



Implementation of Article 10(c)

*Kid James, Romeo Pierre, Messe Venant, Udom Charoennyomphrai and Sakda Saenmi
In collaboration with the Forest Peoples Programme*

“The 10(c) project”

Article 10(c) of the Convention on Biological Diversity (CBD) states that Parties shall protect and encourage indigenous and local communities’ customary sustainable practices in relation to biodiversity. At COP6, Parties to the Convention requested practical information about, and examples of, sustainable use of biological diversity by indigenous and local communities and advice on how to best implement Article 10(c). We, indigenous organisations from Suriname, Guyana, Cameroon and Thailand, were already interested in documenting our own traditional practices and customary sustainable resource use and realized that such case studies could be utilised for a better interpretation and implementation of article 10(c).

Between 2004 and 2008, we collected information through community-based research (training local researchers, community consultations, interviews) and carried out community mapping exercises to document our customary land use and management systems, including our customary laws, which guide sustainable use of resources. We also identified threats that our customary management systems are encountering and provided recommendations to our local and national governments about what they can or should be doing in order to implement article 10(c) (more) effectively.

At the end of 2009, effective implementation of article 10(c) is still a challenge. At the sixth meeting of the CBD Working Group on Article 8(j) and Related Provisions (WG8j-6) in Montreal, Parties and observers are discussing how implementation of this important article can be improved. In preparation for the Montreal meeting we and other indigenous peoples and experts have submitted our case studies to the secretariat and provided additional insights and

input into a CBD online discussion forum on Article 10(c). Based on this, a meeting document on enhanced implementation of 10(c), including recommendations for the consideration of the 6th meeting of the 8(j) Working Group was produced (1).

On Monday, November 2nd, we organised a side event, together with the CBD secretariat and Tebtebba Foundation, to share the outcomes of our case studies and to share some key issues and challenges in relation to effective implementation of article 10(c) in our local and national contexts. During this side event, we pointed out:

- 1.that secure rights to land, territories and resources, including access, control and management of those resources, represent a fundamental requirement for forest peoples to maintain and practise customary use and traditional knowledge in their daily interaction with biodiversity. However, our communities do not have secure land and resource rights. This is a main threat to our customary use systems.
- 2.that there is a general lack of recognition of our customary laws and institutions, while customary laws are the backbone of customary sustainable use, and customary institutions (such as village councils) enforce customary laws and make sure they are respected. If these are not respected and recognized by our governments and laws, customary practices can become weakened.
- 3.that we also experience a lack of recognition of customary sustainable management systems. Policies and programmes often do not support or promote our traditional ecological principles and knowledge about sustainability and conservation. *Continued next page*



Transmission of traditional knowledge (weaving) - Suriname

IN THIS ISSUE

Article 10(c)	1
Tar Sands and 8j	2
CEPA	3
Statement from IWBN	4

ECO is currently being published at the 8th Working Group on Access and Benefit Sharing to the Convention on Biological Diversity in Montreal coordinated by the CBD Alliance. The opinions, commentaries, and articles printed in ECO are the sole opinion of the individual authors or organisations, unless otherwise expressed.

SUBMISSIONS: Welcome from all civil society groups.
Email to reachmiriam@earthlink.net and jdempsey@interchange.ubc.ca

The Tar Sands and 8j: where climate change, dirty oil and injustice collide in Canada

[excerpts taken from Beaver Lake Cree and RavenTrust websites]

The tar sands of northern Alberta are poised to become the single largest carbon emitter in the world. Exploitation of Alberta's tar sands as currently planned will single-handedly add 12 ppm CO₂ to the Earth's atmosphere, bringing the planet well beyond the internationally recognized danger point for catastrophic climate change.

While the carbon impacts of the tar sands are well-known, the struggle of the Beaver Lake Cree, a small, impoverished First Nation of 900 people in eastern Alberta, are less so. The tar sands are obliterating their traditional hunting and fishing lands. The animals, fish, plants and medicine that sustain the Beaver Lake Cree are being destroyed. **As such, the Beaver Lake Cree are suing the Canadian federal and Alberta provincial governments to protect the land.**

Led by Chief Al Lameman, the Beaver Lake Cree Nation is asserting a treaty right to hunt and fish throughout lands where tar sands activity is destroying the forest, taking a stand against indifferent governments and the world's largest multinational oil companies. The Beaver Lake Cree's Statement of Claim cites more than 17,000 infringements on their treaty rights and in the course of doing so names every major oil company in the

world. Their court action seeks an injunction against new developments. Investment in the bituminous sands in northern Alberta – the world's last great oil field – totals approximately \$200 billion. No assessment of the cumulative environmental or cultural damage has been done. **This project – unhindered – will destroy a large part of the great boreal forest of North America, will escalate global warming, and will destroy an indigenous way of life.** The Alberta government continues to approve projects, such that production of dirty oil will increase from the current 1.3 million barrels a day to three million barrels per day by 2015.

As the forest is eroded to make way for open mines and in-situ mines, the 'great lung' of North America with its rich carbon-storing peat and soil, is disappearing. In its place, rapid growth of carbon emissions threatens to increase the earth's temperature. Meanwhile, oil sands extraction pollutes the earth with its tailings ponds, pollutes the air with its emissions, and pollutes the water using two to four barrels of water to produce just one barrel of bitumen and creating vast lakes of chemicals that leach into local watersheds.

The legal struggle Beaver Lake Cree faces is both costly and time-consuming. It is conceivable that this will take

another five years and millions of dollars, resources the Beaver Lake Cree do not have. But they are prepared to fight with everything they do have. What's more, there is good reason to believe they can win. (To donate, see www.ravenTrust.com)

This is because the Supreme Court of Canada has made it clear that Alberta cannot expand this industry if doing so would render their treaty rights meaningless. In order for their rights to have meaning, habitat sufficient to support the fish and wildlife they depend on must be protected throughout the forests of their ancient homeland. Getting court orders to protect that habitat is what this legal struggle is about.

But in taking on some of the largest multinationals and the Canadian and Albertan governments, the Beaver Lake Cree are also taking action for humanity in the fight against climate change.

How you can learn more

www.ravenTrust.com

<http://itsgettinghotinhere.org/2009/07/15/the-beaver-lake-cree-nation-vs-the-tar-sands/>

<http://beaverlakecreeneration.ca/>

Facebook: The Beaver Lake Cree vs Tar Sands group

Article 10(c) Continued from front page

Often, the situation is even worse; biodiversity loss is unjustly blamed on our actions and therefore customary use and management is restricted. This often results in top-down natural resource management and conservation approaches that exclude customary practices. On the long term, this can have negative consequences for the vitality of our systems.

4. that the establishment of protected areas without respect for our rights and our full and effective participation is posing challenges to our communities in terms of both access and management of biological resources. This again has major impacts on the customary sustainable use practiced by our communities in these areas.
5. that our customary sustainable use is under threat from external pressures such as extractive industries, which destroy areas where we practice customary use and have knowledge about, or denies us access to these areas. The application of free prior informed consent (FPIC) in all matters that affect our lands and lives is important to protect our customary use from such threats. However, FPIC is not institutionalised and not applied (and not fully understood).
6. lastly, that education in our own language and on issues that relate to our environment and related knowledge and practices is vital to maintain customary sustainable use and traditional knowledge. Many current education systems however, are aimed at assimilation and are enforcing non-indigenous

languages can lead to the loss of local knowledge and related practices.

Discussions and negotiations on 10(c) by the Working Group

In Montreal, Article 10(c) is being discussed under the Multi-year Programme of Work on the Implementation of Article 8(j) and related provisions (agenda item 7). So far, we feel that the negotiations are taking a positive turn. Most parties have acknowledged the importance of customary sustainable use, and expressed to agree that there should be a greater focus on 10(c) in the implementation of the Convention. We appreciate the support of Parties to our recommendation to make article 10(c) a main component of the revised programme of work on article 8(j) and related provisions. We are also happy with the recommendation to convene an international workshop or conference on Article 10, with a focus on Articles 10(c) and (d). We are looking forward to this opportunity to share our finding and suggestions on the future directions of 10(c). We also agree that it will be good to develop a strategy to integrate Article 10, with a focus on Articles 10(c) and (d) as a cross-cutting issue into the Conventions' programmes of work and we look forward to contributing to this process as well.

(1) UNEP/CBD/WG8j/6/2/Add.1

Communication, Education, and Public Awareness

Malia Nobrega (Hawai'i, Pacific) on behalf of the IIFB Working Group on CEPA

Communication and education has allowed us to create an environment of peace, freedom, social justice, equity, and full exercise of our rights for the sustainable use of the Biodiversity of indigenous peoples.

Since time immemorial, Indigenous Peoples have had the symbols and codes of communication. These have been tools that allowed the holistic development as individuals and collective beings.

Presently, communication and education are the 'spine' of our identity and critical for global solidarity between Indigenous Peoples. Some of the elements of the programme of work of the IIFB Working Group on CEPA include:

- International Training of Trainers and Educators on Indigenous Peoples and the Convention on Biodiversity: This Training of Trainers and Educators on indigenous peoples and the CBD was held in June 2008 in Bonn, Germany. This training was conducted in coordination with the IIFB-Working Group on CEPA, with the support of Tebtebba's Project on Indigenous Peoples' Capacity Building and Advocacy for the Implementation of the CBD, funded by Swebio.
- International Year on Biodiversity: Indigenous Peoples in the various regions have a number of activities planned for the International Year on Biodiversity. Some of the initial plans for global activities for the upcoming year are:
 - Art/Poster Contest for youth relating to indigenous peoples and its central role in the customary and sustainable use of biodiversity
 - Online short film festival to be hosted by the global indigenous portal (indigenousportal.com)
- Community Radio/ Listening Groups/ Podcasts: Many of the indigenous peoples who have participated in various CBD meetings have raised the need for the use of community radio or listening groups. We recognize that there are indigenous peoples on both sides of the digital divide therefore we feel that the creation of community radio programs about the Convention and its various thematic programmes and cross-cutting issues can be used in various ways like in listening groups and podcasts.
- Partnership with www.indigenousportal.com to improve related CBD sections: The Secretariat has created a partnership with the global indigenous portal (www.indigenousportal.com) to improve the related CBD section. This is a portal that is for, by, and about indigenous peoples and has an indigenous manager and indigenous regional editors that work in 4 languages- English, French, Spanish, and Russian.



We recently launched the indigenous portal for mobile phones as well as two applications for iPhones and iPods that allow users to access the English news and audio

at anytime. The indigenous portal is a platform for all indigenous peoples and organizations to share our news, audio, video, stories, etc... Join us on the portal to share stories from your community.

We remind Parties of the following COP decisions:

- COP 9 Decision IX/33 International Year of Biodiversity: The Conference of the Parties encourages all Parties to create national committees, **including representatives of indigenous and local communities**, to celebrate the Year and invites all international organizations to mark this event.
- COP 9 Decision IX 13 E, paragraph 5: *Encourages* Parties, Governments and relevant international organizations, as appropriate, in collaboration with the Executive Secretary, *inter alia* through the Global Initiative on Communication, Education and Public Awareness (CEPA) and the clearing-house mechanism, to develop, **including in local languages**, as appropriate, alternative means of communicating public information on traditional knowledge related to the conservation and sustainable use of biodiversity, in plain language and diverse community-friendly formats, such as video, including television, audio for community radio, songs, posters, theatre/drama, and film, **in order to ensure the full and effective participation of indigenous and local communities, including women and youth**, at local, national and international levels, **while supporting the development by indigenous and local communities of their own media tools**
- COP 9 Decision IX/32 Paragraph 4: Invites Parties, donors and relevant international organizations to provide adequate and predictable human and financial resources to the Executive Secretary for implementation of the programme of work on communication, education and public awareness, including, *inter alia*, the promotion of the use of the communication, education and public awareness toolkit, translation of information materials and regional training workshops, and **to include representation of indigenous and local communities**;
- COP 9 Decision IX/32 Paragraph 5: Invites Parties, other Governments and relevant organizations to **create partnerships with agencies and organizations, and with indigenous and local community organizations**, that can transmit communication, education and public awareness products in non-electronic formats to regions without Web access.

Statement by the Indigenous Women's Biodiversity Network

Montreal, Canada, 2nd November, 2009

Indigenous women from all the regions in the World - who form the Indigenous Women's Biodiversity Network - would like to state the following in this Sixth Meeting of the Working Group on Article 8(j) and related provisions of the CBD, meeting in Montreal, Canada, in the territory of the Mohawk People, on 1st November, 2009:

We want to express our deepest gratitude to the Mohawk People for welcoming us to their ancestral territory and allowing us to reflect and make proposals on these issues, which are of vital importance for our peoples.

Indigenous women, in our historic role as keepers and protectors of life, have a vital role to play in the transmission of traditional knowledge from generation to generation.

Indigenous women would like to underline the importance of the issues dealt with at this WG on Article 8(j) and related provisions. However, we are concerned that in most cases indigenous women are not taken into account. We therefore welcome the support of the government of Spain and the Secretariat of the CBD in the process of capacity building and development that the indigenous women of Latin America and the Caribbean have undertaken.

We encourage this experience to be replicated in other regions and call for the Action Plan on Gender to incorporate the active and full participation of indigenous women in the decision-making processes as adopted at COP9.

We would also like to refer to more specific issues on the agenda to be discussed in this meeting:

Indicators

Regarding the issue of indicators, the role of indigenous women is vital in the identification of factors promoting or endangering the conservation of customary practices and the use of traditional knowledge.

It is important to foster the work on the definition and implementation of indicators. This would be useful, not only for indigenous peoples themselves, but also to assess State's compliance in its public policies regarding the contents of the CBD. According to the CBD report, the proposed indicators are on land use and traditional occupations. In this regard, we consider it important that these indicators take into account the identification of lands and territories under secure tenure by indigenous peoples. It is also important that indicators allow us to analyze and reflect on the reality of indigenous women regarding land tenure at the national level.

Access to Genetic Resources

Traditional knowledge associated with genetic resources is the property of indigenous peoples and local communities. Therefore, access to genetic resources must ensure the rights of indigenous peoples and communities to consultation and free prior informed consent. Access regulations must also ensure the fair and equitable participation of indigenous peoples and local communities in the benefits arising from the utilization of traditional knowledge, particularly of indigenous women as holders and owners of traditional knowledge.

The International Regime should also have as a framework the international instruments adopted by the Parties, such as the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169, among others.

Ethical Code of Conduct

Indigenous women's participation, within the framework of the code of ethical conduct, must be based on the principles of the right to consultation and free prior informed consent, as a basis for the restitution, preservation, conservation and maintenance of indigenous knowledge. Indigenous peoples are

impacted by many research activities, whose results have never been returned to our communities. We are constantly besieged by outsiders who attack the integrity of our indigenous knowledge and distort it. Indigenous women have the capacity to be co-participants in all the stages of research activities and not only to be the object of such activities.

Multi-year Programme of Work on the Implementation of Article 8(j) and related provisions

In spite of some advancement, indigenous women observe with concern that the programme of work adopted ten years ago has hardly been implemented, as many of the tasks have not been completed and others are still to be initiated. On the completed tasks, implementation at the national level is lacking. In this regard, indigenous women think that it would be necessary to convey a working group with wide and effective participation of indigenous peoples, particularly indigenous women, with a view to consider the establishment of a new programme of work based on the new international instruments on the rights of indigenous peoples. In any case, it is important to ensure the strengthening of the capacities of indigenous peoples and local communities to monitor the implementation of the guidelines and other instruments relating to the development of the Programme of Work.

Madam Co-Chairs, women from indigenous and local communities are always alert to the different processes and situations that endanger our ways of life and our peoples. In this regard, we are ready to continue to contribute with our inputs to together find solutions benefiting us in equity and justice.

Finally, Madam Co-chairs, indigenous women participating in this meeting will submit concrete proposals on the different issues to be dealt with at this session of the Working Group.

What are you doing this weekend?

The CBD Alliance welcomes all civil society to the following ABS preparatory meetings

- Saturday 7 November 4 pm in the NGO meeting room, 5th Floor ICAO Building

This will be followed by a meeting with the co-chairs of the ABS working group (Timothy Hodges and Fernando Casas) at 5 pm.