

**Statement
Of The
Executive Secretary,
Dr. Ahmed Djoghlaif
Of the Secretariat of the Convention on Biological Diversity
To the UNPFII at its 10 Session**

17 May 2011

Agenda item 3. Follow-up to the recommendations of the Permanent Forum:
(b) Environment

Delivered by Mr. John Scott

Distinguished Delegates,

It gives me great pleasure to address you at the tenth session of the UNPFII, particularly noting that under the recently adopted biannual working method, the 10th session is devoted to review of recommendations made by the UNPFII.

I want to also take this moment to recognise and celebrate that indigenous peoples have had a permanent high level mechanism established for a decade and we, at the Secretariat have been your active partners since the very beginning.

We have much more to celebrate which I would like to briefly elaborate upon. 2011 marks to beginning of the International Decade for Biodiversity which is a commitment by the international community to draw attention to and to prioritise the three goals of the Convention which are conservation, sustainable use of biodiversity and the equitable sharing of benefits arising from the utilization of genetic resources. Indigenous peoples and local communities were strong partners in the International Year of Biodiversity and the Decade provides us with another opportunity to continue to work together. I regard indigenous peoples and local communities as essential partners if we are to achieve the Aichi targets and stem the terrible tide of extinctions which the Earth is currently facing.

It also gives me great pleasure to report to you on another of matters of direct relevance to the UNPFII including previous recommendations made to the SCBD.

Firstly, the Nagoya Protocol - A major accomplishment at COP 10 was the adoption of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from the Utilization of Genetic Resources of the Convention on Biological Diversity (Nagoya Protocol) following six years of intense negotiations.

I would like to highlight some key elements of the Protocol, as well as some recent developments in the broader programme of work of the Convention related to traditional knowledge relevant to biological diversity.

The purpose of the Protocol is to effectively implement one of the three core objectives of the Convention: the fair and equitable sharing of benefits arising from the utilization of genetic resources. It builds on the access and benefit-sharing provisions of the Convention.

The Preamble provides a context for the interpretation of the text of the Protocol. The preamble contains seven paragraphs relevant to ILCs and TK. These paragraphs includes references to article 8(j), the interrelationship between GR and TK and their inseparable nature, the diversity of circumstances in which TK is owned or held (including by countries), the identification of the rightful holders of TK, the Declaration on the rights of indigenous peoples and the non-extinguishment of existing rights.

At the core of the Protocol are obligations related to access to genetic resources, the fair and equitable sharing of benefits arising out of genetic resources, as well as compliance with prior informed consent and mutually agreed terms. In addition, to support compliance Parties have the obligation to take measures to monitor the utilization of genetic resources, including through the designation of check points and reporting requirements. Furthermore, an internationally recognized certificate of compliance issued by the providers of genetic resources will serve as evidence that genetic resources have been accessed in accordance with prior informed consent and that mutually agreed terms have been established. The issuance of certificates of compliance will be made available to the Access and Benefit-sharing Clearing House established under the Protocol.

The Protocol also contains significant provisions relating to traditional knowledge associated with genetic resources held by indigenous and local communities, as well as to genetic resources held by indigenous and local communities where the rights of these communities over these resources have been recognized.

The Protocol sets out clear obligations to seek the prior informed consent of indigenous and local communities in these situations. It also provides for the sharing of benefits arising from the use of traditional knowledge associated with genetic resources, as well as benefits arising from the use of genetic resources in accordance with domestic legislation. Benefit sharing must be based on mutually agreed terms.

In addition, Parties to the Protocol must ensure that their nationals comply with the domestic legislation and regulatory requirements of provider countries related to access and benefit-sharing of traditional knowledge associated with genetic resources.

Also, it should also be noted that the Decision of the Conference of the Parties contains a review clause related to developments in the World Intellectual Property Organization (WIPO). To be more specific, four years after the entry into force of the Protocol, the Conference of the Parties serving as the Meeting of the Parties to the Protocol is to undertake an evaluation of the effectiveness of the Protocol. In this context, the Conference of the Parties decided that the implementation of the article related to

compliance with domestic legislation or regulatory requirements on access and benefit-sharing for traditional knowledge associated with genetic resources should be reviewed in light of developments in other relevant international organizations, including the World Intellectual Property Organization.

The adoption of the Nagoya Protocol responds to many recommendations made by the Forum over the last six years. Indigenous and local community negotiators who followed ABS should be congratulated for their hard work and long term commitment which made this good outcome possible.

Work Programme on Article 8(j) of the Convention (traditional knowledge)

Of most significance to the UNPFII and stemming from a recommendation that emerged from the UNPFII at its second session, the COP finalized the negotiation of and adopted the Code of Ethical Conduct on Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity ("the Tkarihwaí:ri^[1] code of ethical conduct) and invited Parties and Governments to make use of its elements to guide the developments of models of codes of ethical conduct for research, access to, use, exchange and management of information concerning traditional knowledge.

Regarding article 8(j) and related provisions, the Conference of the Parties requested the Secretariat to continue its work on sui generis systems by collated and analyzing information including evidence about the effectiveness of sui generis measures that have been taken at the local, sub-national, national, or regional levels. The Secretariat has also been requested to assist the World Intellectual Property Organization in completing its work on the development of the WIPO toolkit on the documentation of traditional knowledge.

The COP also adopted a revised multi-year programme of work for Article 8(j) including the initiation of new tasks related to the recently adopted Nagoya Protocol and its implementation, including: (i) guidelines for benefit sharing and obtaining prior informed consent from indigenous and local communities, (ii) the identification of obligations of provider and user countries, and (iii) guidelines for the national implementation of Article 8(j) and related provisions and standards and guidelines for the reporting and prevention of unlawful appropriation of traditional knowledge and related genetic resources. The COP also decided to initiate work on the development of guidelines for the repatriation of information, including cultural property (task 15).

The COP also adopted two additional indicators for traditional knowledge to complement the already adopted indicator on status and trends in traditional languages. They are: (i) status and trends in land-use and land tenure in the traditional territories of indigenous and (ii) local communities and status and trends in practice of traditional occupations. Future indicators work will consider indicators for customary sustainable use.

Finally the COP decided on a major new component of work on sustainable use of biodiversity with a focus on customary sustainable use which will be held in Montreal from 31 May to 3 June, 2011, as well as an expert meeting for local community representatives to better understand the concept of local community under the mandate of the Convention and to engage them more effectively in the work of the Convention, which will be held in Montreal from 13-15 July, 2011.

The 7th meeting of the WG 8(j) will occur from 31 October to 4 November 2011, back to back with SBSTTA and possible in Montreal.

Another key achievement of COP 10 was the adoption of the new strategic plan of the Convention for the next decade (2011-2020). The purpose of the Strategic Plan for the period 2011-2020 is to promote effective implementation of the Convention through a strategic approach comprising a shared vision, a mission, strategic goals and targets that will inspire broad-based action by all Parties and stakeholders. The mission of the Strategic Plan is to take effective and urgent action to halt the loss of biodiversity in order to ensure that, by 2020, ecosystems are resilient and continue to provide essential services, thereby securing the planet's variety of life, and contributing to human well being and poverty eradication. Of particular relevance to indigenous peoples and local communities are targets 14, concerning ecosystem services and target 18 on traditional knowledge.

Also COP 10 in Decision X/20, paragraph 16, welcomed the joint programme of work between UNESCO and the Secretariat of the Convention on Biological Diversity,¹ as useful coordination mechanism to advance the implementation of the Convention and deepen global awareness of the inter-linkages between cultural and biological diversity and invites Parties and other relevant stakeholders to contribute to and support the implementation of this joint programme.

Finally, a side event has been organized by the Secretariat and indigenous partners on Tuesday 17th May, 13.15 – 2.45, 7th floor UNICEF Building and the Secretariat will also present of the Nagoya Protocol on 21 and 22 May at an information and preparatory meeting for indigenous peoples representatives on "Access and Benefit-sharing and Traditional Knowledge: The Nagoya Protocol and the way ahead" hosted by the Indigenous Information Network (IIN), the Indigenous Peoples of Africa Co-ordinating Committee (IPACC), the ABS Capacity Development Initiative for Africa, Conservation International, GIZ and the Equator Initiative.

I thank you for your time and look forward to seeing many of you at the side event and training event mentioned above and I wish you every success as the Forum celebrates its 10th birthday.

End.

¹ The programme of work and the Declaration are contained in the report of the International Conference on Biological and Cultural Diversity for Development, held in Montreal from 8 to 10 June 2010 (UNEP/CBD/COP/10/INF/3).