives which impact negatively on the maintenance and application of traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity (see paragraph 194 of the Madrid report).

### Expected outcomes/products

A desk-top report of analyses of case-studies, and relevant national legislation, policies and strategies, with recommendations.

### Activities

7.1.1. Develop and compile case-studies on incentive measures for the complementary use, when appropriate, of the knowledge, innovations and practices of indigenous and local communities, and those incentives which promote the retention and the strengthening of the use of traditional knowledge, innovations and practices of indigenous and local communities draw lessons and which recognize and reward the achievements of indigenous and local communities in protecting biological diversity.

- 7.1.2. Identify perverse incentives and ways to mitigate or remove their negative effects on the preservation and use of traditional knowledge.
- 7.1.3. Develop guidelines for the wide use of incentives.

*Task 8. Develop guidelines that would facilitate the repatriation of information, including tangible and intangible cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity in order to facilitate the recovery of traditional knowledge of biological diversity.*

#### Source

Article 17, paragraph 2, of the Convention on Biological Diversity.

Reference is made to the Madrid report (UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 148 and 160.

#### Rationale

Much traditional knowledge regarding the conservation and sustainable use of biological diversity is disappearing at an alarming rate as the current generations of elders pass on. Many national and private institutions in the North, such as natural history/science museums, botanical gardens, libraries of research institutions, hold archival collections of documents which detail much about traditional practices regarding components of biological diversity. Much of this information was assembled many decades, if not a century or more, ago. Repatriation of relevant information contained in such documents to the communities of origin will enable the recall of much traditional knowledge essential to the maintenance of the biological diversity of local ecosystems and its conservation and sustainable use.

#### Operational objective 8.1

To propose guidelines for the establishment of intergovernmental, institutional and legal measures that would allow the repatriation of information, including tangible and intangible cultural property, concerning traditional knowledge of biological diversity to indigenous and local communities of origin.

#### Expected outcomes/products

Proposed guidelines or protocols for the repatriation of information on traditional biodiversity-related knowledge, including tangible and intangible cultural property, to indigenous and local communities of origin.

#### Activities

- 8.1.1. Develop and establish a database of institutions holding information, including tangible and intangible cultural property, concerning traditional knowledge of biological diversity.
- 8.1.2. Governments and holding institutions to submit information and case-studies regarding current policies, practices and examples of repatriation of information, including tangible and intangible cultural property, concerning traditional knowledge of biological diversity in order to produce a synthesis of lessons learned.
- 8.1.3. Develop guidelines detailing appropriate intergovernmental, institutional and legal measures for repatriation of information for the consideration of the Conference of the Parties.

### **Programme element 4: Equitable sharing of benefits**

*Task 9. Develop guidelines and mechanisms to ensure that holders of traditional knowledge share equitably the benefits arising from the (wider) application of their knowledge.*

Source

Article 8(j) of the Convention on Biological Diversity.

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one: paragraphs 169, 171 and 175.

Rationale

The traditional knowledge held by indigenous and local communities has historically been considered by Governments with jurisdiction over such communities to be in the public domain, and therefore accessible to whomsoever wished to use it. However, with the evolution of the conventional intellectual property rights regimes, much traditional knowledge was appropriated for private use and profit with little consideration of the original owners of such knowledge. Consequently, many developed countries have benefited considerably by using traditional biodiversity-related knowledge to identify useful components of biodiversity, and then develop them commercially. There is therefore an urgent need to develop guidelines and mechanisms that will not only ensure appropriate forms of protection for traditional knowledge, but to also ensure that when traditional biodiversity-related knowledge is accessed and/or applied, that the holders/customary owners of such knowledge are also appropriately acknowledged and rewarded.

Operational objective 9.1

To develop a set of guidelines that contain details of mechanisms that might be used to ensure that holders/customary owners of traditional biodiversity-related knowledge will be able to share equitably in any benefits that may arise at all stages from the application and utilization of their knowledge by others.

Expected outcomes/products

Guidelines for distribution to Governments, indigenous and local-community organizations, research institutions and private-sector bodies involved with natural product development and production.

Activities

- 9.1.1. Review case-studies and other relevant information on benefit-sharing, including in particular those submitted in response to relevant decisions of the Conference of the Parties.
- 9.1.2. Prepare a synthesis of such information and develop guidelines that can be used as the basis for determining appropriate and equitable benefit-sharing arrangements between partners of research and development projects which are based wholly or partly on the use and application of traditional biodiversity-related knowledge.
- 9.1.3. Assess the guideline and revise them as appropriate.

Operational objective 9.2

To develop benchmarks with the objective of establishing formal and mutually agreed mechanisms for the equitable sharing of both monetary and non-monetary benefits, such as royalties, exchange and repatriation of information, exchange and transfer of technology, capacity-building, etc.

Expected outcomes/products

Model contracts that embed appropriate benchmarks, or formulae for determining them, for the distribution of monetary and non-monetary benefits at the various stages of research and development of products or processes which are based wholly, or partially, on the use and application of traditional knowledge.

### Activities

- 9.2.1. Review case-studies and other relevant information on mutually agreed terms for benefit-sharing, including in particular those submitted in response to relevant decisions of the Conference of the Parties.
- 9.2.2. Draft and disseminate model contracts tailored to meet a range of circumstances and stages in the research and development process, and which contain formulae for the determination of a range of monetary and non-monetary benefits to be shared equitably among partners, and taking into account the often special needs of indigenous and local-community knowledge holders.

### **Programme element 5: Exchange and dissemination of information**

*Task 10. Develop mechanisms to facilitate the exchange and dissemination of information on traditional biodiversity-related knowledge, innovations and practices with the full participation and consent of holders/customary owners of traditional knowledge.*

#### Source

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 180–186.

#### Rationale

While much traditional biodiversity-related knowledge is culture- and locality-specific, elements of it, nevertheless, will have useful application or provide valuable insights for the conservation and sustainable use of biodiversity in other (similar) localities and/or ecosystems. However, components of such knowledge, because of their particular role and status within the community of origin, may be subject to sanction and therefore the sharing of such knowledge must only be done with the approval and involvement of the knowledge-holders. While many communities may wish to share their knowledge, subject to appropriate restrictions and methods by which to enforce them, they also lack the necessary means to make their knowledge available while monitoring its use by others. It is therefore necessary to develop the appropriate mechanisms and capacities to enable indigenous and local communities to exchange and disseminate their knowledge, while maintaining control over those aspects of it in circumstances in which such control is considered necessary. Indigenous and local communities also suffer from a lack of information concerning international and regional developments and processes, decisions taken which affect their interests, and opportunities for their participation in international and regional forums. There is therefore a need to improve information networks and the capacity of indigenous and local communities to receive and act on information that is relevant to them and is circulating at international and regional levels.

#### Operational objective 10.1

To investigate the appropriateness, implications and feasibility of setting up registries or repositories of traditional knowledge relevant to the conservation and sustainable use of biological diversity to enable its wider application, subject to the implementation of appropriate and enforceable codes governing access and use of such knowledge.

#### Expected outcomes/products

Report on the appropriateness, implications and feasibility of establishing registries or repositories of traditional biodiversity-related knowledge and which contains recommendations for essential elements of a code of ethics to govern storage, access, use, retrieval and modes of dissemination of information contained in such registries.

Activities

- 10.1.1. Conduct a desk-top analysis of case-studies and other relevant information which concern existing and proposed registries or repositories of indigenous and local community biodiversity-related knowledge and associated codes of access and use.
- 10.1.2. Identify and analyse methods and existing centres of collection, storage and dissemination, including databases and other holdings of information in private and public institutions such as corporations and universities, for relevance and broad application to traditional knowledge, including issues of shared ownership, effectiveness, cultural appropriateness and broad application.
- 10.1.3. Identify centres and activities where traditional indigenous and local community biodiversity-related knowledge is ready for dissemination.

Operational objective 10.2

To establish guidelines for the creation of mechanisms for information exchange and capacity-building among indigenous and local communities concerning customary knowledge and technologies, and which will also enable the dissemination of information at international, regional and national levels concerning developments, meetings, decisions, negotiations, policies and agreements related to the conservation and sustainable use of biological diversity to indigenous and local communities. (see paragraphs 182 and 186 of the Madrid report).

Expected outcomes/products

Set of guidelines.

Activities

- 10.2.1. Assess the capacity and appropriateness of both existing, in particular the clearing-house mechanism of the Convention on Biological Diversity and other potential modes of communication, to enable the exchange and dissemination of biodiversity-related information to and from indigenous and local communities.
- 10.2.2. Formulate a set of guidelines, based on the above assessment, for the creation of mechanisms for information exchange and capacity-building for indigenous and local communities.

*Task 11. Identify, compile and analyse, in consultation with indigenous and local communities, existing and customary codes of ethical conduct to guide the development of models for codes of ethical conduct for research, access to, use, exchange and control of information concerning traditional knowledge, innovations and practices for the conservation and sustainable use of biological diversity.*

Source

Decision IV/9, paragraph 10 (d).

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 146, 174, 181 and 184.

Rationale

Government agencies, national and international research institutions, and private-sector bodies whose work entails biodiversity- or environment-related activities, often have to deal with information that originates from indigenous and local communities, either from within their own country or from some other part of the world. In accordance with prevailing intellectual property rights regimes, while such information might be considered to be in the public domain, or already the subject of some form of intellectual property right because it has been recorded or published by a particular researcher, it is now recognized that the communities from which such information originates retain rights to it and therefore

should be consulted in relation to any research or other use/application, which involves their information. While some institutions have developed codes of ethics to guide such activities, others have not, or in some instances the codes might be inadequate and not accurately reflect the goals and purposes of the institutions concerned in using such information. Furthermore, while some codes regarding professional conduct are binding upon members, others are not and simply act as guidelines relying on the integrity of members to uphold them. Under such wide-ranging circumstances, it is therefore necessary to formulate models for codes of conduct to suit a range of institutional and industry circumstances to ensure that the rights and interests of indigenous and local communities regarding their traditional biodiversity-related knowledge and its use or application are adequately acknowledged and protected.

#### Operational objective 11.1

In consultation with indigenous and local communities, develop model “codes of conduct” covering such matters as: (i) ethical standards and guidelines for research; and (ii) access to, use, exchange and control of information for voluntary adoption by private institutions and companies in order to encourage the highest standards for all operations that directly or indirectly affect the interests and rights of indigenous and local communities in their traditional knowledge and biological resources (see paragraphs 146, 174, 181, 184 of the Madrid report).

#### Expected outcomes/products

Model codes of conduct governing ethical standards for research, access to and use of information concerning traditional knowledge regarding biological diversity and resources.

#### Activities

- 11.1.1. Identify, compile and analyse for key principles, in consultation with indigenous and local communities, existing and customary codes of ethical conduct.
- 11.1.2. Analyse and prepare a synthesis of the case-studies and other relevant information submitted in response to paragraph 10 (d) of decision IV/9.
- 11.1.3. Prepare draft model “codes of conduct” for the purposes of eliciting feedback from indigenous and local communities.
- 11.1.4. Analyse feedback and, as appropriate, revise model codes.

*Task 12. Develop strategies to promote public awareness of the importance of traditional knowledge and biological diversity to global sustainability; the role of indigenous and local communities in the maintenance of biological diversity; and the international agreements for their protection and strengthening.*

#### Source

Article 13 of the Convention on Biological Diversity; decision IV/10, paragraphs 1(d) and 4.

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 141 and 173.

#### Rationale

In many countries in which “western” science provides the dominant paradigm for understanding and interacting with the natural environment, it is necessary to promote public awareness of the importance of traditional biodiversity-related knowledge for the conservation and sustainable use of biological diversity at local, national, regional and global levels. It is also of vital importance that the general public, which may have become dismissive of the value of traditional knowledge systems, understands that indigenous and local communities should be enabled to retain and maintain their roles as custodians and managers of biodiversity, and that the part that both their knowledge and their involvement can play is a necessary complement to science-based conservation and sustainable-use strategies. In promoting

public-awareness, it is also necessary to highlight the various international and regional agreements that now recognise the vital role that the knowledge and involvement of indigenous and local communities have in achieving global sustainability of our biological wealth. In order to achieve such awareness, it is necessary to develop a range of strategies which will assist Governments and other relevant organizations in their campaigns to promote the value of involving indigenous and local communities, their knowledge and experience in achieving national, regional and global goals for the conservation and sustainable use of biological diversity.

#### Operational objective 12.1

To promote, in accordance with Article 13 of the Convention and decision IV/10 B, paragraph 1 (d), public awareness of:

- (a) The distinctive roots and special nature of traditional knowledge and its importance to biological diversity conservation and to global sustainability (see paragraph 173 of the Madrid report);
- (b) The role of indigenous, local and farming communities in the maintenance of biological diversity and the protection of their genetic resources; and
- (c) The international and national agreements for their protection and strengthening (see paragraph 141 of the Madrid report).

#### Expected outcomes/products

Educational programmes and materials (such as pamphlets, educational videos, media releases) suitable for increasing public awareness of the benefits that can be obtained from the application of traditional knowledge to biological diversity conservation and sustainable use.

#### Activities

- 12.1.1. Governments to encourage universities, scientific, and research and development institutions, in conjunction with indigenous and local-community representatives and with the informed consent of the holders of traditional knowledge, to design courses, programmes and projects that incorporate traditional knowledge.
- 12.1.2. Governments, institutions, indigenous and local community organizations to sponsor/prepare items/events/activities (articles, videos, seminars, school visits) in order to raise public awareness of collaborative projects.
- 12.1.3. Submission of publicity materials/programmes to the Executive Secretary for wider distribution through the clearing-house mechanism.
- 12.1.4. Governments to support the establishment and maintenance of existing and new indigenous and local community educational, scientific, developmental, and research institutions in their design of programmes that transmit and promote traditional knowledge.

#### **Programme element 6: Monitoring elements**

*Task 13. Develop, in cooperation with indigenous and local communities, criteria and indicators to assist the Parties in assessing their implementation of Article 8(j) and related provisions at the international, regional, national and subnational levels, including for the monitoring of both access to genetic resources on the territories inhabited and/or used by indigenous and local communities, and access to and use of their traditional biodiversity-related knowledge.*

#### Source

Article 8(j) of the Convention on Biological Diversity.

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 188 and 191.



## Rationale

The protection and application of traditional biodiversity-related knowledge and the involvement of indigenous and local communities in the conservation and sustainable use of biological diversity, as expressed in Article 8(j) and related provisions of the Convention on Biological Diversity, are relevant to the work of implementing a number of environment-related instruments at both the international and regional levels, as well as within the national and subnational contexts. It is therefore important that some basic standards are formulated to enable mechanisms to be put in place to ensure that these actions regarding the protection and application of traditional knowledge, and the involvement of indigenous and local communities take place at the appropriate levels. In order to ensure some consistency in the implementation of such mechanisms, it is important to establish a process by which their implementation can be monitored.

### Operational objective 13.1

In consultation with indigenous and local communities, to establish guidelines for the assessment and monitoring of impacts (for example, changes, restrictions, transformations and adaptability) on indigenous and local community traditional knowledge of biological diversity, in response to outside economic, social and environmental pressures (see paragraph 191 of the Madrid report).

### Expected outcomes/products

Guidelines, including criteria and indicators for impact assessments regarding the influence of external pressures on the maintenance of traditional knowledge of biological diversity.

### Activities

- 13.1.1. Develop guidelines, including criteria and indicators, for the purposes of assessing and monitoring the impacts of economic, social and environmental pressures on indigenous and local-community traditional knowledge relating to biological diversity.
- 13.1.2. Develop criteria and indicators to assist the Parties in assessing their implementation of Article 8(j) and related provisions at the international, regional, national and subnational levels, including for the monitoring of both access to genetic resources on the territories inhabited and/or used by indigenous and local communities embodying traditional lifestyles, and access to and use of their traditional biodiversity-related knowledge.
- 13.1.3. Test guidelines and criteria/indicators, and revise them as appropriate.

*Task 14. Develop guidelines and recommendations for the conduct of strategic, environmental, and social impact assessments regarding any development proposed to take place on lands or waters occupied or used by indigenous and local communities, and which take into full account both their participation in the assessment process and the relevant traditional biodiversity-related knowledge which they possess.*

### Source

Article 14, paragraph 1 (a), of the Convention on Biological Diversity; decision IV/10 C, paragraph 1.

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraph 187.

### Rationale

It is recognized that the industrial exploitation of renewable and non-renewable resources (mining, oil extraction, fishing and logging), the construction of public works and infrastructure (dams, highways), and tourism and recreational facilities (golf courses, theme parks, tourism resorts and activities) can constitute major threats to biological diversity, as well as to the natural resources on which indigenous and local communities depend for their survival. Both components of biological diversity and the

indigenous and local communities which sustain them through their traditional practices continue to be at risk from inappropriate development and introduced land-use practices, which reduce or radically alter habitat and diminish the traditional natural-resource base essential for the survival of such communities. It is therefore essential that before any development takes place, the potential impacts on both habitat and the sustainable lifestyles of affected indigenous and local communities are given full consideration in environmental impact assessments. However, in order for such assessments to be effective, the concerned indigenous and local communities must be able to participate in the execution of the assessment, and, if need be, adequately resourced with appropriate financial and technical expertise so that their social, cultural, and economic concerns are fully accounted for in the assessment process. It is also vital to the outcomes of the assessment process that the traditional biodiversity-related knowledge of the affected indigenous and local communities is integrated with modern scientific-assessment methodologies and procedures. To ensure that these considerations occur in a systematic and consistent way, it is therefore necessary to formulate guidelines appropriate to the various purposes and phases of the environmental and social impact assessment processes and which incorporate the necessary preventive, monitoring, control and mitigation measures.

#### Operational objective 14.1

To develop guidelines and recommendations for strategic, environmental and social impact assessments regarding any development proposed to take place on lands or waters inhabited or traditionally used by indigenous and local communities embodying traditional lifestyles, and which take into their participation in the assessment process.

#### Expected outcomes/products

Set of draft guidelines and recommendations.

#### Activities

- 14.1.1. Carry out desk-top analyses and a synthesis of relevant case-studies and other information including relevant regional, national and subnational legislation and attendant regulations and policies regarding the conduct of environmental impact assessments for proposed natural resource development and/or construction projects, and how they can be useful for assessing the impact of environmental, social and economic pressures on lands or waters inhabited or traditionally used by indigenous and local communities.
- 14.1.2. Compile information on relevant traditional biodiversity-related knowledge relating to the strategic, environmental and social impact assessment.
- 14.1.3. Using the information gained from the above activities, develop guidelines and recommendations for the conduct of environmental and social impact assessments; test them and revise them as appropriate.

*Task 15. Develop internationally applicable standards and guidelines for the reporting and prevention of illicit appropriation of traditional knowledge.*

#### Source

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 190 and 192.

#### Rationale

Reports suggest that the illicit appropriation of traditional biodiversity-related knowledge for the purposes of commercial gain continues unabated, even though the issue has received much attention in recent years. Some of these acts are deliberate, while others occur as a result of ignorance and/or a lack of appropriate administrative procedures regarding the processing of, for example, patent and plant-breeders-rights applications within either the country of origin or the receiving country, or both.

Similarly, specimens of the sometimes unique traditional genetic resources which indigenous and local communities have often nurtured and rely upon for their livelihoods, are also misappropriated for commercial gain, and often because the relevant authorities are poorly resourced to be able to apprehend, monitor and prosecute illicit activities. Because it is alleged that these activities are mostly conducted by the corporate sectors of developed countries at the expense of the indigenous and local communities and their traditional natural resources in developing and least developing countries, there needs to be a thorough examination of such allegations and the circumstances in which they occur as a basis for appropriate actions. Because such alleged activities frequently take place at the international level, the possibility exists that international and regional agreements are being breached, and therefore matters of alleged illicit appropriation of traditional knowledge should be dealt with under the terms of the relevant agreements. Nevertheless, because the issues and circumstances surrounding such alleged acts are germane to the work of the Convention on Biological Diversity, it is appropriate that standards and guidelines for the prevention and monitoring possible acts of illicit appropriation of traditional knowledge are formulated at the international level.

#### Operational objective 15.1

To gather background information on alleged acts of illicit appropriation of traditional biodiversity-related knowledge and natural resources of indigenous and local communities to be used for the development of internationally applicable standards and guidelines for the reporting and prevention of illicit appropriation of traditional knowledge

#### Expected outcomes/products

Report concerning alleged acts of illicit appropriation of traditional knowledge, their nature and circumstances.

#### Activities

15.1.1. Carry out a desk-top analysis of relevant case-studies and other information on alleged acts of illicit appropriation of traditional biodiversity-related knowledge and natural resources of indigenous and local communities taking into account:

- (a) The nature and circumstances of the alleged act;
- (b) Relevant national laws (including laws governing corporations, intellectual property, etc.) and any provisions that might contain or that could have been exercised to either prevent or prosecute such alleged acts;
- (c) National administrative procedures for the monitoring of bio-trade;
- (d) Relevant international instruments and processes which may be invoked in relation to alleged acts of illicit appropriation of traditional knowledge;
- (e) Any historical and other considerations that might be relevant.

15.1.2. Develop internationally applicable standards and guidelines for the reporting and prevention of illicit appropriation of traditional knowledge, including the monitoring of access to traditional biodiversity-related knowledge and natural resources traditionally used by indigenous and local communities; test the guidelines and revise them as appropriate.

#### **Programme element 7: Legal elements**

*Task 16. Prepare a set of draft guidelines for national legislation regarding the implementation of Article 8(j) and related provisions, and which includes within its definitions an elaboration of key terms and concepts.*

Source

Decision III/14, paragraph 1.

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 135, 142, 143, 157, 159, 174, 187, 195 and 199.

Rationale

Article 8(j) is subject to national legislation. It can therefore be expected that national legislation will exhibit great diversity in the ways that Parties continue to fulfil their obligations for the effective management and conservation of biological diversity. From this diversity certain commonalities will emerge which can be used for the development of a set of guidelines which could harmonise the implementation of Article 8(j) and related provisions, including in particular Articles 10(c), 17, paragraph 2, and 18, paragraph 4.

Operational objective 16.1

To conduct a desk-top analysis of national legislation for the implementation of Article 8(j) and related provisions.

Expected outcomes/products

Report of analysis with recommendations.

Activities

16.1.1. Carry out a desk-top analysis of national legislation, case-studies and other materials relating to the implementation of Article 8(j) with due regard to such matters, for example, as:

- (a) Different national contexts (see paragraph 143 of the Madrid report);
- (b) Legislative and administrative measures with regard to obtaining the prior informed consent of indigenous and local communities, mutually agreed terms and equitable benefit sharing arrangements in the relevant circumstances;
- (c) Provision for involvement of indigenous and local communities in environmental impact assessment processes (see paragraph 187 of the Madrid report);
- (d) Security of tenure of indigenous and local communities over their traditional lands (see paragraph 157 of the Madrid report);
- (e) Ethical guidelines and standards for research and application of traditional knowledge (see paragraph 174 of the Madrid report);
- (f) Any constraints that national legislation might impose on indigenous and local community involvement in the management and sustainable use, including customary use, of biological diversity (see paragraph 142 of the Madrid report);
- (g) The extent to which existing intellectual property regimes and other mechanisms might be utilized to implement Article 8(j) and related articles;
- (h) The extent to which national legal systems can accommodate traditional/customary systems for the protection of the traditional knowledge of indigenous and local communities within their frameworks (see paragraphs 210 and 211 of the Madrid report).

16.1.2. Compile information on and elaborate key terms and concepts relating to the knowledge, innovations and practices of indigenous and local communities, such as “indigenous”, “local communities”, “traditional lifestyles”, “customary use” and “traditional cultural practices”, for the purpose of establishing definitions for such terms that are compatible with the objectives of the Convention and the intent of its articles (see paragraphs 135 and 159 of the Madrid report).

16.1.3. Develop criteria for monitoring implementation of Article 8(j) and related provisions and the effectiveness of this implementation.

16.1.4. Prepare guidelines for national legislation regarding the implementation of Article 8(j) and related provisions, using the information gained from the above activities.

*Task 17. Establish an inter-agency task force to review and recommend on the development of legal and other appropriate forms of protection for the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.*

#### Source

Decisions IV/9, IV/15, paragraph 10, III/14 and III/17.

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 153, 154, 165, 172, 174, 176-179, 190, 192, 193, 195-197, 200-207 and 209-214.

#### Rationale

The legal protection of traditional knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles under Article 8(j) is the subject of ongoing debate in a number of forums, including the FAO Commission on Genetic Resources for Food and Agriculture, the World Intellectual Property Organization (WIPO), the Working Group on Indigenous Peoples of the Commission on Human Rights (CHR/WGIP), the International Labour Organization (ILO), the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Because of the need to respect the mandates and refer to the expertise of these agencies, the matter of examining the possibility of establishing an international regime for the protection of the traditional knowledge of indigenous and local communities can be best advanced through the establishment of an inter-agency task force, or similar such body.

#### Operational objective 17.1

To establish an inter-agency task force for the coordination of issues relating to the implementation of Article 8(j) and related provisions of the Convention.

#### Expected outcomes/products

1. Establishment of the task force (or similar body).
2. Production of a report of its findings.

#### Activities

17.1.1. Invite relevant international agencies, and representatives of indigenous and local-community organizations to form an inter-agency task force to address the issue of the protection of the knowledge, innovations and practices of indigenous and local communities.

17.1.2. Establish the terms of reference for the task force.

17.1.3. Convene meetings of the task force.

*Task 18. Develop guidelines that will assist States in the establishment of legal frameworks, including sui generis systems that recognize, safeguard and fully guarantee the protection of the cultural heritage, customary laws, innovations and traditional knowledge of indigenous and local communities relevant for the conservation and sustainable use of biological resources.*

#### Source

Articles 8(j), 10(c), 17, paragraph 2, and 18, paragraph 4, of the Convention on Biological Diversity.

Reference is made to the Madrid report (document UNEP/CBD/COP/4/10/Add.1), annex II, part one, paragraphs 197, 202-204 and 206–213.

### Rationale

Conventional intellectual property regimes do not adequately recognize and protect the communally owned traditional knowledge of indigenous and local communities. In order to meet the requirements of Article 8(j) of the Convention, it is necessary to develop more appropriate frameworks for the protection of the rights of knowledge-holders to their knowledge, and which will ensure that they will equitably share in any benefits derived from its application. Any such frameworks will necessarily need to take into account the customary-law systems that have traditionally protected the knowledge of indigenous and local communities. Such systems are manifestations of the world's cultural diversity that is under threat from the globalization of the world's dominant cultures and their legal systems. The systems of customary protection are an integral part of the traditional knowledge structures themselves, and therefore, in order to protect the knowledge itself, it is often also necessary to recognize, protect and accommodate the customary systems that protect it. However, under most national circumstances, this can only be done by accommodating such customary systems within the dominant national legal frameworks.

### Operational objective 18.1

To identify, analyse and evaluate existing intellectual property regimes and propose alternatives, including special regimes that recognize collective ownership, as well as sui generis systems for the protection and revitalization of traditional knowledge concerning the use of natural resources (see paragraphs 197, 203-204, 206-208, 210-211 and 213 of the Madrid report).

### Expected outcomes/products

Report of analysis and evaluation with proposals for alternative means for the protection of the collective traditional biodiversity-related knowledge of indigenous and local communities.

### Activities

- 18.1.1 Identify, analyse and evaluate IPR regimes including those alternatives and models which have been proposed, and assess the feasibility of such alternatives for wider application.
- 18.1.2 Prepare a draft report of the analysis with recommendations for amendments to existing forms of IPR protection as well as for alternative means of protection for traditional biodiversity-related knowledge.

### Operational objective 18.2

In consultation with indigenous and local communities, develop standards and guidelines for mechanisms that would ensure legal recognition of customary systems of protection and internal control of knowledge, technology, innovations, practices and biological resources within the lands and territories of indigenous and local communities which:

- (a) Facilitate the development of sui generis systems of protection for indigenous and local community knowledge according to customary laws, values and world-views (see paragraph 211 of the Madrid report);
- (b) Recognize the concept of the collective rights of indigenous and local communities with the view to having such recognition incorporated in relevant national and international legislation;
- (c) Take account and incorporate existing political and legal systems of indigenous and local communities and their customary use of resources;
- (d) Recognize traditional agricultural systems of indigenous and local communities.

Expected outcomes/products

Set of standards and guidelines for mechanisms that would ensure legal recognition within national legal frameworks of customary systems governing traditional knowledge of biological diversity.

Activities

18.2.1. Develop standards and guidelines for mechanisms for the legal recognition of customary systems of protection and internal control of knowledge, innovations, practices and biological resources within the lands and territories of indigenous and local communities.

18.2.2. Test the guidelines and revise them as appropriate before dissemination.

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