

## Article 8(j) Working Group Highlights: Monday, 13 November 2023

The Working Group on Article 8(j) and related provisions of the Convention on Biological Diversity (CBD) continued deliberations in plenary in the morning on the joint programme of work on the linkages between biological and cultural diversity. Discussions focused on reviewing and updating the four adopted traditional knowledge indicators, and on developing a set of relevant indicators to be used in the monitoring framework of the Kunming-Montreal Global Biodiversity Framework (GBF). Delegates further addressed the recommendations of the UN Permanent Forum on Indigenous Issues (UNPFII), including a suggestion to consider Indigenous Peoples and local communities (IPLCs) as distinct groups.

In the afternoon, a contact group continued deliberations on the development of a new programme of work and institutional arrangements, including whether a permanent subsidiary body on Indigenous issues should be established.

### *Joint Programme of Work on the Links between Biological and Cultural Diversity*

The Secretariat introduced document CBD/WG8J/12/6/Rev.1, outlining the four indicators pertaining to traditional knowledge on the trends and status of: linguistic diversity and number of Indigenous language speakers; change in land-use and tenure in IPLCs' traditional territories; practice of traditional occupations; and degree to which traditional knowledge and practices are respected through full integration, participation, and safeguards in national implementation of the Strategic Plan. He invited the Working Group to make recommendations on the indicators for consideration by the Subsidiary Body on Scientific, Technical, and Technological Advice (SBSTTA) at its 26th meeting in May 2024.

James Williams, Co-Chair of the *Ad Hoc* Technical Expert Group (AHTEG) on indicators, reported on work on the GBF monitoring framework, operationalizing and improving headline and binary indicators for national reporting, and producing a single draft recommendation for a decision at the 16th meeting of the Conference of the Parties (COP 16). He proposed webinars to clarify further work on indicators to be hosted by the AHTEG.

Noting that the four indicators are not yet fully operational, the INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY (IIFB), reported on several global initiatives that are already using them. She emphasized the four traditional knowledge indicators' significance to the GBF monitoring framework, suggesting an amendment to address the lack of a headline indicator for Target 22 (participation, access to justice, and rights for IPLCs and other vulnerable groups). She supported the recommendation for a scientific and technical review of these four indicators and their link with the GBF monitoring framework indicators.

The Democratic Republic of the Congo (DRC), for the AFRICAN GROUP, welcomed the indicators' value in raising awareness on traditional knowledge. He stressed that IPLCs are an indivisible group and should be considered as one entity. EGYPT, NIGERIA, MOROCCO, COMOROS, MADAGASCAR, and other African countries expressed their support.

Spain, for the EU, and COLOMBIA stressed the importance of Targets 22 and 23 (ensure gender-equality in the implementation through a gender-responsive approach) for the GBF monitoring framework and supported the document's draft recommendation. NORWAY proposed using the monitoring framework adopted at COP 15, including binary indicators, to support monitoring of national-level indicators.

AUSTRALIA called for a participatory and inclusive GBF monitoring framework, and for preventing further delays in establishing indicators that would hinder meaningful outcome, and provided textual suggestions. CANADA called for a focus on operationalizing the GBF monitoring framework and Target 22. She did not support using the same four traditional knowledge indicators as cross-cutting to the GBF, expressing concern that this could lead to re-opening deliberations on the already-agreed GBF monitoring framework.

JAPAN welcomed the joint programme of work, urging for clear, minimal, and concise indicators, to minimize burden on parties' national reporting. CHINA underscored the importance of closely linking the indicators with all the GBF targets.

The DRC proposed amendments to the four traditional knowledge indicators. SOUTH AFRICA suggested that trends in linguistic diversity and the number of speakers of Indigenous languages may not adequately capture the depth of linguistic and cultural diversity. UGANDA recommended splitting two of the indicators into sub-indicators respectively, on trends in land use and tenure, and on trends in linguistic diversity and the number Indigenous language speakers. MADAGASCAR called for guaranteeing the provision of necessary resources to bolster local communities' capacity to participate in the development of indicators in domestic systems, suggesting issuing relevant guidelines.

BRAZIL emphasized the necessity to further develop headline indicators, placing a focus on enhancing community-based monitoring and information systems. COLOMBIA underscored the fundamental need for IPLC participation, in particular regarding the GBF and its monitoring framework, and suggested strengthening the dialogue with SBSTTA and ensuring reporting on follow-up activities. HAITI supported clear indicators, taking into account the different links with cultural diversity, and stressed that rural exodus may lead to loss of knowledge held by local communities. CUBA called for transparent, flexible indicators, integrated into national indicator systems, and taking into account national circumstances.

The CBD WOMEN'S CAUCUS, supported by Colombia, Comoros, Haiti, Uganda, and others, emphasized the imperative of gender-disaggregation for all monitoring indicators, and proposed amendments to the four adopted traditional knowledge indicators. The INTERNATIONAL LAND COALITION drew attention to work on monitoring land tenure of IPLCs, noting that a preliminary methodology will be presented at the next SBSTTA session.

Co-Chair Liu noted that a CRP will be prepared.

### **Recommendations of the UNPFII**

The Secretariat introduced document CBD/WG8J/12/7, drawing attention to the recommendations from the 20th–22nd sessions of the UNPFII.

Dario Mejía, President, UNPFII, drew attention to the adoption of the UN Declaration on the Rights of Indigenous Peoples and to special mechanisms established to support the recognition and implementation of Indigenous Peoples' rights, which include the UNPFII, the Special Rapporteur on the rights of Indigenous Peoples, and the Expert Mechanism on the rights of Indigenous Peoples. He underscored UNPFII's recommendation reiterating the position of the Special Rapporteur on the rights of Indigenous Peoples: that it is "unacceptable to undermine the status and standing of Indigenous Peoples by combining or equating them with non-Indigenous entities, such as minorities, vulnerable groups, or local communities." Noting that the recommendation does not necessarily entail changes in the Convention's text, he urged delegates not to allow "a procedural injustice to become a structural one." He underscored the capitalization of the term Indigenous Peoples, as agreed by UN General Assembly Resolution 77/203, pointing to the relevant UNPFII recommendation. He further called for the establishment of an *Ad hoc* expert group on the implications and consequences of conflating Indigenous Peoples with other groups in the GBF.

IIFB, the INTERNATIONAL INDIAN TREATY COUNCIL, and the AMAZON COOPERATION NETWORK welcomed the UNPFII recommendations.

Spain, on behalf of the EU, BRAZIL, NORWAY, and CANADA, took note of the recommendations. DENMARK favored their endorsement. Several delegates welcomed further discussions on the recommendation's implications in relation to the CBD.

The DRC, supported by CÔTE D'IVOIRE and SOUTH AFRICA, stressed that IPLCs are one single and indivisible unit. He cautioned that separations would exacerbate problems between the two groups. TOGO queried the potential benefits of treating them separately and if this would entail the establishment of two different subsidiary bodies.

COLOMBIA supported the need to articulate joint initiatives between the CBD, the UN Framework Convention on Climate Change, UNPFII, and other environmental initiatives aligned with the Sustainable Development Goals.

Co-Chair Rubis indicated a CRP will be prepared.

### **Contact Group on the Development of a New Programme of Work and Institutional Arrangements**

In the afternoon, Lucy Mullenkei (Indigenous Information Network) and Matilda Wilhelm (Sweden) co-chaired a contact group on the development of a new programme of work to promote, within the framework of the CBD and in alignment with the GBF, the implementation of Article 8(j) and other provisions of the Convention related to IPLCs. They outlined the contact group's mandate to review the elements and tasks in the new programme of work, as well as institutional arrangements.

During deliberations on elements and tasks, delegates and observers emphasized the need to maintain focus on priority tasks most relevant to GBF Targets, including on securing land tenure and governance by IPLCs. They further called for developing the necessary guidance to strengthen the legal and policy framework for implementing Target 3 (effectively conserve and manage at least 30% of terrestrial and inland water areas, and of marine and coastal areas through protected areas by 2030). Participants focused on improving the clarity and suitability of elements and terminology in the new programme of work, including the voluntary status of guidelines, and the modalities of proposed partnerships.

Delegates engaged in lengthy discussions on: ways to improve the overall structure of the programme; framing collaboration with IPLCs to improve the outcomes of management actions, including whether to add references to the direct drivers of biodiversity loss; and topics to be addressed by guidelines, such as best practices identified on traditional lands and resource use, including the applicability of national legislation and international obligations when developing or implementing the guidelines.

Delegates agreed to move a task on the promotion of partnerships to the section on principles and to merge the tasks on developing guidelines on traditional land and resource use, and on fostering effective and integrated management processes addressing land and sea use changes, including spatial planning.

Regarding elements on sustainable use, following extensive discussions, delegates converged to "promote, encourage, and ensure" the sustainable use of biodiversity, and to "respect and protect" the customary sustainable use by IPLCs. They further agreed to replace a list of GBF Targets pertaining to sustainable use with a reference to "relevant GBF Targets." Discussions continued into the night.

### **In the Corridors**

One could be forgiven for mistaking the additional hour of lunch afforded to delegates on Monday for an extension of discussions on the term IPLCs. Following efficient deliberations, which led the morning's plenary session to an early end, informal debate continued over lunchtime, following the UNPFII's recommendation to distinctly differentiate Indigenous Peoples from local communities, in line with the broader objective of discontinuing the use of IPLCs as a single combined term. Some emphasized that combining or equating Indigenous Peoples with local communities and other vulnerable groups undermines their status and standing. Others had conversations to query "who counts as Indigenous," saying that the combined term allows for the inclusion of groups, such as "Indigenous communities," at the negotiating table. Several participants were concerned, including one observer who asked, "do we now have to push for the establishment of two subsidiary bodies?"

During discussions on indicators, many participants were clear about the need to timely adopt and operationalize indicators related to traditional knowledge for the GBF's monitoring framework. A veteran stressed that reaching a meaningful outcome will "light up our achievements like fireflies."

The rest of the day -and night- was devoted to discussions in a contact group on the road ahead for Article 8(j). As deliberations started at a slow pace, many called for focusing on priority tasks and actions. A reminder was also made during the contact group deliberations that Indigenous Peoples' voices should not be relegated to an observer's seat. After all, as Indigenous Peoples stressed during a press conference in the evening calling for the establishment of a permanent body on Indigenous issues: "Indigenous Peoples are not going away – we have been biodiversity stewards for so long."