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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

THE OUTCOME OF THE INTERGOVERNMENTAL FORUM ON FORESTS (IFF) RELEVANT TO
THE AD HOC OPEN-ENDED INTER-SESSIONAL WORKING GROUP ON ARTICLE 8 (j) AND
RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY

Note by the Executive Secretary

The Executive Secretary is circulating herewith, for the information of participants in 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, a note from the secretariat of the Intergovernmental Forum on Forests (IFF) on the outcome of the IFF relevant to the Working Group on Article 8(j). The note and the annexes thereto are reproduced as they were received from the IFF secretariat and in the language of submission only.

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Appendix

THE OUTCOME OF THE INTERGOVERNMENTAL FORUM ON FORESTS (IFF) RELEVANT TO THE AD HOC OPEN-ENDED INTER-SESSIONAL WORKING GROUP ON ARTICLE 8 (j) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY

Note by the Secretariat

1. INTRODUCTION

During the Intergovernmental Forum on Forests's (IFF) deliberations on programme element II.d (ii), traditional forest-related knowledge, the importance of establishing close cooperation and coordination between the work of the Convention on Biological Diversity and the implementation of the IFF proposals for action was stressed. Specific reference was also made to the work of the Ad-Hoc Open-Ended Inter-Sessional Working Group on Article 8 (j) and related provisions of the Convention on Biological Diversity, in particular, concerning issues related to intellectual property rights, *sui-generis* or other relevant systems for protection of traditional knowledge.

On matters related to IFF programme element II.c, environmentally sound technologies to support sustainable forest management, the IFF stressed the need to protect intellectual property rights and recognized the importance of technologies related to biological resources and forest genetic resources, as defined by the Convention on Biological Diversity.

The purpose of this note is to provide information on the outcomes of the IFF process ^{1/} on issues relevant to the proposed programme of work of the Ad Hoc Open-Ended Inter-Sessional Working Group on Article 8 (j) and Related Provisions of the Convention on Biological Diversity, outlined in document UNEP/CBD/WG8J/1/3.

2. OUTCOME OF THE IFF PROCESS

A. Traditional Forest-Related Knowledge

In IFF programme element II.d(ii), traditional forest-related knowledge, the Forum reached consensus on all pending issues. Both the conclusions and proposals for action adopted by the IFF under this programme element are attached as Annex I.

B. Transfer of Environmentally Sound Technologies to Support Sustainable Forest Management

In IFF programme element II.c, transfer of environmentally sound technologies to support sustainable forest management, consensus was reached on all paragraphs except for paragraph 14, which is related to traditional forest-related knowledge and intellectual property rights.

Adopted paragraphs relevant to Article 8 (j) of the Convention on Biological Diversity, under IFF programme element II.c, are attached as Annex II.

^{1/} The final report of the IFF, which will be submitted to the eighth session of the Commission on Sustainable Development, to be held at UN headquarters in New York from 24 April to 5 May 2000 is available online in an advance un-edited text version at: <http://www.un.org/esa/sustdev/ecn17iff2000-sprep.htm>.

Annex I

F. Issues that need further clarification (programme element II.d)

2. Traditional forest-related knowledge (programme element II.d (ii))

Conclusions

1. The involvement of indigenous people and local communities (including indigenous people and other forest-dependent people practising traditional lifestyles, forest owners and local communities, many of whom possess important traditional forest-related knowledge; see General Assembly resolution A/S-19/2, annex, para. 37) and the understanding and use of their traditional knowledge, as well as recognition of their rights to the natural resources in their traditional areas within national laws and jurisdiction, can support the formulation, design, implementation and monitoring of policies towards sustainable forest management. The sharing and application of this knowledge can help interested parties to avoid procedures that impact unfavourably on ecosystems and local social systems. Traditional knowledge can complement new technologies, and might be adapted and used more widely. In this context, IFF recalled relevant IPF proposals for action (in particular, E/CN.17/1997/12, para. 40 (r)).

2. IFF recognized the need to further explore the modalities for promoting greater recognition, respect and protection of traditional forest-related knowledge involved in sustainable forest management. Further understanding of the role of traditional forest-related knowledge in sustainable forest management can be achieved by identifying traditional systems that promote management, conservation and sustainable use of forest resources, in accordance with article 8 (j) and other provisions of the Convention on Biological Diversity and proposals for action derived from the IPF/IFF process.

3. Several processes relevant to the application and development of legal and other forms of protection of traditional forest-related knowledge are being addressed through different international organizations and instruments. There should be a close cooperation and coordination between the work of the Convention on Biological Diversity and the implementation of IPF/IFF proposals for action. While recognizing the importance of the work of the World Intellectual Property Organization (WIPO) and the Convention, effective protection mechanisms for traditional knowledge systems and practices, and recalling the proposed memorandum of understanding between WIPO and the Convention, IFF stressed the importance of on going work to develop a common appreciation and understanding of the relationship between the intellectual property rights, *sui-generis* or other relevant systems for protection, and the Convention on Biological Diversity.

4. In keeping with Agenda 21, chapter 26, and also noting the relevant ILO Convention, IFF recognized the critical importance of the rights of indigenous and local communities to participate in the conservation and management of all types of forests and forest biological resources.

5. IFF noted and welcomed the establishment of the Ad Hoc Open-ended Inter-sessional Working Group on article 8 (j) and related provisions of the CBD where there is participation of indigenous and local communities.

Proposals for action

6. IFF recalled IPF proposals for action relevant to this programme element (in particular, E/CN.17/1997/12, paras. 40 (a) to 40 (r) and 132 (c)).

7. IFF called upon countries to:

(a) Implement effective measures to recognise, respect, protect and maintain traditional forest-related knowledge in sustainable forest management, including forest biological resources (as defined by the CBD) within their intellectual property rights, *sui-generis* or other relevant systems for protection, as appropriate, taking into account the relevant work being advanced by the Convention on Biological Diversity and other relevant international agreements;

(b) Promote fair and equitable sharing of benefits, including consideration of payments, where appropriate, arising from the use of such knowledge, innovations and practices, in accordance with, *inter alia*, article 8 (j) and related provisions of articles 15, 16 and 19 of the Convention on Biological Diversity and other relevant international agreements and taking into account national law, with the holders of such knowledge, innovations and practices;

(c) Work with relevant international organisations to help develop a common appreciation and understanding of the relationship between the intellectual property rights, *sui-generis* or other relevant systems for protection, and the Convention on Biological Diversity, including work, as necessary, on addressing issues of the identification of origins of traditional forest-related knowledge, and of the knowledge that results from the use of forest genetic resources (as defined by the Convention on Biological Diversity), with a view to protecting such knowledge from inappropriate use;

(d) Develop or strengthen, as appropriate, and implement, at the national level, legislation and policies to achieve objectives under articles 8 (j), and related provisions of the Convention on Biological Diversity, and support efforts by relevant international organisations and institutions regarding protection and application of traditional forest-related knowledge, which can include the development of guidelines, in accordance with their mandates.

8. The IFF invited Conference of Parties of the Convention on Biological Diversity, with the participation of indigenous people and local communities, through the Ad-Hoc Open-ended Inter-sessional Working Group, in its programme of work, under the related provisions of the Convention on Biological Diversity, to include options for collecting, recording, applying and locating traditional forest-related knowledge, recognizing the need to foster the wider application of such knowledge, innovations and practices, with approval and effective involvement of the holders throughout the process.

Annex II

E. Transfer of environmentally sound technologies to support sustainable forest management (programme element II.c) 2/

Conclusions

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4. National forest programmes, as described in the report of IPF on its fourth session (see E/CN.17/1997/12, para. 17 (a)), should facilitate development and transfer of environmentally sound technologies in support of sustainable forest management and forest products processing. There is a need to further the participation of interested parties in forest-related technology development and to facilitate efficient adaptation and use of technologies and know-how, in accordance with national legislation, through partnerships among the public and private sectors, including research centres, universities and companies, and indigenous people, local communities and non-governmental organizations.

5. There is a wide range of available environmentally sound technologies, particularly in developed countries, that can support sustainable forest management. The policies, actions and types of financing that are needed for efficient selection, transfer, adaptation and use of these technologies vary, depending on the type of technology, local conditions and intended use. They should be demand-driven and consistent with national priorities for sustainable forest management, as expressed in management, conservation and sustainable development of all types of forests and, where appropriate, should be reflected in national forest programmes. IFF stressed that the international community should promote, facilitate and finance, as appropriate, access to and transfer of environmentally sound technologies and the corresponding know-how, in particular to developing countries, on favourable terms, including concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights as well as the special needs of developing countries for the implementation of Agenda 21.

...

9. South-South cooperation is complementary to North-South transfer of technology and know-how. There is potential for further strengthening of South-South transfer of technology and know-how. Technologies generated in the South may be more accessible, more applicable and less costly and have greater potential for diffusion than some technologies developed in the North. Environmentally sound indigenous technologies, including traditional forest-related knowledge, should be given special attention, as appropriate, and transfer of such technologies or know-how must be carried out with the consent of the holder and according to national legislation.

10. IFF recognized the importance of technologies related to biological resources (as defined by the Convention on Biological Diversity) of forests. In this respect, cooperation between developed and developing countries should be strengthened on transferring and, as required, developing technologies for the sustainable use of biological resources (as defined by the Convention on Biological Diversity) of

2/ This annex does not contain all paragraphs adopted under IFF programme element II.c, only paragraphs relevant to the Ad Hoc Open-Ended Inter-Sessional Working Group on Article 8 (j)

forests, as they relate to the management, conservation and sustainable development of all types of forests consistent with and building on progress under the Convention on Biological Diversity and without prejudice to the commitments undertaken by parties to the Convention within its scope.

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Proposals for action

14. IFF stressed the importance of implementing the IPF proposals for action on the transfer of environmentally sound technologies. In order to further their effective implementation, IFF:

...

(e) Urged all countries, in particular developed countries, to take further concrete measures to promote and facilitate the transfer of environmentally sound technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights in accordance with the relevant international and domestic laws, in order to put into further practice the recommendations of Agenda 21, the Commission on Sustainable Development and IPF, and in this context to mobilize further support for the development and application of appropriate technologies and corresponding know-how within these countries to enhance their capacities to implement sustainable forest management;

...

(j) Urged countries to promote fair and equitable sharing of the benefits arising from the utilization of forest genetic resources (as defined by the Convention on Biological Diversity) and the results and applications of research, upon mutually agreed terms, and to work, as necessary, on addressing issues of the identification of origins of forest genetic resources within their intellectual property rights, sui-generis or other relevant systems for protection, as appropriate, taking into account the work being advanced by the Convention on Biological Diversity and other relevant international agreements, in accordance with national laws;

...

(k) The Forum also discussed but could not conclude the debate or reach consensus on the proposal to encourage countries to develop appropriate mechanisms and/or measures to enable indigenous people, local communities and forest-dependent groups to realise the potential benefits of traditional forest-related knowledge in accordance with the Convention on Biological Diversity, through the establishment and enforcement of intellectual property rights linked to this knowledge including the giving of due recognition to the use of traditional forest-related knowledge in patent applications for technologies;

...

(m) Called upon countries to undertake steps to ensure equal opportunities for women, in particular indigenous women and women in rural areas, to become beneficiaries of environmentally sound forest-related technologies, know-how and extension services;
