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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**

Third meeting

Montreal, 8-12 December 2003

Item 3.5 of the provisional agenda*

**DRAFT GUIDELINES FOR THE CONDUCT OF CULTURAL, ENVIRONMENTAL AND
SOCIAL IMPACT ASSESSMENTS REGARDING DEVELOPMENTS PROPOSED TO
TAKE PLACE ON, OR WHICH ARE LIKELY TO IMPACT ON, SACRED SITES AND
ON LANDS AND WATERS TRADITIONALLY OCCUPIED OR USED BY
INDIGENOUS AND LOCAL COMMUNITIES***Note by the Executive Secretary*

1. In paragraph 12 of decision VI/10, the Conference of the Parties adopted the recommendations for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities contained in annex II to that decision. In paragraph 13 of same decision, the Conference of the Parties requested that the third meeting of the Ad-Hoc Open-ended Working Group on Article 8(j) and Related Provisions carries out “further work on guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on land and waters traditionally occupied or used by indigenous and local communities”.
2. The Conference of the Parties further requested that such work, with the aim of strengthening the social and cultural aspects, should complement and be in conjunction with the Guidelines for Incorporating Biodiversity-Related Issues into Environmental Assessment Legislation and/or Processes and in Strategic Environmental Assessment, endorsed by the Conference of the Parties in its decision VI/7 A, and address institutional and procedural considerations.
3. To assist the Working Group in its work, the Executive Secretary prepared a set of draft guidelines which are attached in the annex hereto. The draft guidelines could provide a framework within which governments, indigenous and local communities, decision makers and managers of development and planning projects could ensure appropriate participation and involvement of indigenous

* UNEP/CBD/WG8J/3/1.

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and local communities and inclusion of their traditional knowledge, technologies and customary methods as part of cultural, environmental, and social impact assessment processes.

4. The guidelines would be voluntary and subject to national legislation, and would incorporate and build on the recommendations for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities, adopted by the Conference of the Parties in paragraph 12 of decision VI/10.

5. The draft guidelines also take into account and complement the Guidelines for Incorporating Biodiversity-Related Issues into Legislation and/or Processes and in Strategic Environmental Assessment, endorsed by the Conference of the Parties in paragraph 1 of decision VI/7 A. Thus, the draft guidelines should be read in conjunction with the latter, so as to provide an integrated approach to environmental impact assessments.

6. It should also be noted that paragraph 55 of recommendation 8 adopted at the second session of the Permanent Forum on Indigenous Issues, which was held in New York in May 2003, recommends that “United Nations bodies, in particular the Convention on Biological Diversity, in coordination with the World Bank, UNDP, FAO and IFAD, and UNEP, organize a workshop on protecting sacred places and ceremonial sites of indigenous peoples with a view to identifying protective mechanisms and instituting a legal framework that make cultural, environmental and social impact assessments studies mandatory and ensure the environmental accountability of economic, social and environmental projects that are proposed to be conducted on sacred sites and on lands, territories and waters traditionally occupied or used by indigenous peoples”. The full text of the recommendation is contained in a note by the Executive Secretary on the subject (UNEP/CBD/WG8J/3/8).

7. In this context, the Working Group may wish to make recommendations to the Conference of the Parties on the above request and submit for consideration at the next session of the Permanent Forum on Indigenous Issues the draft guidelines for the conduct of cultural, environmental and social impact assessment regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities, and inform the Forum on relevant work undertaken in this regard.

SUGGESTED RECOMMENDATIONS

8. The Working Group may wish to recommend that the Conference of the Parties at its seventh meeting:

(a) *Endorses* the draft guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities as contained in annex I to the present note;

(b) *Requests* Parties and Governments to use these guidelines, as appropriate, in conjunction with the Guidelines for Incorporating Biodiversity-Related Issues into Legislation and/or Processes on Strategic Environmental Assessment endorsed by the Conference of the Parties at its sixth meeting.

(c) *Requests* the Executive Secretary to publish these guidelines in the official languages of the United Nations, and *invites* Parties and Governments to also make the guidelines available in local languages in relevant circumstances;

(d) *Requests* Parties and Governments to conduct education and awareness campaigns and develop strategies to ensure relevant government departments and agencies, indigenous and local communities and their organizations, private sector developers, potential stakeholders in development projects, and the public at large are made aware of the existence of these guidelines and the need for their application when developments are proposed to take place on sacred sites and on lands and waters occupied or used by indigenous and local communities;

(e) *Invites* intergovernmental agreements, agencies and organizations to take into consideration the guidelines for cultural, environmental and social impact assessment regarding developments proposed to take place on sacred sites and on lands and waters occupied or used by indigenous and local communities;

(f) *Invites* international funding and development agencies that provide funding and other forms of assistance to Governments to undertake development projects, or to assist in the formulation of development policies, and policies, plans and guidelines for strategic environment assessment, to take into consideration the need to incorporate the guidelines within such development projects and policies, and policies, plans and guidelines for strategic environment assessment;

(g) *Encourages* Parties and Governments to ensure that:

(i) Indigenous and local communities are represented on any bodies established by governments at national, sub-national and local levels to oversee development in which such communities have an interest; and

(ii) The necessary capacity and funding exist to ensure these measures can be put into effect;

(h) *Calls upon* Parties and Governments to encourage and financially support indigenous and local communities, where they have not already done so, in formulating their own community development plans that will enable such communities to adopt a culturally appropriate strategic, integrated and phased approach to their development needs in line with community goals and objectives. Capacity-building to develop these plans should be supported. These plans should include a strategic environment assessment policy or plan to provide a systematic process for integrating cultural, environmental, and social considerations in planning and decision-making.

Annex

DRAFT GUIDELINES FOR THE CONDUCT OF CULTURAL, ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS REGARDING DEVELOPMENTS PROPOSED TO TAKE PLACE ON, OR WHICH ARE LIKELY TO IMPACT ON, SACRED SITES AND ON LANDS AND WATERS TRADITIONALLY OCCUPIED OR USED BY INDIGENOUS AND LOCAL COMMUNITIES

I. PURPOSE AND APPROACH

1. The present guidelines are voluntary and intended to serve as guidance for Parties and Governments, subject to their national legislation, in the development of their impact-assessment regimes. The guidelines should be taken into consideration whenever developments are proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities.

2. The objective of these guidelines is to provide general advice on the incorporation of cultural, biodiversity-related environmental and social considerations of indigenous and local communities into new or existing environmental impact-assessment procedures, noting that some existing procedures may take these concerns into consideration in different ways. The guidelines should be applied in conjunction with the Guidelines for Incorporating Biodiversity-related Issues into Legislation and/or Processes and in Strategic Environmental Assessment Impact Assessment endorsed by the Conference of the Parties in paragraph 1 of decision VI/7 A, and contained in the annex to that decision.

3. More specifically, the purpose of these guidelines is to provide a framework within which Governments, indigenous and local communities, decision-makers and managers of development and planning projects can ensure:

- (a) Appropriate participation and involvement of indigenous and local communities;
- (b) That the cultural, environmental and social concerns and interests of indigenous and local communities are properly taken into account; and
- (c) That the traditional knowledge of indigenous and local communities is included as part of environmental, social and cultural impact-assessment processes, and with due regard to the ownership of and the need for the protection and safeguarding of traditional knowledge.

4. The guidelines recognize that development projects vary enormously in nature, scale and complexity with respect to such aspects as their scope, size and duration; strategic and economic importance; and nature of impacts. The guidelines therefore should be adapted to suit the appropriate circumstances of each development project. Individual countries may redefine the steps in the cultural, environmental and social impact-assessment procedure to their needs and requirements, taking into account the needs and concerns of indigenous and local communities, as befits their institutional and legal setting.

5. Cultural, environmental and social impact-assessment procedures should refer to other relevant domestic legislation, regulations, guidelines and international and multilateral environmental agreements and protocols that have been ratified by the Party and have come into force.

II. USE OF TERMS

6. For the purpose of the draft guidelines:

(a) *Cultural impact assessment* – refers to the assessment of the impact of a proposed project or development on the way of life of a particular group or community of people: a cultural impact assessment will generally address the impacts, both beneficial and adverse, of a proposed development that may affect, for example, the values, belief systems, customary laws, language(s), customs, economy, relationships with local environment and particular species, social organization and traditions of the affected community;

(b) *Cultural-heritage impact assessment* – refers to the likely impacts, both beneficial and adverse, of a proposed development on the physical manifestations of a community's cultural heritage including sites, structures, and remains of archaeological, architectural, historical, religious, spiritual, cultural, or aesthetic value or significance;

(c) *Customary law* – law consisting of customs that are accepted as legal requirements or obligatory rules of conduct; practices and beliefs that are so vital and intrinsic a part of a social and economic system that they are treated as if they were laws; 1/

(d) *Environmental impact assessment* – is a process of evaluating the likely environmental impacts of a proposed project or development, taking into account inter-related socio-economic, cultural and human-health impacts, both beneficial and adverse; 2/

(e) *Sacred site* – may refer to a site (for example, of a building or object) or area (for example, a burial ground, forest grove, natural feature) held to be of particular importance in accordance with the customs of an indigenous or local community because of its religious and/or spiritual significance;

(f) *Social impact assessment* – generally addresses the impacts, both beneficial and adverse, of a proposed development that may affect the well-being, vitality and viability of an affected community – that is the quality of life of a community as measured in terms of various socio-economic indicators, such as income distribution, employment levels and opportunities, health and welfare, education, and availability and standards of housing and accommodation, infrastructure, and services;

(g) *Strategic environmental assessment* – is the formalized, systematic and comprehensive process of identifying and evaluating the environmental consequences of proposed policies, plans or programmes to ensure that they are fully included and addressed at an early stage of decision-making along with economic and social considerations; 3/

(h) *Traditional knowledge* – refers to the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.

1/ Definition contained in *Black's Law Dictionary* (7th edition), 2000.

2/ Definition contained in paragraph 1 (a) of the *Guidelines for Incorporating Biodiversity-related Issues into Environmental Impact Assessment Legislation and/or Processes* and in *Strategic Environmental Impact Assessment* contained in the annex to decision VI/7 A

3/ Definition contained in paragraph 1(b) of the *Guidelines for Incorporating Biodiversity-related Issues into Environmental Impact Assessment Legislation and/or Processes* and in *Strategic Environmental Impact Assessment* contained in the annex to decision VI/7 A.

III. PROCEDURAL CONSIDERATIONS

7. Noting the desirability of integrating cultural, environmental and social impacts within a single assessment process, and taking into account the fundamental components of an environmental impact assessment as described in the Guidelines for Incorporating Biodiversity-related Issues into Environmental Impact Assessment Legislation and/or Processes and in Strategic Environmental Impact Assessment, an integrated assessment should involve the following stages:

- (a) Screening;
- (b) Scoping;
- (c) Impact analysis and assessment;
- (d) Consideration of mitigation measures (including not proceeding with the development, finding alternative designs or sites which avoid the impacts, incorporating safeguards in the design of the project, or providing compensation – monetary and/or non-monetary – for adverse impacts);
- (e) Reporting of the impact-assessment study;
- (f) Review of the impact-assessment study;
- (g) Decision-making; and
- (h) Monitoring and environmental auditing.

8. As part of the above steps, the following steps should also be considered in carrying out an impact assessment for a development proposed to take place on, or which is likely to impact on, a sacred site, or within territories occupied or used by indigenous and local communities:

- (a) Notification and public consultation of proposed development by the proponent;
- (b) Identification of indigenous and local communities and relevant stakeholders likely to be affected by the proposed development;
- (c) Establishment of effective mechanisms for indigenous and local-community participation, including for the participation of women and youth in the decision-making processes;
- (d) Establishment of an agreed process for recording the views and concerns of the members of the indigenous or local community whose interests are likely to be impacted by a proposed development
- (e) Identification and provision of sufficient human, financial, technical and legal resources for effective indigenous and local community participation in all phases of impact-assessment procedures;
- (f) Establishment of an environmental management plan (EMP), including contingency plans regarding possible adverse cultural, environmental and social impacts resulting from a proposed development;
- (g) Conclusion of some form of agreement between the proponents of the proposed development and the affected indigenous or local community;

- (h) Establishment of a review and appeals process.

9. While the focus of environmental, cultural and social impact assessments is necessarily different, it is assumed, however, that the steps or phases for carrying out all three kinds of assessment will be the same for the most part. However, in the case of small-scale locally-based and initiated development, it may be possible to omit some of these steps.

A. Notification and public consultation of proposed development by the proponent

10. The proponent of a development proposal should engage in a process of notification and public consultation of intention to carry out a development. Such notification should use all normal public means of notification (newspapers, radio, television, mail-outs, etc), take into account the situation of remote or isolated communities, and ensure that such notification and consultation takes place in the language(s) of the communities and region that will be affected. Such notification should clearly identify the proponent, contain a brief summary of the proposal, the areas and communities likely to be affected, anticipated impacts (if any) on the conservation and sustainable use of biological diversity as well as possible cultural and social impacts, arrangements for public consultation, contact details, key dates in the life of the project, including those regarding impact-assessment procedures, and identify obligations under national and subnational laws.

11. The development proposal should be made available to organizations representing affected indigenous and local communities and relevant stakeholders for the purposes of public scrutiny and consultation. It should include all details relevant to the proposal. Notification and public consultation of the proposed development should allow for sufficient time to allow the affected community to prepare its response. An opportunity to present their response should be allowed for the full and fair consideration by the proponent.

B. Identification of indigenous and local communities and relevant stakeholders likely to be affected by the proposed development

12. Indigenous and local communities are to be considered stakeholders in any development proposed to take place on lands traditionally occupied or used by them and are therefore to be accorded respect in all stages of the development process.

13. A formal process to identify the indigenous and local community members, experts and organizations, and relevant stakeholders should be engaged, including local and open consultations. Once all parties have been identified, it is appropriate that a committee representative of the parties be formally established and its mandate defined to provide oversight of the impact-assessment processes, particularly in relation to screening and scoping phases, and for the establishment of any environmental management plan, as well as cultural and social contingency plans.

C. Establishment of mechanisms for indigenous and local community participation

14. Affected indigenous and local communities should be represented on any body appointed to oversee the screening and scoping phases of an impact-assessment process for a development proposal, and should be involved in the establishment of the terms of reference for the conduct of the impact assessments. The screening and scoping phases should also take into account any community development plans and any mechanisms for strategic environmental assessment that have been formulated by an affected community.

15. In addition to representation on any body established to oversee the impact-assessment process, the full and effective participation and involvement of affected indigenous and local communities should

contemplate using participatory models of community engagement during the conduct of the impact assessments, including in decision-making. The proponent should also provide regular feedback to the affected community throughout all stages of the impact-assessment and development processes.

16. In order to facilitate the involvement and participation of the affected communities, local experts should be identified and their expertise recognized and engaged at the earliest opportunity.

D. Establishment of an agreed process for recording the views and concerns of the members of the indigenous or local community whose interests are likely to be impacted by a proposed development

17. The proponent and members of the affected indigenous or local community may wish to establish a process by which community views and concerns can be properly recorded, as community members may not be in a position to attend public meetings because of, for example, remoteness of the community, or poor health. While written statements may be preferred, the views of the community members could also be recorded on video or audio-tape.

E. Identification and provision of sufficient human, financial, technical and legal resources for effective indigenous and local community participation in all phases of impact assessment-procedures

18. Early identification and, as circumstances warrant, provision of necessary human, financial, technical and legal resources, to support indigenous and local expertise, will facilitate effective indigenous and local community participation in the impact-assessment process. In general, the larger the proposed development, the greater and more widespread the potential impacts and therefore potentially greater are the requirements for support and capacity-building.

F. Establishment of an environmental management plan (EMP), including contingency plans regarding possible adverse cultural, environmental and social impacts resulting from a proposed development

19. In order to maximise benefits and minimize adverse impacts, it will be necessary in most instances to establish an environmental management plan to provide a framework within which the development can take place. Formulation of the environmental management plan should be guided by an affected community's development plan and/or measures for strategic environmental assessment, where such plans exist, and should also include contingency plans for possible adverse cultural and social impacts.

G. Conclusion of some form of agreement between the proponents of the proposed development and the affected indigenous or local community

20. In order to protect the interests of affected indigenous and local communities, an agreement, preferably legally binding, could be negotiated between the community and the proponent of the development. The terms of such an agreement, subject to national legislation and regulations, could cover the procedural aspects of impact assessments, setting out rights, duties and responsibilities of all parties, and also address any specifications or modifications to the proposed development that result from the findings of the impact assessments.

H. Establishment of a review and appeal process

21. Parties, if they have not already done so, should ensure that a review and appeal process is established to arbitrate disputes and hear appeals between the proponent and an affected indigenous or local community. This process should take into account customary methods of mediation and dispute resolution.

IV. INTEGRATION OF CULTURAL, ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS AS A SINGLE PROCESS

22. The guidelines allow for the consideration of the integration of cultural, environmental and social impact assessments as a single process. The conduct of impact assessments should meet the requirements of the Convention on Biological Diversity as defined in its Articles 14 and 8(j), and take into account the general principles guiding the programme of work on Article 8(j) and related provisions. The guidelines should take into account work on integration of biodiversity issues into the environmental impact assessment and strategic impact assessment in accordance with Article 14 of the Convention, and give special attention to incorporating cultural and social considerations within any environmental impact assessment legislation or policies.

A. Cultural impact assessments

23. Through the cultural impact-assessment process, and particularly during the screening and scoping phases, the issues that are of particular cultural concern should be identified, such as cultural heritage, religions, beliefs and sacred teachings, customary practices, forms of social organization, systems of natural-resource use, including patterns of land use, places of cultural significance, sacred sites, ceremonies, languages, customary law systems, and political structures, roles and customs. The possible impacts on all aspects of culture, including sacred sites, should therefore be taken into consideration while developing cultural impact assessments.

24. Cultural heritage impact assessment is concerned with the likely impacts of a proposed development on the physical manifestations of a community's cultural heritage and is frequently subject to national heritage laws. A cultural heritage impact assessment will need to take into account, as the circumstances warrant, international, national and local heritage values.

25. In the event that sites or objects of potential heritage significance are uncovered during earthworks associated with a development, then all activities in and around the area of discovery should cease until a proper archaeological or heritage assessment has been completed.

26. In determining the scope of a cultural impact assessment, the following should be considered:

- (a) Possible impacts on continued customary use of biological resources;
- (b) Possible impacts on the respect, preservation and maintenance of traditional knowledge, innovations and practices;
- (c) Protocols;
- (d) Possible impacts on sacred sites and associated ritual or ceremonial activities;
- (e) Respect for the need for cultural privacy; and
- (f) Possible impacts on the exercise of customary laws.

1. *Possible impacts on continued customary use of biological resources*

27. It is necessary to have due regard in the assessment process that any proposed development does not unduly interfere with the customary uses of biological resources that meet the requirements of the Convention, particularly in relation to Article 10 (c), as this may well lead to a diminishment of the genetic diversity maintained and fostered by such customary use, with a consequent loss of associated traditional knowledge and practices.

2. *Possible impacts on the respect, preservation and maintenance of traditional knowledge, innovations and practices*

28. In the conduct of cultural impact assessments, care should be taken to respect both the custodians or holders of traditional knowledge and the knowledge itself. Customary laws governing ownership, access, control, use and dissemination of traditional knowledge should be observed. Traditional knowledge may be an important component of the assessment process and may be gathered as evidence. In the event of disputes over the alleged nature of impacts, traditional knowledge may be questioned. Protocols may be established to cover all foreseeable circumstances particularly with regard to the disclosure of secret and or sacred knowledge, including those that may involve public hearings and judicial processes in the courts. In the event of the disclosure of secret and or sacred knowledge, prior informed consent and proper protection measures should be ensured.

3. *Protocols*

29. In order to facilitate the proper conduct of development and those associated with it within indigenous and local community territories, protocols could be jointly established by the proponent of the development and the concerned communities. Specific protocols may need to be established for particular kinds of development activity (for example, adventure tourism, mining) and may need to take into account the behaviour to be observed when visiting local communities, particular sites or when dealing with members of indigenous and local communities. Protocols should respect regulations already existing under relevant national, sub-national or community self-government legislation.

4. *Possible impacts on sacred sites and associated ritual or ceremonial activities*

30. When developments are proposed to take place within indigenous and local community territories, personnel associated with such developments should recognize that many sacred sites, and areas or places of other cultural significance may have important functions with respect to the conservation and sustainable use of biological diversity and, by extension, the maintenance of the natural resources upon which such communities rely for their well-being.

31. If it is necessary to assess the potential impact of a proposed development on a sacred site, the assessment process should also include the selection of an alternate site for development in consultation with the site custodians and the affected community as a whole. Where a sacred site is to be affected by a proposed development, and in cases where no law exists to protect the site, the concerned indigenous and local community may wish to develop protocols regarding the site in the context of the proposed development.

5. *Respect for the need for cultural privacy*

32. Proponents of development and personnel associated with the development should respect the cultural sensitivities and needs of indigenous and local communities for privacy, especially with regard to important rituals and ceremonies such as those associated with rites-of-passage and death, and also ensure their activities do not interfere with the daily routines and other activities of such communities.

6. *Possible impacts on the exercise of customary laws*

33. Development proposals should be assessed for possible impacts on the customary laws of an affected community. If a development requires the introduction of an outside work-force, or requires changes in local customary systems (e.g. regarding land tenure, distribution of resources and benefits) conflicts may result. It may therefore be necessary to codify certain parts of customary law, clarify matters of jurisdiction, and negotiate ways to minimize breaches of local laws.

B. *Environmental impact assessments*

34. In the conduct of the environmental component of an impact assessment regarding a development proposed to take place on, or which is likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities, the Guidelines for Incorporating Biodiversity-related Issues into Environmental Impact Assessment Legislation and/or Processes and in Strategic Environmental Impact Assessment, should be taken into account. Existing national laws dealing with environmental impact assessments should respect the inherent and existing land and treaty rights held by indigenous and local communities. Where rights are not respected, implementation of legislation and regulations should occur to accomplish this. To strengthen environmental impact assessments, that are currently project-based, they should serve as protection-based instruments, especially with regard to the protection of the rights of indigenous and local communities and the rights associated with their respective traditional territories.

35. The direct and indirect impacts of the development proposal on local biological diversity at ecosystem, species and genetic levels should be assessed, and particularly in terms of those components of biological diversity that the affected indigenous or local community and its members rely upon for their subsistence, well-being, and other needs.

1. *Baseline studies*

36. In order to effectively undertake an environmental impact assessment for a proposed development, it is desirable to carry out a baseline study to ascertain those components of biological diversity of particular significance to the affected indigenous or local community. Detailed knowledge of biological resources (ecosystems, species and genetic diversity) is essential to the protection of both biodiversity and cultural values. Such baseline study should include whether, for example, habitat types to be affected by the proposed development are represented elsewhere in existing conservation reserves (under national reserve systems), and whether particular crop species (and varieties) for food and agriculture are represented in *ex situ* collections. Baseline studies should collect information with respect to:

(a) Species inventories (including identification of particular species important to the affected indigenous or local community as food, medicine, fuel, fodder, construction, artefact production, clothing, and for religious and ceremonial purposes, etc);

(b) Identification of endangered species, species at risk, etc (possibly referenced to IUCN Red Data Book, and national inventories);

(c) Identification of particularly significant habitat (as breeding/spawning grounds, remnant native vegetation, wild-life refuge areas and corridors, habitats and routes for migratory species) and crucial breeding seasons for critical species;

(d) Identification of areas of particular economic significance (as hunting, fishing grounds, harvesting areas, important timber);

(e) Identification of particularly significant physical features (e.g. watercourses, springs, mines/quarries that supply local needs); and

(f) Identification of biodiversity sites of religious, spiritual, ceremonial and sacred significance (such as sacred groves and totemic sites).

37. Consistent with principle 11 of the ecosystem approach, endorsed by the Conference of the Parties in paragraph 1 of decision V/6, traditional knowledge should be considered an important and integral component of baseline studies and particularly the traditional knowledge of those who have a long association with the particular area for which the development is proposed. Traditional knowledge can often be supported by old photographs, oral histories cross-referenced to newspaper articles and known historical events, anthropological reports, and other records contained in archival collections.

C. Social impact assessments

38. In order to effectively undertake a social impact assessment with respect to an indigenous or local community that is or is likely to be affected by a proposed development, the screening and scoping phases should take into account gender and demographic factors, housing and accommodation, employment, infrastructure and services, income and asset distribution, traditional systems and means of production as well as educational needs, technical skills and financial implications.

39. Proposed developments should be evaluated in relation to tangible benefits to such communities, such as non-hazardous job creation, viable revenue from the levying of appropriate fees, access to markets and diversification of income-generating (economic) opportunities for small and medium-sized enterprises and weighed against changes to traditional economies.

40. Developments involving changes to traditional practices for food production, or involving the introduction of commercial cultivation and harvesting of a particular wild species should have those changes and introductions assessed.

41. In social impact assessments, social development indicators consistent with the views of indigenous and local communities should be developed and should give consideration to gender, generational considerations, health, safety, food and livelihood security aspects and the possible effects on social cohesion and mobilization.

42. In determining the scope of a social impact assessment, the following should be considered:

- (a) The conduct of baseline demographic and socio-economic studies;
- (b) Economic impacts;
- (c) Possible impacts on traditional systems of land tenure;
- (d) Gender considerations;
- (e) Generational considerations;
- (f) Health and safety aspects; and
- (g) Effects on social cohesion.

1. Baseline studies – social indicators

43. In the conduct of baseline studies, the following areas should, *inter alia*, be addressed:

- (a) Demographic factors (number and age structure of population, population distribution and movement - including seasonal movements);
- (b) Housing and accommodation;
- (c) Health status of the community (particular health problems/issues - availability of clean water, infectious and endemic diseases, nutritional deficiencies, life expectancy, etc);
- (d) Levels of employment, areas of employment, skills (particularly traditional skills: weaving, carving, basketry, boat-building), education levels (including levels attained through informal education processes), training;
- (e) Level of infrastructure and services (medical services, transport, waste disposal, water supply, social amenities (or lack of) for recreation, etc);
- (f) Level and distribution of income (including traditional systems of distribution of goods and services based on reciprocity, barter and exchange);
- (g) Asset distribution (e.g. land-tenure arrangements, natural-resource rights, ownership of other assets in terms of who has rights to income and other benefits); and
- (h) Traditional systems of production (food, medicine, artefacts), including gender roles in such systems.

44. The social factors of subsistence-based indigenous and local communities should also be taken into consideration, including impacts on:

- (a) Traditional non-monetary systems of exchange such as barter and other forms of trade, including labour exchange;
- (b) Related economic social relations;
- (c) Importance of gender roles and relations;
- (d) Traditional responsibilities and concepts of equity and equality in society; and
- (e) Traditional systems of sharing natural resources, including resources that have been hunted, collected or harvested.

2. Economic impacts

45. Proposed developments within indigenous and local community territories should ensure tangible benefits, such as job creation within safe and hazard-free working environments, viable revenue from the levying of appropriate fees, access to markets and diversification of income-generating (economic) opportunities for small and medium-sized businesses, accrue to such communities.

3. *Possible impacts on traditional systems of land tenure*

46. Developments that particularly involve changes to traditional practices for food production, or involve the introduction of commercial cultivation and harvesting of a particular wild species (e.g. to supply market demands for particular herbs, spices, medicinal plants, fish, fur or leather) may lead to pressures to restructure traditional systems of land tenure to accommodate new scales of production. The ramifications of these kinds of changes can be far-reaching and need to be properly assessed. Likely impacts associated with the cultivation and/or commercial harvesting of wild species should also be assessed and addressed.

4. *Gender considerations*

47. In social impact assessments, there is a particular need to examine the potential impacts of a proposed development on women in the affected community with due regard to their role as providers of food and nurturers of family, community decision-makers and heads of households, as well as custodians of biodiversity and holders of particular elements of (gender-specific) traditional knowledge.

5. *Generational considerations*

48. In any social impact assessment, the potential impact of a proposed development on all generations within a community should be examined. Of particular concern are the impacts that may potentially interfere with opportunities for elders to pass on their knowledge to the youth, or which might render certain skills and traditional knowledge redundant.

6. *Health and safety aspects*

49. In the impact-assessment process, the health and safety aspects of the proposed development should be scrutinized. Safety aspects should include such risks as physical injury during construction, and health risks associated from various forms of pollution, sexual exploitation, social disturbance, disruption to medicinal plant habitat, and use of chemicals, such as pesticides. Foreign workers should be screened for any infectious diseases for which local populations may have no immunity, or for which there is no evidence of infection within their communities.

7. *Effects on social cohesion*

50. The impact-assessment process should take into consideration the possible effects that a proposed development might have on the affected community and its people as a whole by ensuring that particular individuals or groups are not unjustly advantaged or disadvantaged as a result of the development to the detriment of the community.

V. **GENERAL CONSIDERATIONS**

51. Indigenous and local communities should be fully and effectively involved in the assessment process. The traditional biodiversity-related knowledge of involved indigenous and local communities should be applied along with modern scientific assessment methodologies and procedures. Consultation should allow for sufficient time, take place in the appropriate language, and in a culturally appropriate manner.

52. Where the national legal regime requires prior informed consent of indigenous and local communities, the assessment process should consider whether such prior informed consent has been obtained.

53. The vital role that women play, in particular indigenous women, in the conservation and sustainable use of biological diversity and the need for the full and effective participation of women in policy-making and implementation for biological diversity conservation should be fully taken into consideration.

54. Recognition should be given to the resource and capacity-building needs of indigenous and local communities and assistance should be provided, to the extent possible, to facilitate their full and effective participation in impact assessment procedures, including the provision of resources (technical, educational and others).

55. Subject to national legislation, the customary laws and intellectual property rights of indigenous and local communities related to the proposed development, with respect to their traditional biodiversity-related knowledge, innovations and practices shall be respected in all circumstances.

56. In the absence of any legal mechanisms for the protection of traditional knowledge, innovations and practices, indigenous and local communities should, if desired, define their own protocols for access to and use of traditional knowledge in impact assessment procedures. Governments should assist and participate in such initiatives according to their national legislation.

57. Consistent with the ecosystem approach, proponents of development proposals should recognize the importance of understanding and applying the values and knowledge, where relevant, of use of biological diversity held by indigenous and local communities and their application for sustainable development.

58. In the context of impact assessments, and particularly with respect to mitigation measures associated with the development, where there is a threat of significant reduction or loss of biodiversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat.

59. In order to manage any disputes that may arise in relation to a development proposal and in the ensuing impact assessment processes, dispute-resolution means or mechanisms should be available or be established.

VI. WAYS AND MEANS

A. *Capacity-building*

60. Any activity aimed at the incorporation of cultural and social considerations, and the biodiversity-related considerations of indigenous and local communities, into national environmental impact assessment systems should be accompanied by appropriate capacity-building activities. Expertise in traditional knowledge is required, as well as indigenous and local community expertise in methodologies, techniques and procedures. Environmental impact assessments should include in the assessment team experts in the traditional knowledge related to the relevant ecosystems.

61. Training workshops on cultural, social and biodiversity-related aspects of environmental impact/strategic assessment for both assessment practitioners and representatives of indigenous and local communities would facilitate the emergence of a common understanding of the issues.

62. Governments should encourage and support indigenous and local communities, where they have not already done so, to formulate their own community-development plans that will enable such communities to adopt a more culturally appropriate strategic, integrated and phased approach to their development needs in line with community goals and objectives. These plans should include a strategic

environment assessment policy or plan to provide a systematic process for integrating social, environmental and cultural considerations in planning and decision-making, for the application of impact assessments to development proposals.

B. Legislative authority

63. If cultural, environmental and social impact assessment procedures relevant to indigenous and local communities are made an integral part of environmental impact assessment and strategic environmental assessment procedures and incorporated into legislation, and the requirements for project/policy developers to find the most culturally, environmentally and socially sound, efficient options that avoid, reduce or mitigate adverse impacts are made explicit, this will prompt developers to, at a very early stage, use cultural, environmental and social impact assessment tools to improve the development process prior to the project consent stage or in some cases prior to screening procedures.

C. Exchange of information

64. Web-based resources, such as the clearing-house mechanism of the Convention on Biological Diversity, may help to raise awareness about best available methods and useful sources of information and experience concerning both the conduct and integration of cultural, social and biodiversity-related concerns of indigenous and local communities in environmental impact assessment processes and in strategic environmental assessment, and should be developed and used for the provision and exchange of information on environmental impact assessment.

65. Communication between practitioners of environmental impact assessment and indigenous and local community members with experience in cultural, environmental and social impact assessment is in urgent need of improvement and should be enhanced through workshops, case-study assessments and through the sharing of experiences through, for example, the focal point on Article 8(j) and related provisions of the clearing-house mechanism of the Convention on Biological Diversity.
