

# Article 8(j) and Related Provisions: focus on Article 10(c) on customary sustainable use

*COP 11, Hyderabad, India, 8th – 19th October 2012*

*Agenda item: 7*

*Relevant Documents: UNEP/CBD/COP/11/7, UNEP/CBD/WG8J/7/5/Add.1<sup>1</sup>*

## Summary of issue

Among the various issues to be discussed at COP11 relating and relevant to Indigenous Peoples' and local communities' traditional knowledge, this note highlights mainly the new major component on customary sustainable use (article 10c).

Customary sustainable use (CSU) is an element of two cross-cutting issues of the CBD: 'sustainable use of biodiversity' – the focus of Article 10 – and 'traditional knowledge, innovations, and practices' – the focus of Article 8(j) and related provisions. Parties to the Convention have increasingly acknowledged the value and importance of customary sustainable use and traditional knowledge in conserving and upholding biodiversity, land- and seascapes, and also protected areas.

## Recap and Recall

In 2008, COP9 (in Decision IX/13), requested the Executive Secretary to provide advice on how Article 10(c) could be further advanced and implemented as a priority. As an outcome of this process, COP10 (Decision X/43) decided to include a new major component on 10(c) in the revised Programme of Work on Article 8(j), building on the Addis Ababa Principles and Guidelines.

In recommendation 7/6 to COP11 the WG8(j) proposes to develop a Plan of Action on customary sustainable use, and proposes an initial list of 'indicative tasks'. The WG8(j) has also taken some first steps to integrate 10(c) as a cross-cutting issue throughout the Convention, starting with the programme on protected areas (through integration of specific guidance in the web-based modules for this programme) and invites Parties to address and incorporate CSU and CSU policies in their national biodiversity strategies and action plans (NBSAPs). The WG8(j) based its work on the outcomes and advice of an international expert meeting on this issue, held in June 2011, and on submissions received in response to a call for views on this subject.

## Time line of key 10(c) events:

- 1998:** Working Group on Article 8(j) and Related Provisions established.
- 2000:** Programme of Work on Article 8(j) and Related Provisions endorsed.
- 2000 – 2004:** Decision V/24 and VII/12 request practical information about and examples of CSU and advice on how to best implement article 10(c).
- 2004:** Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity adopted.
- 2004 – 2010:** in-depth case studies on CSU
- 2008:** COP9 request for advice how Article 10(c) can be further advanced and implemented as a priority.
- 2010:** In-depth review of implementation of the programme of work on Article 10 and Addis Ababa Principles and Guidelines.
- 2010:** Decision X/43 to include a new major component on 10(c) in the revised Programme of Work on Article 8(j).
- 2011:** Expert Meeting on Article 10 and 10(c) and submission of views.
- 2011:** WG8(j)-7 recommendation to COP11 on Plan of Action with indicative list of tasks.

<sup>1</sup> See also Written Submission on Article 8(j) and Related Provisions (by FPP, Natural Justice and 24 other signatories).

## What is at stake?

It is very important that COP11 uses the opportunity to agree on the outlines of a strong new work component on customary sustainable use that will provide guidance to Parties for improved implementation of Article 10(c). This is crucial and very much needed because effective implementation of article 10(c) at national and local levels is still a big challenge.

The “in-depth review of implementation of the programme of work on Article 10 of the Convention and application of the Addis Ababa Principles and Guidelines” that was carried out in 2010 (SBSTTA-14 and COP10) and which addressed the question to what extent implementation of Article 10 had been successful, concluded: “with specific reference to Article 10(c), customary sustainable use of biological resources at national and local levels is hampered by lack of progress in securing indigenous and local communities’ access to lands and biological resources and by lack of their effective participation at all levels of resource management and decision-making”.<sup>2</sup>

In this respect many Indigenous Peoples’ and local communities’ customary practices are under serious threat, which is also related to lack of recognition of traditional authorities and customary laws, and loss of biodiversity-relevant knowledge under pressure of western education and economies. External developments without FPIC destruct or degrade traditional territories or reduce access, also leading to a decline in customary practices and knowledge. In-depth case studies clearly illustrate the central importance of securing access to customary territories and areas and decision-making power over use, control and management of resources in order to be able to apply, generate, maintain, and transmit customary sustainable practices and associated knowledge.<sup>3</sup> These linkages must be firmly acknowledged and supported by Parties, which until now has not truly happened at any CBD meeting.

<sup>2</sup> UNEP/CBD/SBSTTA/14/7 page 1 (executive summary).

<sup>3</sup> See [www.forestpeoples.org/customary-sustainable-use-studies](http://www.forestpeoples.org/customary-sustainable-use-studies)

The Convention on Biological Diversity Alliance (CBD Alliance) is a network of activists and representatives from NGOs, CBOs, social movements and Indigenous People’s organisations advocating for improved and informed participation in the CBD processes.

For further information on the CBD Alliance contact **Tasneem Balasinorwala** - [just.tasneem@gmail.com](mailto:just.tasneem@gmail.com) or look up [www.cbdalliance.org](http://www.cbdalliance.org)



## Proposals for COP11

While the WG8(j) agreed that for the time being the indicative tasks should not be addressed towards a specific actor, efforts should be made to keep the preliminary guidance as concrete, practical and action-oriented as possible: rather than developing more guidelines, advice or information the initial should provide concrete steps for implementation. In the further elaboration and deliberations about the indicative tasks, Parties and others should work with already adopted guidance and language in the Addis Ababa principles, rationale and operational guidelines and ensure maximum consistency and cross-reference.

### Parties at COP11 must

Resolve the issue of rights and tenure in light of existing international commitments to uphold Indigenous Peoples’ and local communities’ land, resource and tenure rights, including UNDRIP, the FAO voluntary guidelines, and the Rio+20 outcome document. For instance, the (indicative) tasks for the draft Plan of Action could encourage Parties to:

- Take necessary measures to secure Indigenous Peoples’ and local communities’ territories and land, resource and tenure rights, taking into account the specific rights and needs of women;
- Promote and support stewardship, governance and management by Indigenous Peoples and local communities;
- Ensure that laws, policies, and decision-making processes at all levels appropriately recognize and respect customary laws, institutions, worldviews, resource management practices, and traditional knowledge, languages, educational systems, and occupations;
- Respect and apply the right of free, prior informed consent of Indigenous Peoples and local communities in all actions that may affect their territories, lands and waters (including and inland, coastal and marine).

### Further information

For more information on this note you can contact Caroline de Jong - [caroline@forestpeoples.org](mailto:caroline@forestpeoples.org) and Holly Shrumm - [holly@naturaljustice.org](mailto:holly@naturaljustice.org)

#### Websites:

[http://naturaljustice.org/wp-content/uploads/pdf/Joint\\_submission\\_Article\\_8\(j\).pdf](http://naturaljustice.org/wp-content/uploads/pdf/Joint_submission_Article_8(j).pdf)