1. EDITORIAL

In anticipation of the first session of the Permanent Forum on Indigenous Issues (13-24 May 2002), this Update is devoted to the follow-up of the activities carried out by several intergovernmental organizations on these issues. Indeed, many of them have initiated various processes in accordance with their own structures, within the framework of the International Decade of the World’s Indigenous Peoples. The most recent outcome of these processes is published in this issue.

Since 1996, the International Labour Organization (ILO) has been developing a project to promote awareness of its work among the indigenous peoples, to encourage the application of its standards, especially ILO Convention No. 169, and to enhance the capacity of indigenous and tribal peoples to participate in development processes affecting them. Information missions, seminars, dialogues, conferences and workshops are currently being promoted in Asia (India, Philippines, Malaysia, Thailand and Cambodia), Africa (Tanzania, Kenya, South Africa, Central and Western Africa), as well as in South America (Argentina). Lastly, a fellowship programme will begin in 2002.

In 1999, the World Health Organization (WHO) had convened an international consultation on indigenous peoples’ health. On this occasion, the Geneva Declaration on the Health and Survival of Indigenous Peoples and the Declaration of Indigenous Delegates from Central and South America had been published in Update 32/33. In 2001, the 54th World Health Assembly passed a resolution, which is published in this issue together with the Recommendations relating to partnership mechanisms.
included in the *Report of the International Consultation on the Health of Indigenous Peoples.* Let’s recall that, generally and despite the lack of accurate information, indigenous peoples’ life expectancy and health status are inferior to those of other population groups. On the other hand, the lack of data and in-depth research in this area, as well as great differences between official and independent statistics significantly hinder the development of regional and world health plans for indigenous peoples.

In 1999 as well, UNESCO had convened a workshop entitled *Cultural Challenges of the International Decade of the World’s Indigenous People,* where indigenous delegates had drawn up recommendations published in *Update 32/33.* In 2001, UNESCO convened an international symposium entitled *Indigenous Identities: Oral, Written Expressions and New Technologies,* which also produced specific resolutions by indigenous participants (see *Update 39/40*). Today, it seems appropriate to publish the text of the *Universal Declaration on Cultural Diversity* in which the term "indigenous peoples" has finally been accepted. Furthermore, it seems useful to draw attention on the work carried out by this intergovernmental organization on bioethics and intellectual property, even though it should be noted that no indigenous delegation participates in the process.

The second session of the Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore convened by the World Intellectual Property Organization (WIPO) did include some indigenous organizations. Of particular interest was the reading of a statement by Indian shamans of Brazil stressing the collective and non-commercial nature of their traditional knowledge, which, as such, should not be subject to patenting. Further, following a proposal by the European Union, WIPO announced that some indigenous and local community representatives could be funded in order to ensure their participation in the third session of the Committee scheduled to take place from 17 to 21 June 2002.

The second session of the Working Group on Article 8(j) of the Convention on Biological Diversity (CBD) passed a number of resolutions, including one calling for coordination among the intergovernmental organizations dealing with the recognition and protection of traditional knowledge. It is indeed striking to note that many of these agencies work in the same area without exchanging information, and sometimes even ignore the existence of the Draft Principles and Guidelines for the Protection of the Heritage of Indigenous People developed in the UN Commission on Human Rights. This demonstrates how relevant the mandate of the Permanent Forum is, since this new body will coordinate the programmes aimed at indigenous peoples within the United Nations system, have an advisory function and carry out awareness-raising activities.

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2. INTERNATIONAL LABOUR ORGANIZATION

2.1. Policy on Indigenous and Tribal Peoples

The Project to Promote ILO Policy on Indigenous and Tribal Peoples is financed by Danish Development Assistance (DANIDA). It commenced in 1996, and a new phase of activities began in 2000. The main objectives of the Project are: (i) to promote awareness of the ILO’s work on indigenous and tribal peoples; (ii) to encourage the application of relevant standards in this respect, especially the Indigenous and Tribal Peoples’ Convention (No. 169); and (iii) to enhance the capacity of indigenous and tribal peoples to participate in development processes affecting them. The principal focus of the project is on Africa, and South and South-East Asia, whereas work in South and Central America complements the activities of the ILO offices in the region. The following is a summary of the Project’s activities during the past nine months.
Individual country activities

Asia

India
In India, two missions have been undertaken by Project staff: the first aimed at informing indigenous and tribal peoples’ organizations about the Project; the second involving a meeting with the Ministry of Tribal Affairs (MoTA) and the Ministry of Labour. Possible openings for dialogue have been reached between the ILO, the government and indigenous and tribal peoples’ organizations here, and modalities for furthering this process are currently being developed. There is also a pending proposal for a national seminar and a study to compare the relevant national and state legislation in India with ILO Conventions Nos. 107 and 169.

Philippines
The current Project partner in the Philippines is PANLIPI-Cordillera – with whom the Project has agreed to implement a one-year research project aimed at analysing the current state of legal protection for indigenous peoples’ rights in the Philippines and how it can be implemented more effectively or strengthened. An important component of this study is also a comparison of existing legislation with the principles contained in Convention No. 169. The process will involve extensive consultations with indigenous people’s organizations, and relevant government bodies and officials, as well as other legislative research. The study will develop recommendations as regards furthering the legal protection of indigenous peoples within the Philippine framework, and ameliorating the implementation of existing standards. It is anticipated that these recommendations will serve as the basis for a national workshop once the study is completed. In parallel with this process, there is an ongoing dialogue between the Project and the NCIP (National Commission on Indigenous Peoples – the governmental body with the mandate to implement the Indigenous Peoples Rights Act of 1997), which has shown willingness to work with the Project.

Aside from the above, which constitutes the Project’s principal undertaking in the Philippines, the Project has supported an independent media outfit (NORDIS) that collates and distributes relevant information to indigenous organizations. The organizing of a forthcoming international indigenous youth conference has also been supported.

Malaysia
An initial mission to Malaysia during 2001 provided the Project with the opportunity to discuss with various actors and institutions of relevance to its work. These included indigenous and tribal peoples’ organizations, NGOs, government and international agencies. The government has indicated its willingness to start a process of dialogue. An indigenous NGO (Borneo Resources Institute Malaysia, or BRIMAS) has submitted a proposal for a national seminar on the rights of indigenous peoples. This seminar will be held during the first quarter of 2002 with government participation, and in collaboration with the Office of the Chief Minister of Sarawak.

Thailand
Two missions were conducted in Chiang-Mai to follow-up previous discussions on the possibility of holding a national seminar on Convention No. 169. However, the government agency tasked to work on the issue (Tribal Research Institute) has been undergoing considerable structural changes and there is no clear indication on the possible outcome of such changes. The situation in Thailand is rather unique in that many resources are being channelled into income generating activities for indigenous and tribal peoples, but there is very little being done in terms of policy advocacy. This issue has been repeatedly addressed to the various indigenous organizations and NGOs. Despite these gaps, there remains considerable scope in Thailand for engaging in capacity-building activities for indigenous and tribal peoples’ organizations, which will be the primary focus of the Project’s activities here over the coming months.
Cambodia
Partly due to the Project’s previous engagement in capacity-building for government agencies in Cambodia on issues pertaining to indigenous peoples and development issues in general (during 1998-1999), and partly due to the recent passage of an Asian Development Bank Policy Paper on indigenous peoples, there is an increasing interest among government agencies in dialogue on these issues. There is also a strongly evident wish to learn from the experiences of the other Asian countries in dealing with issues pertaining to indigenous and tribal peoples. A national seminar to inform government officials/agencies about the different policies and programmes by the various international agencies is being planned for the first quarter of 2002. It is hoped that such a seminar will result in a more concerted effort to have the Highland Peoples’ Development Policy (currently in draft form and awaiting approval from the Council of Ministers) adopted as part of Cambodia’s laws. The seminar will also result in a more systematic programme of action to address the different concerns of indigenous and tribal peoples in Cambodia.

AFRICA

Tanzania
With the support of the ILO Area Office in Dar es Salaam, the Project has been introduced to various social partners, and has established contacts with the Ministry of Labour and with NGOs dealing with hunter-gatherers and pastoralists. In addition, a partnership has been established with Oxfam (GB). The objective of this partnership is to support pastoralists and hunter-gatherers in their efforts to raise their voice and engage in a dialogue with the government with regards to the new Draft Rural Development Strategy. In this respect a pastoralist and hunter-gatherers preparatory workshop has taken place. A national workshop, including government representatives will take place in 2002. The activities are coordinated by the pastoralists indigenous NGOs (PINGOs).

Complementary to the above-mentioned, in partnership with ILO-INDISCO, the Project supported the policy study: ‘Decent Work for Pastoralists: Needs and Opportunity Assessment to Strengthen the Policy Environment for the Creation of Sustainable Livelihoods and Decent Employment for Pastoralists in Tanzania’, which was later disseminated in a workshop. The Project has also assisted coordination and backstopping of INDISCO activities in Tanzania.

Kenya
Several missions to Kenya have been carried out in order to identify pastoralists’ and hunter-gatherers’ priorities and needs and define strategies for intervention. Meetings with government representatives have also taken place. The support of the Project is to be seen in the light of the current Constitutional Review Process in Kenya. The government has presented to the population possibilities of participation in this process. Welcoming this opportunity to play an active role in the Constitutional Review Process, indigenous and tribal peoples’ organizations in Kenya have requested the assistance of the Project.

In this respect, a National workshop –supported by the Project and hosted by CEMIRIDE (Centre for Minority Rights Development)– took place from 28 to 30 November 2001. The primary aim of this workshop was to facilitate the coordination of an effective strategy for the collection and elaboration of a position paper for pastoralists and hunter-gatherers in Kenya to be presented to the Constitutional Review Commission, and for the effective participation of these peoples in this process. As an initial outcome of the workshop, a working group of pastoralists and hunter gatherers, representative of all the main groups in Kenya, was formed in order to co-ordinate efforts in this regard. It is anticipated that a common position paper be presented and discussed in a national workshop mid 2002, including participation from the government in Kenya. Convention No. 169 was presented during the above-mentioned workshop, a report of which will be available shortly.

South Africa
For various reasons, follow-up on contacts established with South Africa during the previous phase of the Project have been delayed. However, the initiation and re-establishment of contacts has been undertaken, and the Project is now in a position to initiate more concrete activities here.
One mission has been undertaken to Kimberley, Upington and Pretoria, where the Project met with the Department of Foreign Affairs, the Department of Provincial and Local Government, the Department of Constitutional Development, indigenous and tribal peoples’ organizations and the South African Human Rights Commission. Further initiatives to strengthen the dialogue on indigenous issues to be implemented from 2002 are under consideration, and proposals from Indigenous organizations are being awaited.

Central and West Africa (the Batwa)
The Ministry of Labour in the Central African Republic has by letter requested the assistance of the Project on “pygmy” issues. Recognizing the existence of similar problems in neighbouring countries, contacts have been sought and to some extent established with the ILO offices in Cameroon and Central African Republic, and Indigenous Peoples’ organizations in Cameroon, Rwanda, Burundi and the Congo’s. Concrete activities to follow-up on the request will have a high priority in 2002, if possible coordinated with activities in other countries with “pygmy” populations.

LATIN AMERICA

Argentina
Argentina ratified ILO Convention No. 169 in July 2000. In addition to co-operation with Argentina from the ILO Office in Buenos Aires, the Project is supporting an initiative aimed at the promotion and diffusion of Convention No. 169, in collaboration with the ILO’s Area Office here, and the University of Buenos Aires (Permanent University Programme of Extension, Research and Development in Argentine Indigenous Communities) and ACCESOS. The main objective of the project is to increase awareness of Convention No. 169 among the indigenous peoples of the country, and in general it will serve as a capacity-building initiative for the indigenous organizations when dealing with the ILO’s supervisory mechanisms and Convention No. 169.

Regional activities

In Asia, a trainers’ training is due to take place in March 2002. This will be a five-day training for ten indigenous professionals (two from each of five countries in South and South-east Asia) on the contents and principles of Convention No. 169, the ILO’s overall organization, structure and mandate, implications of ratification on governments and indigenous and tribal peoples’ organizations, and other relevant international standards pertaining to indigenous and tribal peoples. The training is envisioned for indigenous lawyers or para-legals who have had experience in community education work and are committed to echoing the results of the training in their respective countries. The participants will be asked to facilitate training of indigenous organizations and government agencies on the contents of Convention No. 169, when requested, and as such, will be asked to develop a module that reflects and responds to the specific conditions and needs of indigenous peoples in their countries.

Inter-agency collaboration

The ILO has been involved in ongoing inter-agency discussions regarding the forthcoming Permanent Forum on Indigenous Issues. In this respect, a number of meetings have been held, including most recently a two-day workshop, in which 15 United Nations agencies discussed and developed a proposal for providing support and guidance to the Forum according to the specializations and individual mandates within the United Nations system. The Support Group will also:

- coordinate the UN System contributions to the Forum sessions;
- analyse recommendations of ECOSOC and examine the most effective responses on the basis of mandates, resources and capacity of each organisation;
- provide advice to the secretariat of the Forum on issues relevant to indigenous peoples as they relate to the UN System;
- develop relationships with donors, civil society organizations, indigenous peoples organisations, and others to consider cooperative ways of supporting the Forum; and
- interact with the Forum and provide advice and guidance as appropriate.

Other elements of inter-agency collaboration aside from that within the context of individual country activities, which is outlined above, include the Project’s participation as in the forthcoming workshop on Multiculturalism in Africa: Peaceful and constructive group accommodation in situations involving minorities and indigenous people, organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR). In this regard, the Project will provide training for participants on the contents and principles of Convention No. 169. It is also funding the participation of two indigenous persons to the workshop. The Project also funded the participation of two indigenous people from Kenya and the Philippines in the recent workshop organized by the OHCHR on Indigenous peoples, private natural resource, energy and mining companies and human rights.

Fellowship Programme

As of 2002, the ILO will be initiating an Indigenous and Tribal Peoples Fellowship Programme. The objective of the Programme is to equip the fellows with some of the skills and knowledge necessary (in particular ILO Convention No. 169) for the promotion and protection of the rights of their peoples/communities. This will contribute to the strengthening of the capacity of indigenous and tribal peoples to engage in meaningful and informed participation, to be consulted at all levels of development and policy processes affecting them, and to articulate their concerns within the context of these processes.

The ILO’s Indigenous and Tribal Peoples Fellowship Programme also hopes to facilitate effective inter-agency co-operation, and is one component of an inter-agency effort, within the context of the International Decade of the World’s Indigenous People, to ameliorate the living and working conditions of these peoples. Despite initiating its own programme, the ILO will continue to contribute to the OHCHR’s annual Indigenous Fellowship Programme, and collaborate to the fullest extent possible on ensuring the complementarity of the two programmes in their common goals.

The fellows’ participation in the Programme will constitute a full-time engagement for four fellows for four months. For 2002, the programme will begin in June. The deadline for applications for this year’s programme is 15 April. During this time, they will be briefed, trained, and will have the opportunity to work directly with the Project to Promote ILO Policy on Indigenous and Tribal Peoples. It is intended that the knowledge and skills gained during this period will be put into practice within the context of the fellows’ own work in promoting and protecting the rights of indigenous and tribal peoples in their own countries, communities or at the international level. The Programme will be implemented as three main components:

1. General training and briefings on relevant ILO and other UN human rights instruments, processes and activities;
2. Practical experience with the Project to Promote ILO Policy on Indigenous and Tribal Peoples - both at ILO headquarters in Geneva, and in one of the Project’s regional posts in Africa or Asia (mainly in terms of policy development, establishment and strengthening of dialogue); and
3. Work assignments and research based on what the fellows have learned through their briefings and practical experience.

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2.2. Committee of Experts on the Application of Conventions and Recommendations

Summary of comments made in respect of the Indigenous and Tribal Populations Convention, 1957 (No. 107), and the Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Article 22 of the ILO Constitution requires Member States to submit periodic reports to the Office on the measures taken to give effect to the provisions of ratified Conventions. The Committee of Experts on the Application of Conventions and Recommendations, a body of 20 independent experts, examines the application of ILO Conventions –including Conventions Nos. 107 and 169– on a regular basis. Its comments take the form of observations or direct requests. The Committee’s observations are published in an annual report. Direct requests are sent directly to the government in question and are made public later.

The following is a summary of the observations made by the Committee at its 90th session (November 2001).
Convention No. 107
In addition to its observation concerning Bangladesh (below), requests regarding certain points were addressed directly to Angola and Malawi.

BANGLADESH
Recalling that for many years an armed conflict had taken place in the Chittagong Hill Tracts (CHT) region of the country, between government forces and the armed wing of the Parbattya Chattagram Jana Sanghati Samity (PCJSS), and that a Peace Agreement had been signed between the government and PCJSS on 2 December 1997, the Committee noted the detailed information it had received on the implementation of the Agreement. While the Committee welcomed the Peace Agreement, it was aware that controversy remains over the slow progress of its implementation, as indicated in the Concluding Observations of the United Nations Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.118, 23 April 2001).

Administration. The Committee noted the establishment of a number of bodies concerned with the implementation of the Peace Agreement. It requested the government to keep it informed of the progressive transfer of responsibility to the tribal leaders in the CHT. It also noted that development allocations for the CHT had been increased under the Peace Agreement, but that the line Ministries had taken up their own development programmes. It requested the government to provide more information on the practical implications of this development, with particular attention to the involvement of tribal leadership in the planning and implementation of development activities.

Return of tribal refugees. Noting the agreement signed within the framework of the Peace Agreement concerning the return of tribal refugees from India, and the information provided by the government on the return of these refugees, the Committee requested the government to indicate in its next report whether all the refugees concerned have been settled, and whether this has taken place in their former homes or elsewhere. The Committee also requested further information on the Task Force established for this purpose.

Land. The Committee noted the constitution of a Land Commission with a mandate to resolve land disputes within the CHT. It noted with regret that the Commission had not yet begun functioning, and requested further information in this regard, taking into consideration the importance of resolving these conflicts. The Committee also referred to the situation regarding the cancellation of the lease agreements of non-tribals who had failed to use lands for the purpose for which they had been allotted to them, and that some such leases had been cancelled. In this regard, the Committee asked for further information on how much land was concerned, and how much had been allotted to landless tribal families. In this respect, it also noted that a situation involving the rehabilitation of 3,000 landless tribal families had not been resolved, and hoped that the government would be able to indicate in its next report that the situation of these families and others has been resolved.

Noting its previous concern as regards the government’s attitude towards the shifting/swidden or “jhum” agriculture methods of the tribal peoples in the CHT, the Committee noted with interest the remark in the government’s report concerning the encouragement of a kind of “Jhum” which, the government indicates, is less environmentally damaging. The Committee requested further information on discussions and policies in this regard.

The Committee also noted that the government had not provided a reply to a question in its previous observation concerning the power of the district councils to allocate land rights, and requested it to do so.

Convention No. 169.
In addition to its observations concerning Denmark, Guatemala and Mexico (below), requests regarding certain points were also addressed directly to these three states.

DENMARK
The Committee noted that the government’s second report on the Convention had not been received. It therefore repeated its previous observation, noting with interest the agreements in effect in Denmark giving a large degree of autonomy to the indigenous people of Greenland. The previous observation of the Committee also asked for additional information on a number of points in a request addressed directly to the government.
GUATEMALA
The Committee noted with interest the second report of the government of Guatemala following ratification of the Convention, which had arrived too late to be considered at its previous session. The Committee noted that the government had offered little additional information, since a referendum on Constitutional reforms was rejected by popular vote in May 1999, on the measures that have been taken since then to implement the Convention and the Peace Agreement.

The Committee also noted a communication from the Central Organization for Rural and Urban Workers (CTC), on which the government had made no comments. This report is characterized as the Second Alternative Report on the application of the Convention. The Committee also expressed its regret that it had received no reply concerning the First Alternative Report, submitted by the Federation of Rural Workers (FEDECAMPO). The Committee also drew attention to additional sources of information available regarding the implementation of the Peace Agreements, including various reports of the United Nations Verification Mission in Guatemala (MINUGUA), established in 1997 to verify compliance with the Peace Agreements. Taken together, these sources indicate that considerable problems remain in the implementation of the Peace Agreements as concerns the indigenous peoples of Guatemala, as well as in the implementation of the Convention.

While recognizing the complexity of the situation, the Committee recalled that the ratification of Convention No. 169 was one element in the settlement of the internal conflict in the country. It therefore urged the government to renew efforts to overcome difficulties in the application of both the Peace Agreement, and the Convention, and to continue to provide information to the Committee on how it is accomplishing this. It also expressed the firm hope that the government would comment on the observations made by workers’ organizations in the country, and that the Committee would be able to note in the near future that concrete measures have been taken to apply the Convention.

MEXICO
The Committee noted the detailed report provided by the government. It also noted that at its 282nd session (November 2001), the Governing Body had declared receivable two representations under article 24 of the ILO Constitution, alleging non-observance of the Convention by Mexico. The tripartite committee to examine these representations will not be established until March 2002, therefore the Committee was able to examine the government’s report.

The Committee also noted various communications from trade unions, received under article 23 of the ILO Constitution concerning the application of the Convention by Mexico. Noting that the government has not yet had sufficient time to comment on these observations, the Committee will defer their examination to its next session.

The Committee referred to various legislative initiatives adopted during the period covered by the report, particularly the Constitutional reforms on indigenous questions, published in the Official Bulletin of the Federation on 14 August 2001. These reforms cover a large number of the subjects covered by the Convention, and have also generated much controversy, and some sections of Mexican society, including indigenous and workers’ organizations, have expressed concern that they will have a negative impact on the social, economic, and legal situation of the indigenous peoples of Mexico. The Committee has examined the Constitutional reforms in more detail in a direct request to the government, which raises a number of questions concerning: definition and self-identification (how the provisions of the Convention are being applied in a coherent and uniform manner); lands (including protection of the rights to natural resources and other land rights); administrative questions (how development of “co-ordinated and systematic action” for the protection of the integrity of indigenous peoples is assured, in the light of the devolution to the constituent states of the power to legislate on a certain number of questions); and on the process of adoption of the constitutional reforms (particularly as regards the participation of indigenous peoples).

A direct request is also being sent to the government to follow up on two representations made in respect of the Convention for which the final reports have been adopted by the Governing Body in documents GB.272/7/2, and GB.276/16/3, as well as on comments submitted by the Authentic Labour Front (FAT) under article 23 of the ILO Constitution, and the government’s reply to them.

* * *
3. THE HEALTH OF INDIGENOUS PEOPLES AND THE WORLD HEALTH ORGANIZATION

Since 1995, the World Health Assembly has approved seven resolutions requesting that regional or global action plans truly take into account the poor health status of the indigenous peoples. Despite significant differences between official and independent health statistics, we know that indigenous peoples’ life expectancy and health status are inferior to those of other population groups. But the lack of accurate data and in-depth research hinder the development of an efficient and useful policy in this area. This dreadful situation can therefore not be seriously addressed, in partnership with the indigenous peoples.

Introduction
By Dr. D. Roy Laifungbam
co-Chairperson, Committee on Indigenous Health

Along with the growing international concern on the question of discrimination against the world's indigenous peoples, the elaboration of its nature and consequences has also developed extensively over the past two decades or so. One of the central issues that affront the international community today is that of the survival of indigenous peoples. Considerable understanding of this complex issue emerged with the continuing dialogue at the United Nations Working Group on Indigenous Populations, which began its work in 1982. Understandably but belatedly, since 1996, the Working Group has had a consistent thematic focus on the health of indigenous peoples, which it recognised as indivisibly linked to indigenous peoples' survival.

Indigenous peoples recognise that the significant developments around the mid 90s, with the proclamations of the International Year of the World's Indigenous Peoples (1993), the International Decade of the World's Indigenous People (1994-2004) along with the General Assembly's recommendation, and the adoption of the draft Declaration on the Rights of Indigenous Peoples by the Sub-Commission, have been a very mixed bag of fortunes. In spite of the early start made by the ILO, progress in other spheres of international standard setting activities has been tardy mainly due to some amount of polarisation among the member States of the United Nations on the "indigenous" problematic. As a consequence, the response from international inter-governmental organisations, which have the same constituency, has been variable, ranging from progressive initiatives to cautious and inconsistent efforts.

The World Health Assembly, which governs the World Health Organisation, was quick to respond positively to the global objectives of the International Decade. Its annual resolutions re-affirm its continuing commitment. Last year, the fifty-fourth World Health Assembly made its seventh consecutive annual resolution since 1995 urging its Member States and requesting its regional bodies and the Director-General of WHO for a number of appropriate actions to address the deplorable health situation of indigenous peoples. Significantly, resolution WHA54.16 of 2001 mentioned the recommendations of the "International Consultation on the Health of Indigenous Peoples" (Geneva, November 1999) conducted by WHO with the close cooperation of the Committee on Indigenous Health, as a point of departure, where appropriate, for the development of regional plans of action.

The progress made by WHO, a technical advisory body, has been important though it is also characterised by caution, hurdles of institutional arrangements and fixing of responsibilities. While WHO's contribution to the Decadal efforts, and particularly in the Region of the Americas, is commendable, one crucial element needs to be kept in the fore as further steps are contemplated and anticipated –establishment of partnership mechanisms with consistent and close consultation with indigenous peoples' representative organisations. It is encouraging that the WHO Secretariat, in its last report (WHA 54/33), acknowledges the advisory mandate of the Permanent Forum on Indigenous Issues to the bodies of the UN system.
3.1. International Decade of the World’s Indigenous People: Resolution WHA54.16

The fifty-fourth World Health Assembly,

Recalling resolutions WHA47.27, WHA48.24, WHA49.26, WHA50.31, WHA51.24 and WHA53.10 on WHO’s contribution to achieving the objectives of the International Decade of the World’s Indigenous People (1994-2003);

Further recalling United Nations General Assembly resolution 50/157, which adopted the programme of activities for the International Decade, in which it is recommended that “specialized agencies of the United Nations system and other international and national agencies, as well as communities and private enterprises, should devote special attention to development activities of benefit to indigenous communities”; that focal points for matters concerning indigenous people should be established in all appropriate organizations of the United Nations system; and that the governing bodies of the specialized agencies of the United Nations system should adopt programmes of action for the Decade in their own field of competence, “in close cooperation with indigenous people”;

Welcoming the decision by the United Nations Economic and Social Council in its resolution 2000/22 of 28 July 2000 to establish a Permanent Forum on Indigenous Issues as an advisory body to the Council with a mandate to discuss indigenous issues within the mandate of the Council relating to economic and social development, culture, the environment, education, health and human rights, thereby fulfilling an important objective of the Decade;

Commending the progress made in the Region of the Americas on the Initiative on the Health of Indigenous People of the Americas;

Deeply concerned about the disparities in health conditions of indigenous people in comparison to the overall population,

1. Urges Member States:
(1) to recognize and protect the right of indigenous people to enjoyment of the highest attainable standard of health, as mentioned in the WHO Constitution, within overall national development policies;
(2) to make adequate provisions for indigenous health needs in their national health systems, including through improved collection and reporting of statistics and health data;
(3) to respect, preserve and maintain traditional healing practices and remedies, consistent with nationally and internationally accepted standards, and to seek to ensure that indigenous people retain this traditional knowledge and its benefits;

2. Requests WHO’s regional committees to give urgent attention to the adoption of regional plans of action on indigenous health that take into account, as appropriate, the health conclusions and recommendations of the “International Consultation on the Health of Indigenous Peoples” (Geneva, November 1999);

3. Requests the Director-General:
(1) to strengthen the partnership with indigenous people in all appropriate WHO activities;
(2) to collaborate with partners in health and development for protection and promotion of the right of the world’s indigenous people to enjoyment of the highest attainable standard of health, as mentioned in the WHO Constitution, including through the use of accurate and up-to-date information on indigenous health status;
(3) to complete, in close consultation with national governments and organizations of indigenous people, a framework for a global plan of action to improve the health of indigenous people, with particular emphasis on an approach geared to the needs of those in developing countries and the determinants of health, for submission to the Fifty-fifth World Health Assembly with the aim of finalizing the global plan of action by the end of the Decade;
(4) to cooperate with and to support the Secretary-General of the United Nations and the Office of the High Commissioner for Human Rights, in its role as lead agency for the establishment of the Permanent Forum on Indigenous Issues, and with other specialized agencies and Member States, in
preparation for the Forum’s inaugural meeting in 2002, including by submission of information on indigenous health issues.

*Ninth plenary meeting, 22 May 2001*

### 3.2. Recommendations relating to partnership mechanisms

**Report of the International Consultation on the Health of Indigenous Peoples**

**WHO, Geneva, 23-26 November 1999**

**WHO should:**

- In recognition of the need for partnership based upon equity, trust, and mutual respect, provide support as required to establish an informal Indigenous Peoples Health Advisory Group (IPHAG) as the counterpart to work with WHO. The IPHAG would consist of at least 13 members (1 North America, 1 Central America, 1 South America, 1 East Africa, 1 Southern Africa, 1 Sahel, 1 South Asia, South-East Asia, Far Eastern Asia, 1 Pacific, 1 Australia/New Zealand, and 1 Arctic and 1 Russian), representing indigenous peoples from the different regions of the world.

- In accordance with WHO resolution WHA 48.24 (1995), remind Member States of their commitment to the establishment of focal points on indigenous peoples’ health at the national level. The focal points in collaboration with indigenous peoples and other relevant stakeholders (e.g. UNDP, ILO, UNFPA and UNEP) should elaborate regional health plans and establish, develop, and implement specific health strategies.

- Have annual meetings with the IPHAG. WHO should make financial provisions for these meetings.

- Ensure that indigenous peoples’ health issues are presented to the WHA by an indigenous peoples’ spokesperson (supported by WHO) as was the case in 1993.

- Ensure that Regional Offices hold regular consultations with indigenous peoples to ensure that they have an input in all issues relevant to the health of indigenous peoples.

- Seek to work together with WIPO, WTO, and other key agencies in ensuring the protection of indigenous peoples’ intellectual property as it relates to health (e.g. traditional medicine), and identify best practises at the country level to protect indigenous peoples’ intellectual property as it relates to health.

- Include, at all levels (headquarters, regional offices, and country offices) in relevant programmes components specifically addressing indigenous peoples’ health issues. These programmes should be reviewed and the impact on indigenous peoples evaluated. The review process should include input from indigenous peoples health experts.

- Work with key international, regional, and national organisations (e.g. WTO, MERCOSUR, ASEAN, UN agencies and programmes) to promote policies and strategies that are compatible with indigenous peoples’ health development.

- Develop, with the IPHAG, a global plan of action for indigenous peoples’ health following regional consultations with indigenous peoples. An International Conference on Indigenous Peoples’ Health should be held by the end of 2001 to endorse this plan and to provide a forum for developing new strategies and engaging in constructive dialogue aimed at improving indigenous peoples’ health globally.

- Following the International Conference, hold International Consultations on the health of indigenous peoples every two years to assess the health situation of indigenous peoples and then seek support from Member States and other stakeholders.

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4. UNESCO UNIVERSAL DECLARATION ON CULTURAL DIVERSITY

At its thirtieth session -which took place from 15 October to 3 November 2001- UNESCO General Conference adopted the Universal Declaration on Cultural Diversity. Despite much hesitation by some States, the term "indigenous peoples" was used in Article 4 of the Declaration and paragraph 14 of the Action Plan.

Below is the full text of the UNESCO Universal Declaration on Cultural Diversity (source: www.unesco.org/confgen/press_rel/021101_clt_diversity.shtml)

The General Conference,

Committed to the full implementation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other universally recognized legal instruments, such as the two International Covenants of 1966 relating respectively to civil and political rights and to economic, social and cultural rights,

Recalling that the Preamble to the Constitution of UNESCO affirms "that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern",

Further recalling Article I of the Constitution, which assigns to UNESCO among other purposes that of recommending "such international agreements as may be necessary to promote the free flow of ideas by word and image",

Referring to the provisions relating to cultural diversity and the exercise of cultural rights in the international instruments enacted by UNESCO,\(^1\) Reaffecting that culture should be regarded as the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs,\(^2\)

Noting that culture is at the heart of contemporary debates about identity, social cohesion, and the development of a knowledge-based economy,

Affirming that respect for the diversity of cultures, tolerance, dialogue and cooperation, in a climate of mutual trust and understanding are among the best guarantees of international peace and security,

Aspiring to greater solidarity on the basis of recognition of cultural diversity, of awareness of the unity of humankind, and of the development of intercultural exchanges,

Considering that the process of globalization, facilitated by the rapid development of new information and communication technologies, though representing a challenge for cultural diversity, creates the conditions for renewed dialogue among cultures and civilizations,

Aware of the specific mandate which has been entrusted to UNESCO, within the United Nations system, to ensure the preservation and promotion of the fruitful diversity of cultures,

Proclaims the following principles and adopts the present Declaration:

Identity, diversity and pluralism

Article 1 – Cultural diversity: the common heritage of humanity

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\(^2\) This definition is in line with the conclusions of the World Conference on Cultural Policies (MONDIACULT, Mexico City, 1982), of the World Commission on Culture and Development (Our Creative Diversity, 1995), and of the Intergovernmental Conference on Cultural Policies for Development (Stockholm, 1998).
Culture takes diverse forms across time and space. This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature. In this sense, it is the common heritage of humanity and should be recognized and affirmed for the benefit of present and future generations.

Article 2 – From cultural diversity to cultural pluralism
In our increasingly diverse societies, it is essential to ensure harmonious interaction among people and groups with plural, varied and dynamic cultural identities as well as their willingness to live together. Policies for the inclusion and participation of all citizens are guarantees of social cohesion, the vitality of civil society and peace. Thus defined, cultural pluralism gives policy expression to the reality of cultural diversity. Indissociable from a democratic framework, cultural pluralism is conducive to cultural exchange and to the flourishing of creative capacities that sustain public life.

Article 3 – Cultural diversity as a factor in development
Cultural diversity widens the range of options open to everyone; it is one of the roots of development, understood not simply in terms of economic growth, but also as a means to achieve a more satisfactory intellectual, emotional, moral and spiritual existence.

Cultural diversity and human rights

Article 4 – Human rights as guarantees of cultural diversity
The defence of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples. No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope.

Article 5 – Cultural rights as an enabling environment for cultural diversity
Cultural rights are an integral part of human rights, which are universal, indivisible and interdependent. The flourishing of creative diversity requires the full implementation of cultural rights as defined in Article 27 of the Universal Declaration of Human Rights and in Articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights. All persons therefore have the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms.

Article 6 – Towards access for all to cultural diversity
While ensuring the free flow of ideas by word and image care should be exercised that all cultures can express themselves and make themselves known. Freedom of expression, media pluralism, multilingualism, equal access to art and to scientific and technological knowledge, including in digital form, and the possibility for all cultures to have access to the means of expression and dissemination are the guarantees of cultural diversity.

Cultural diversity and creativity

Article 7 – Cultural heritage as the wellspring of creativity
Creation draws on the roots of cultural tradition, but flourishes in contact with other cultures. For this reason, heritage in all its forms must be preserved, enhanced and handed on to future generations as a record of human experience and aspirations, so as to foster creativity in all its diversity and to inspire genuine dialogue among cultures.

Article 8 – Cultural goods and services: commodities of a unique kind
In the face of present-day economic and technological change, opening up vast prospects for creation and innovation, particular attention must be paid to the diversity of the supply of creative work, to due recognition of the rights of authors and artists and to the specificity of cultural goods and services which, as vectors of identity, values and meaning, must not be treated as mere commodities or consumer goods.

Article 9 – Cultural policies as catalysts of creativity
While ensuring the free circulation of ideas and works, cultural policies must create conditions conducive to the production and dissemination of diversified cultural goods and services through cultural industries that have the means to assert themselves at the local and global level. It is for each State, with due regard to its international obligations, to define its cultural policy and to implement it through the means it considers fit, whether by operational support or appropriate regulations.

Cultural diversity and international solidarity

Article 10 – Strengthening capacities for creation and dissemination worldwide
In the face of current imbalances in flows and exchanges of cultural goods and services at the global level, it is necessary to reinforce international cooperation and solidarity aimed at enabling all countries, especially developing countries and countries in transition, to establish cultural industries that are viable and competitive at national and international level.

Article 11 – Building partnerships between the public sector, the private sector and civil society
Market forces alone cannot guarantee the preservation and promotion of cultural diversity, which is the key to sustainable human development. From this perspective, the pre-eminence of public policy, in partnership with the private sector and civil society, must be reaffirmed.

Article 12 – The role of UNESCO
UNESCO, by virtue of its mandate and functions, has the responsibility to:
(a) Promote the incorporation of the principles set out in the present Declaration into the development strategies drawn up within the various intergovernmental bodies;
(b) Serve as a reference point and a forum where States, international governmental and non-governmental organizations, civil society and the private sector may join together in elaborating concepts, objectives and policies in favour of cultural diversity;
(c) Pursue its activities in standard-setting, awareness-raising and capacity-building in the areas related to the present Declaration within its fields of competence;
(d) Facilitate the implementation of the Action Plan, the main lines of which are appended to the present Declaration.

Main lines of an action plan for the implementation of the UNESCO Universal Declaration on Cultural Diversity
The Member States commit themselves to taking appropriate steps to disseminate widely the "UNESCO Universal Declaration on Cultural Diversity", in particular by cooperating with a view to achieving the following objectives:

1. Deepening the international debate on questions relating to cultural diversity, particularly in respect of its links with development and its impact on policy-making, at both national and international level; taking forward notably consideration of the opportunity of an international legal instrument on cultural diversity.

2. Advancing in the definition of principles, standards and practices, on both the national and the international levels, as well as of awareness-raising modalities and patterns of cooperation, that are most conducive to the safeguarding and promotion of cultural diversity.
3. Fostering the exchange of knowledge and best practices in regard to cultural pluralism with a view to facilitating, in diversified societies, the inclusion and participation of persons and groups from varied cultural backgrounds.

4. Making further headway in understanding and clarifying the content of cultural rights as an integral part of human rights.

5. Safeguarding the linguistic heritage of humanity and giving support to expression, creation and dissemination in the greatest possible number of languages.

6. Encouraging linguistic diversity – while respecting the mother tongue – at all levels of education, wherever possible, and fostering the learning of several languages from the youngest age.

7. Promoting through education an awareness of the positive value of cultural diversity and improving to this end both curriculum design and teacher education.

8. Incorporating, where appropriate, traditional pedagogies into the education process with a view to preserving and making full use of culturally appropriate methods of communication and transmission of knowledge.

9. Encouraging "digital literacy" and ensuring greater mastery of the new information and communication technologies, which should be seen both as educational discipline and as pedagogical tools capable of enhancing the effectiveness of educational services.

10. Promoting linguistic diversity in cyberspace and encouraging universal access through the global network to all information in the public domain.

11. Countering the digital divide, in close cooperation in relevant United Nations system organizations, by fostering access by the developing countries to the new technologies, by helping them to master information technologies and by facilitating the digital dissemination of endogenous cultural products and access by those countries to the educational, cultural and scientific digital resources available worldwide.

12. Encouraging the production, safeguarding and dissemination of diversified contents in the media and global information networks and, to that end, promoting the role of public radio and television services in the development of audiovisual productions of good quality, in particular by fostering the establishment of cooperative mechanisms to facilitate their distribution.

13. Formulating policies and strategies for the preservation and enhancement of the cultural and natural heritage, notably the oral and intangible cultural heritage, and combating illicit traffic in cultural goods and services.

14. Respecting and protecting traditional knowledge, in particular that of indigenous peoples; recognizing the contribution of traditional knowledge, particularly with regard to environmental protection and the management of natural resources, and fostering synergies between modern science and local knowledge.

15. Fostering the mobility of creators, artists, researchers, scientists and intellectuals and the development of international research programmes and partnerships, while striving to preserve and enhance the creative capacity of developing countries and countries in transition.

16. Ensuring protection of copyright and related rights in the interest of the development of contemporary creativity and fair remuneration for creative work, while at the same time upholding a public right of access to culture, in accordance with Article 27 of the Universal Declaration of Human Rights.

17. Assisting in the emergence or consolidation of cultural industries in the developing countries and countries in transition and, to this end, cooperating in the development of the necessary infrastructures and skills, fostering the emergence of viable local markets, and facilitating access for the cultural products of those countries to the global market and international distribution networks.

18. Developing cultural policies, including operational support arrangements and/or appropriate regulatory frameworks, designed to promote the principles enshrined in this Declaration, in accordance with the international obligations incumbent upon each State.
19. Involving civil society closely in framing of public policies aimed at safeguarding and promoting cultural diversity.

20. Recognizing and encouraging the contribution that the private sector can make to enhancing cultural diversity and facilitating to that end the establishment of forums for dialogue between the public sector and the private sector.

The Member States recommend that the Director-General take the objectives set forth in this Action Plan into account in the implementation of UNESCO’s programmes and communicate the latter to institutions of the United Nations system and to other intergovernmental and non-governmental organizations concerned with a view to enhancing the synergy of actions in favour of cultural diversity.

- According to a UNESCO press release, “this is the first time the international community has endowed itself with such a comprehensive standard-setting instrument, elevating cultural diversity to the rank of ‘common heritage of humanity - as necessary for the human race as bio-diversity in the natural realm’ – and makes its protection an ethical imperative, inseparable from respect for human dignity.”

- 2965 participants, including 2522 representatives from 185 out of 188 Member States attended the UNESCO General Conference. According to the provisional list of participants, no indigenous organization participated (www.unesco.org/confgen/participants/pages).

- UNESCO, ETHICS, INTELLECTUAL PROPERTY AND THE HUMAN GENOME:
At its thirtieth session in 1999, UNESCO General Conference adopted the “Guidelines for the Implementation of the Universal Declaration on the Human Genome and Human”, which was drawn up by the IBC and approved by the Intergovernmental Bioethics Committee (IGBC), following the 1997 Universal Declaration on the Human Genome and Human Rights. The implementation of the Universal Declaration on the Human Genome and Human Rights will be subject to an evaluation in 2002. This evaluation will be considered at a joint session of the IBC and the IGBC and in 2003, together with the relevant recommendations, will be presented by the Director-General to the Organization’s governing bodies. On the web site three reports are of interest to the indigenous peoples (www.unesco.org/ibc/en/reports/). These are:

3. Report of the IBC on Solidarity and International Co-operation between Developed and Developing Countries concerning the Human Genome of 6 April 2001, in which indigenous populations are mentioned on page 4.

* * *

5. WORLD INTELLECTUAL PROPERTY ORGANIZATION COMMITTEE MEETS TO DISCUSS INTELLECTUAL PROPERTY AND TRADITIONAL KNOWLEDGE

The second session of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore took place in Geneva, Switzerland, from December 10 to 14, 2001. Representatives from WIPO member governments and observer institutions (intergovernmental bodies, Conventions’ secretariats, international NGOs, indigenous peoples’ organizations, business chambers, and others) attended the meeting, which was chaired by Mr. Henry Olsen from Sweden.
The Intergovernmental Committee was established by the WIPO General Assembly in October 2000, to deal with “intellectual property issues that arise in the context of (i) access to genetic resources and benefit sharing; (ii) protection of traditional knowledge, whether or not associated with those resources; and (iii) the protection of expressions of folklore”. The first session of the Committee was held in May 2001 in Geneva. There will be three more sessions of the Committee in the next twenty months.

The agenda of the second session focused on the following issues: (i) Operational Principles for Contractual Agreements Concerning Access to Genetic Resources and Benefit-Sharing; (ii) Review of Existing Intellectual Property Protection for Traditional Knowledge; (iii) Traditional Knowledge as Prior Art; (iv) National Experiences with the Legal Protection of Expressions of Folklore; and (v) Future work of the Committee.

The Secretariat of the Convention on Biological Diversity (CBD) reported that in October 2001 the CBD Working Group on Access to Genetic Resources and Benefit Sharing had developed draft guidelines on these matters, which, once approved by the Conference of the Parties (COP) in April 2002, would provide guidance on legislative, administrative, and policy measures supporting contractual arrangements to access genetic resources. In this sense, the remit of the CBD Working Group is highly relevant for the mandate of the Committee, and concerns were expressed that both may overlap or even conflict. Officially, however, the relationship between WIPO and CBD was described as multifaceted and mutually informative.

The representative from the UN Food and Agriculture Organization (FAO) informed in turn that the International Treaty on Plant Genetic Resources for Food and Agriculture had been finally agreed on, as a legally binding instrument that will enter into force expectedly later this year, upon signature by 40 countries. The Treaty contains provisions where recognition is made of the contributions of farmers in conserving and developing plant genetic resources. Farmers’ rights within the Treaty are directly related to the protection of traditional knowledge, as well as to several other issues relevant to the discussions of the WIPO Committee.

The aforementioned statements clearly indicate that the work of the WIPO Committee should be pursued under close collaboration with other international processes where related issues are debated. In this sense, developing country representatives, especially from the Latin America and Caribbean Group (GRULAC) stressed the need for such collaboration, so as to ensure consistency and mutually reinforcing work, instead of duplication or even undermining of one process by the others.

The Delegation of Venezuela, supported by GRULAC members and several other countries, made a statement on the need to initiate work on a sui generis form of protection for traditional knowledge, and requested the Secretariat to prepare a document for the next session of the Committee with elements for a possible sui generis system. This is a very important matter to look by indigenous and local communities.

Participation from indigenous peoples’ organizations and NGOs at the second session of the Committee was limited, as in the previous session of the Committee, but appeared slightly more numerous and active. Of particular interest was a presentation by Marcos Terena, representing indigenous peoples from Brazil, who read a statement issued by a meeting of shamans of that country, convened under the auspices of the Intellectual Property Institute. Shamans stressed that for their peoples knowledge is a collective heritage and should not be traded, as it is a fundamental part of their identity and their own life as distinct peoples. They requested an international alternative system to protect their knowledge from biopiracy, and refused patenting of products based on their knowledge. Terena stressed that WIPO should be the forum for indigenous peoples to express their positions on these issues, on a basis of mutual respect and a common objective of improving everybody’s quality of life, and welcomed statements made by several countries on the need for respecting the prior informed consent of indigenous peoples and local communities, and on the importance of their participation in WIPO discussions.

The Delegation of Belgium, speaking on behalf of the European Union, raised also the issue of the active participation of indigenous and local communities, and suggested WIPO should provide funding for this purpose. Several governments supported such a proposal, following which WIPO has announced it will be able to finance participation of some indigenous and community representatives at the third session of the Committee, scheduled to take place in Geneva from June 17 to 21, 2002.
6. CONVENTION ON BIOLOGICAL DIVERSITY WORKING GROUP ON TRADITIONAL KNOWLEDGE MEETS TO DISCUSS ITS PROGRAMME OF WORK

The second session of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity (CBD) took place in Montreal, Canada, from 4-8 February 2002, to discuss matters concerning the implementation of the CBD Programme of Work on Article 8(j) and Related Provisions. The meeting was attended by approximately 300 participants from 79 countries, indigenous and local communities, and international and non-governmental organizations.

The agenda of the session focused on the following issues: (i) Report of progress on integration of tasks of the programme of work on Article 8(j) and related provisions in the CBD thematic programmes; (ii) Review of progress in the implementation of the priority tasks of the programme of work; (iii) Outline of composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities; (iv) Draft guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on sacred sites and on lands and waters occupied or used by indigenous and local communities; (v) Participatory mechanisms for indigenous and local communities; (vi) Assessment of the effectiveness of existing subnational, national and international instruments, particularly intellectual property rights instruments, that may have implication on the protection for the knowledge, innovations and practices of indigenous and local communities.

The meeting adopted six recommendations on the indicated items, which will be forwarded to the CBD Sixth Conference of the Parties (COP 6) in The Hague, the Netherlands, in April 2002. The recommendations go essentially as follows:

1. The COP is requested to urge Parties to sign and ratify the International Treaty on Plant Genetic Resources. Further work to ensure integration of traditional knowledge issues in the CBD thematic programmes is recommended, and Parties are requested to include in their national reports information on implementation of Article 8(j) and related provisions, integration of these in thematic programmes, and support to capacity building and participation of indigenous and local communities.

2. The CBD Parties are urged to ensure that indigenous and local communities are included in the consultative process of preparing their national reports, particularly those sections addressing Article 8(j) and related provisions.

3. A draft outline of the composite report on status and trends regarding traditional knowledge is recommended for adoption. The COP is asked to request the Executive Secretary to undertake the first phase of the composite report, submit it to the next meeting of the Working Group on Article 8(j), and ensure the full and effective participation of indigenous and local communities in its preparation.

4. Recommendations are provided 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. The ongoing work on environmental impact assessment and strategic environmental assessment undertaken by the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) is acknowledged, as well as other sources of information and guidance, such as those of the World Bank and the Draft Principles and Guidelines for the Protection of the Heritage of Indigenous People of the UN Commission on Human Rights.

5. The COP is requested to invite Parties and others to submit information on national experiences, case studies and best practices regarding participatory mechanisms, to be synthesized into a report for use as a basis to establish national and local mechanisms to promote indigenous participation in decision-making processes regarding traditional knowledge.

6. CBD Parties are advised to note the nature, collective or otherwise, of traditional knowledge, and the possible inadequacy of conventional systems of intellectual property protection to address the needs of protecting traditional knowledge. The recommendation recognizes that the CBD is the primary international instrument to address issues regarding the respect, preservation and maintenance of traditional knowledge; that indigenous and local communities have their own
systems for the protection and transmission of traditional knowledge as part of their customary law; that national laws and policies need to be strengthened and synergies developed; and that the work programmes of the CBD and WIPO need to be mutually supportive.

The recommendations of the Working Group were assessed in different manners by attendees at the meeting. For some, they do not represent substantial progress and crucial issues remain unsolved. For others, progress – solid although not dramatic, is evidently reflected in the recommendations, as time has come to move from political statements to the search for specific implementation measures. Along this line, the International Indigenous Biodiversity Forum discussed also internal capacity and organizational matters, as more specialized and in-depth action is required to inform the CBD process in this new phase of implementation of the Programme of Work on traditional knowledge.

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**PUBLICATION:** New study on the Working Group on the Draft Declaration

*Setting International Standards:*

*An Analysis of the United Nations Declaration on the Rights of Indigenous Peoples and the first six sessions of the Commission on Human Rights Working Group*

Prepared for the Aboriginal and Torres Strait Islander Commission (ATSIC)

by Sarah Pritchard

June 2001

Third edition

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