



HIGHLIGHTS OF THE WORKING GROUP ON ARTICLE 8(J) MONDAY, 27 MARCH 2000

Indigenous and local community representatives held an opening ceremony to start the meeting. Delegates then met in Plenary to hear opening statements and to discuss the agenda and other organizational matters. In the afternoon, the Working Group discussed agenda item seven on international cooperation among indigenous and local communities.

OPENING STATEMENTS

To start the meeting, Hamdallah Zedan, Executive Secretary of the CBD, invited a group of indigenous peoples to conduct an opening ceremony. He then welcomed participants, noting the meeting was evidence of commitment to the CBD's objectives and implementation of Article 8(j). He expressed gratitude to the Spanish government for hosting the meeting, as well as to Canada, the Central African Republic, Finland, Germany, the United Kingdom, and Sweden for their financial support. He stated that traditional knowledge is integral to CBD implementation efforts and noted that Article 8(j) influences other thematic and crosscutting issues. He expressed his hope that the spirit of collaboration visible in the Madrid Workshop on Traditional Knowledge held in 1997 would be maintained.

Fernando Riquelme, Minister for Special Affairs of Spain, stated that Spain recognizes that respect for cultural and biological diversity is important for humanity. He noted participation in the CBD of indigenous and local communities and their role as guardians of biodiversity. The Minister said Spain has been working since 1977 toward recognizing the role of indigenous peoples, and supported the Madrid workshop, COP-4, the Third International Indigenous Forum on Biodiversity, and workshops on indigenous issues in Colombia and Bolivia. He pointed to Spain's sponsorship of the present meeting and the Indigenous Forum as further examples of Spain's commitment.

Isabel Tocino, Minister of the Environment of Spain, noted the report of the Madrid workshop and a recent workshop organized by Spain on indigenous peoples and protected areas. Tocino stressed the need to safeguard collective property rights and expressed Spain's support for a binding mechanism as effective as existing intellectual property rights (IPR). She urged that this meeting make progress on legal mechanisms to protect indigenous knowledge, and called for a panel of experts on Article 8(j) and supported incentives for indigenous IPR, *sui generis*, common and customary law systems. She highlighted the creation of the Center for Study and Preservation of Biodiversity in Sevilla, and concluded by officially opening the meeting.

Juan Luis Muriel, Ministry of Environment of Spain, was introduced as the meeting's chair.

Hamdallah Zedan called for a moment of silence for Arthur Campeau, Canada's first Ambassador for the Environment and Sustainable Development, who recently passed away. He highlighted Campeau's contributions to and role in the Canadian government, the UN Conference on Environment and Development, the crafting of Article 8(j), the CBD Secretariat, and the establishment of the Canadian Environment Roundtable and the International Institute for Sustainable Development. Zedan concluded by noting Campeau's commitment to indigenous rights and their involvement in the conservation and sustainable use of biodiversity.

ORGANIZATIONAL MATTERS

Chair Muriel asked for comments on the agenda (UNEP/CBD/WG8J/1/1). The INTERNATIONAL ALLIANCE OF INDIGENOUS PEOPLES OF TROPICAL FORESTS (INTERNATIONAL ALLIANCE) noted a statement prepared at the Fourth Indigenous Forum on Biodiversity held in Sevilla, Spain, from 24-25 March, and stated that indigenous and local peoples' representatives should take a more active part in the Working Group's deliberations and in writing the final report. CANADA, supported by INDIA, pointed out that implementation priorities should be defined clearly and work elements should be considered together in the Sub-Working Groups. Indigenous and local community representatives from Chile, Suriname, Costa Rica and Peru called for: clarification of the procedures and participation in working group deliberations; representation of indigenous and local community groups in drafting reports; and the appointment of indigenous Co-Chairs. BURKINA FASO called for agenda items on the implementation of Article 8(j) and priorities for implementation of the work programme to be discussed in Plenary. The Chairman agreed to this suggestion and stated that the two Sub-Working Groups would discuss the remaining items. He asked for written proposals for the Sub-Working Group Co-Chair positions.

Two representatives of the Indigenous Forum presented the statement prepared by the forum and stressed: the need to recognize collective sovereignty over indigenous knowledge; the right to participate in decision-making processes; prior informed consent and the right to deny access to knowledge, bioprospecting and application of IPR contravening the rights of indigenous peoples; repatriation of genetic resources and traditional knowledge; and application of the precautionary principle where indigenous rights are at stake. They also noted that the CBD has not recognized the role of indigenous women's knowledge and noted the recommendations of the forum, including, *inter alia*: maintaining the Working

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Group on Article 8(j); providing resources for participation and securing funding for future sessions; establishing an indigenous clearing-house mechanism; maintaining the liaison group for indigenous peoples and local communities; articulating the role of indigenous women in the CBD process; and urging the Working Group to consider issues such as IPR, human rights, trade, tourism and protected areas.

INTERNATIONAL COOPERATION AMONG INDIGENOUS AND LOCAL COMMUNITIES

A representative of the CBD Secretariat introduced the agenda item on measures to strengthen cooperation among indigenous and local communities at the international level and outlined the corresponding background document (UNEP/CBD/WG8J/1/4). The INTERNATIONAL ALLIANCE noted that the CBD's definition of indigenous and local communities fails to recognize such groups as "peoples." ZIMBABWE, LESOTHO, JAMAICA and SENEGAL stressed the need to distinguish and adequately prioritize the role of local communities. GEORGIA asked that the definition of indigenous and local communities embodying traditional lifestyles be clarified. The COUNCIL OF ALL-MAPUCHE LANDS called for an initiative on indigenous rights and participation in the international system, and for consideration of the impacts of multilateral economic agreements. CANADA encouraged Parties to include indigenous representatives on delegations, and advocated more support for indigenous participation in terms of information provision.

BOLIVIA, INDIA, SPAIN, the ASIAN INDIGENOUS AND TRIBAL PEOPLES' NETWORK, the COORDINATING BODY FOR INDIGENOUS COMMUNITIES OF THE AMAZON BASIN and WWF/IUCN supported capacity-building and financial support for indigenous and local communities in areas such as improved coordination, attendance at international meetings, specialized training for project development, negotiating access to genetic resources and establishing benefit-sharing mechanisms. The INTERNATIONAL ALLIANCE stated that technical and financial assistance should be provided on the basis of self-defined needs. CANADA and JAMAICA expressed support for the development and strengthening of networks. PERU called for increased awareness of existing funding sources for protection of collective knowledge.

Regarding a recommendation in the background paper on the Clearing-House Mechanism (CHM), ITALY called for an examination of its potential for strengthening cooperation, and MEXICO called for clarification of its role and operations regarding Article 8(j). ECUADOR and SPAIN called for a more specialized role for the CHM in encouraging current processes and improving collection and dissemination of information about indigenous and local communities. The US identified the Indigenous Biodiversity Information Network as a potential model for information exchange. HAITI, LESOTHO and MADAGASCAR noted that information exchange should not be limited to the Internet. SRI LANKA proposed an expert committee to prepare a communication model and strategy. GERMANY and PERU called for alternative mechanisms to ensure the widest possible distribution of information. NEW ZEALAND proposed that the CHM assume a facilitating role to promote assistance among Parties regarding CBD projects. ARGENTINA and NEW ZEALAND stressed the importance of regional cooperation and information exchange. GEORGIA suggested that governments submit information on the state of their indigenous and local communities.

SWEDEN supported a recommendation in the background paper calling for a high-level inter-agency task force, and invited ideas for a mechanism to allow for increased participation.

CANADA advocated waiting for the outcome of deliberations underway in the UN Commission for Human Rights regarding a permanent forum. The US questioned the contribution of a task force given the existence of the Working Group. GERMANY stated more information on existing initiatives was needed before establishing a task force. The INTERNATIONAL ALLIANCE called for better coordination among international agencies, especially for discussions on rights and other legal aspects. The ASIAN INDIGENOUS AND TRIBAL PEOPLES NETWORK noted the problem of overlapping mandates of international agreements and processes. ARGENTINA cautioned against creating new mechanisms. INDIA noted the fact-finding mission by the World Intellectual Property Organization and suggested that it present its findings to the COP. SENEGAL called for greater synergy between the CBD and UNESCO's Man and the Biosphere Project.

BRAZIL supported a proviso calling for due regard to national legislation, and INDIA called for national policies and dialogue. The GLOBAL FORUM OF INDIGENOUS PEOPLES stressed that national recognition of indigenous peoples by governments is a prerequisite to discussing any mechanisms. MADAGASCAR and NAMIBIA highlighted the importance of integrating local and indigenous communities into the identification and formulation of conservation and sustainable use strategies. NEPAL TAMANG WOMEN GHEDUNG proposed a reference to customary and collective rights, and, supported by PERU, highlighted the crucial role of indigenous women in sustainable development and conservation of biodiversity.

HONDURAS said that some indigenous groups do not always act in the interest of the environment. TEBTEBBA stated that such groups may be forced to do so, because of poverty and marginalization. She called attention to work in other fora on IPR, noting that some international agreements undermine efforts to preserve knowledge. The AUSTRALIAN INDIGENOUS DELEGATION noted the absence of its government delegation and called for legal frameworks at the national and international levels to protect traditional knowledge.

IN THE CORRIDORS

Some delegates noted the reiteration of political issues that arose during the Madrid meeting, such as human rights, indigenous "peoples" and control over resources, and questioned how a process focused on Article 8(j) could move forward within this larger debate. Some indigenous delegates expressed frustration at not being able to present the Indigenous Forum's statement during the opening session, noting the irony of this in a process ostensibly designed to facilitate their participation. Some ask: is this déjà vu from COP-4, which excluded indigenous peoples from full and effective participation in its discussions?

THINGS TO LOOK FOR TODAY

SUB-WORKING GROUP I: SWG-I will meet at 10:00 am to discuss legal and other forms of protection for traditional knowledge.

SUB-WORKING GROUP II: SWG-II will meet at 10:00 am to discuss the work programmes' development.

LEGISLATIVE OPTIONS TO PROTECT INDIGENOUS KNOWLEDGE: A briefing on this topic organized by the Indigenous Knowledge Program will meet at 1:00 pm on Level R.