



Convention on Biological 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

Ninth meeting

Montreal, Canada, 4-7 November 2015

Agenda item 5

RECOMMENDATION ADOPTED BY THE WORKING GROUP

9/2. Task 15 of the multi-year programme of work on the implementation of Article 8(j) and related provisions: best-practice guidelines for the repatriation of indigenous and traditional knowledge

The Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity *recommends* that the Conference of the Parties at its thirteenth meeting adopt a decision along the following lines:

The Conference of the Parties,

1. *Takes note* of the progress made in the development of the Rutzolijirisaxik¹ Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, annexed to the present decision, in particular their objective, purpose, scope and guiding principles for repatriation;

2. *Invites* Parties, other Governments, indigenous peoples and local communities, and relevant organizations² interested or involved in repatriation of traditional knowledge to submit to the Executive Secretary information on good practices and actions undertaken at various levels, including through community-to-community exchanges, to repatriate, receive and restore traditional knowledge relevant for the conservation and sustainable use of biological diversity;

3. *Requests* the Executive Secretary to:

(a) Compile the information received on good practices and actions, as referred to in paragraph 2 above, and to make the compilation available for the consideration of the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions at its tenth meeting;

¹ In the local traditional language, Maya Kaqchikel, this expression means “the significance of returning to the place of origin”.

² May include entities such as museums, universities, herbaria and botanical and zoological gardens, data-bases, registers, gene-banks, libraries, archives and information services, public or private collections and other entities storing or housing traditional knowledge and related information.

(b) Prepare a revised draft of the Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, taking into account developments in various international bodies, instruments, programmes, strategies, standards, guidelines, reports and processes of relevance as referred to in paragraph 5 of the annex, and based on: (i) an analysis of the information received as referred to in paragraph 2 above; (ii) the report of the Expert Meeting on the Repatriation of Traditional Knowledge Relevant to the Conservation and Sustainable Use of Biodiversity;³ and (iii) the annex to the present decision containing the objective, purpose, scope and guiding principles for repatriation;

4. *Requests* the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions at its tenth meeting to complete a draft of the guidelines for consideration and adoption by the Conference of the Parties at its fourteenth meeting.

Annex

PROGRESS IN THE DEVELOPMENT OF THE RUTZOLIJRISAXIK VOLUNTARY GUIDELINES FOR THE REPATRIATION OF TRADITIONAL KNOWLEDGE OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES RELEVANT FOR THE CONSERVATION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

Introduction

1. The international community has recognized the close and traditional dependence of many indigenous peoples and local communities on biological resources, notably in the preamble to the Convention on Biological Diversity. There is also a broad recognition of the contribution that traditional knowledge can make to both the conservation and the sustainable use of biological diversity — two fundamental objectives of the Convention — and of the need to ensure the equitable sharing of benefits arising from the utilization of traditional knowledge. For this reason, Parties to the Convention undertook, in Article 8(j), to respect, preserve and maintain the knowledge, innovations and practices (hereinafter referred to as traditional knowledge) relevant for the conservation and sustainable use of biological diversity, and to promote its wider application.

2. To address the effective implementation of Article 8(j) and related provisions, in decision V/16, the Conference of the Parties to the Convention on Biological Diversity adopted the programme of work on Article 8(j) and related provisions, including task 15, which it requested the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions to develop guidelines that would facilitate repatriation of information, including 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.

3. The Conference of the Parties further considered the task at hand in its decision X/43, paragraph 6, and in its decision XI/14 D, annex, and adopted terms of reference to advance the task clarifying:

“The purpose of task 15 is to develop best-practice guidelines that would facilitate enhancement of the repatriation of indigenous and traditional knowledge relevant to the conservation and sustainable use of biological diversity, including of indigenous and traditional knowledge associated with cultural property, in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge of biological diversity.”

³ UNEP/CBD/WG8J/9/INF/4.

4. The guidelines for repatriation of traditional knowledge, builds on relevant decisions of the Conference of the Parties, including paragraph 23 of the Tkarihiwaié:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant to the Conservation and Sustainable Use of Biological Diversity,⁴ as well as decision VII/16 with regard to registries and databases.

5. The guidelines take into account the various international bodies, instruments, programmes, strategies, standards, guidelines reports and processes of relevance and the importance of their harmonization and complementarity and effective implementation, including the United Nations Declaration on the Rights of Indigenous Peoples,⁵ especially Article 31, as well as other relevant articles; and in particular the mandate of United Nations Educational, Scientific and Cultural Organization concerning cultural property, as well as the mandate of the World Intellectual Property Organization, which deals with intellectual property issues. As such, they highlight the importance of international cooperation for the repatriation of traditional knowledge, including by providing access to traditional knowledge and related information for indigenous peoples and local communities, to facilitate the repatriation of traditional knowledge relevant to conservation and sustainable use, in order to assist these communities in knowledge and cultural restoration.

Objectives

6. The objective of these guidelines is to facilitate the repatriation of the traditional knowledge of indigenous peoples and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, including related information in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge relevant for the conservation and sustainable use of biological diversity, and without limiting or restricting its continued use and access.

7. The guidelines may also assist in the effective implementation of the global Plan of Action on Customary Sustainable Use of Biological Diversity, endorsed by the Conference of the Parties in decision XII/12 B.

Purpose

8. The guidelines are intended to be practical guidance to Parties, Governments,⁶ international and regional organizations, museums, universities, herbaria and botanical and zoological gardens, databases, registers, gene banks, libraries, archives and information services, private collections and other entities storing or housing traditional knowledge and related information, and indigenous peoples and local communities, in efforts to repatriate traditional knowledge and related information.

9. They are a guide to good practice which will need to be interpreted taking into account the political, legal, economic, environmental and cultural diversity, as appropriate, of each Party, entity and indigenous peoples and local communities, and applied in the context of each organization's mission, collections and the relevant communities, taking into account community protocols and other relevant procedures.

10. The guidelines are not prescriptive or definitive.

11. Given the political, legal, economic, environmental and cultural diversity of States and indigenous peoples and local communities, it is unlikely that these guidelines will cover all the issues that may arise in professional practice. However, they should provide guidance for those wishing to pursue repatriation.

⁴ Decision X/42, annex.

⁵ General Assembly resolution 61/295, annex.

⁶ Including subnational governments and government departments, which may hold indigenous and/or local community traditional knowledge and related information relevant to the conservation and sustainable use of biological diversity.

12. The guidelines should enable those working on repatriation, including information professionals to make sound judgments regarding appropriate responses to any issues, or provide some ideas about where to go for assistance if more expertise is required.

13. The guidelines should assist indigenous peoples and local communities in the recovery and revitalization of their traditional knowledge related to conservation and sustainable use of biological diversity.

Scope

14. These guidelines apply to the traditional knowledge of indigenous peoples and local communities, embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, including related information,⁷ within the scope of the Convention on Biological Diversity.

Guiding principles for repatriation

15. Repatriation is best facilitated building on the following principles and considerations:

(a) Developing ongoing relationships with indigenous peoples and local communities in order to build trust, good relations, mutual understanding, intercultural spaces, knowledge exchanges and reconciliation;

(b) Recognition and respect for indigenous peoples and local communities' world views, cosmologies, values, practices, customary laws, community protocols, rights and interests; with due respect for international norms;

(c) Preparedness of institutions holding traditional knowledge and related information relevant for conservation and sustainable use to repatriate, including preparedness to cooperate with indigenous peoples and local communities to develop appropriate measures;

(d) Assisting indigenous peoples and local communities in preparedness to receive and keep safe, repatriated traditional knowledge and related information in culturally appropriate ways as specified by them;

(e) Considering measures to address the repatriation of traditional knowledge that is already publicly available and widespread;

(f) Recognition of the importance of repatriating secret or sacred, gender-specific or sensitive traditional knowledge and related information as a priority for indigenous peoples and local communities and as identified by them;

(g) Repatriation can be enhanced by developing the awareness and professional practice of those working on repatriation, including information professionals and indigenous peoples and local communities, in accordance with best practice ethical standards, including the Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant to the Conservation and Sustainable Use of Biological Diversity;⁸

(h) Repatriation includes recognition and support of community-to-community efforts to restore traditional knowledge relevant to conservation and sustainable use of biological diversity.

⁷ Related information could include information on where, when and from whom the traditional knowledge was collected and for what purpose, when it is not confidential.

⁸ See Conference of the Parties decision X/42, available at <https://www.cbd.int/decision/cop/default.shtml?id=12308>.