



SUBMISSION BY THE INDEGENOUS INFORMATION NETWORK IN PREPARATION FOR THE EIGHTH MEETING OF THE AD HOC OPEN-ENDED WORKING GROUP ON ACCESS AND BENEFIT-SHARING

Background

There is a strong need to accord to indigenous people's full and effective participation within the CBD process to ensure that their rights and concerns are fully taken into account in the ongoing negotiations for the elaboration of an international regime on access and benefit-sharing.

It is in this perspective that decision IX/12 para. 18 of the Conference of the Parties to the CBD specifically encouraged Parties, other Governments, international organizations and all relevant stakeholders to provide the ways and means to allow for sufficient preparation and to facilitate effective participation of indigenous and local communities in the process of the negotiation and elaboration of the international regime on access and benefit sharing (ABS)

In keeping with this recommendation, the **Indigenous Information Network (IIN)** and the **ABS Capacity Development Initiative for Africa** recently organized a joint preparatory meeting for African indigenous peoples and local communities (IPLC). The workshop was held from the 14th to 17th September 2009 at the ICIPE premises in Nairobi, Kenya.

The principal objective of the workshop was to strengthen the voice of African indigenous peoples and local communities (IPLCs) in preparation for the upcoming 8th meeting of the Ad Hoc Open-ended Working Group on ABS (ABS 8), to be held in Montreal, Canada on 9-15 November 2009. More specifically, the workshop provided the opportunity for IPLCs representatives to learn and discuss about the merits and potentials of biocultural/community protocols in ensuring free and prior informed consent of IPLCs when traditional knowledge is being accessed. To that effect, several examples of biocultural or community protocols from eastern and southern Africa as well as India were presented and discussed. One key conclusion was that biocultural /community protocols are effective in ensuring the respect of the cultural, spiritual, ecological, economic and customary values of IPLCs while also providing potential users of traditional knowledge clear and transparent rules for access to genetic resources and traditional knowledge.

Furthermore, the workshop provided a forum for open exchange to discuss the outcomes of the recent expert group meeting on traditional knowledge in Hyderabad and develop recommendations for African negotiators on how to include traditional knowledge in the International regime on ABS. A direct outcome of these discussions was the elaboration of 11 recommendations directed to African negotiators on key items that will likely be discussed in the upcoming meeting of the ABS Working Group in Montréal. The recommendations are reproduced below.

Recommendations for African negotiators by ILCs representatives (Nairobi, 17th September, 2009)

1. Prevention and resolution of conflicts.

- Establish mechanisms for conflict prevention and resolution concerning shared genetic resources and traditional knowledge
- Establish an office of an ombudsman for mediation in case of violations of community protocols

2. Nature

- The international regime shall be legally binding

3. Internationally recognized certificates

- The IR should put in place internationally recognized certificates that shall recognize the rights of knowledge holders
- The IR should establish measures for sanctions for any violation of the certificate of compliance

4. Community Protocols (CPs)

- Support the inclusion of CPs as an essential component of the IR on ABS
- The IR should require states to ensure that the development, management and control of CPs is community led
- The development of community protocols should ensure the participation of women
- The IR should establish an international fund for CP awareness creation and capacity building

5. Research, documentation

- The IR should require states to promote the involvement of IPLCs in community-based research on TK and GR
- Identify and constitute databases of GR and TK with FPIC

6. Revitalization of customary law

- The IR should require states to recognize and enhance the harmonization of national laws with customary laws in respect of TK and GR

7. Capacity Building

- The IR should request states to develop long and short-term capacity building measures for ILCs with regards to :
 - Negotiations at all levels
 - Enhancing the understanding of the IR
 - Awareness creation and information dissemination
 - Development of technical (such as scientific and legal) expertise on GR and TK

- Training on participatory research, data collection, documentation and storage of GR and TK

8. Benefits from pre- and post CBD use of TK and GR

- All continuing benefits resulting from the utilization of community GR and TK acquired prior to the entry into force of the CBD should be shared fairly and equitably with the original holders of the GR and TK
- In cases where the origin of the GR or TK acquired pre-CBD is unclear, the IR shall set up a fund to which a fair and equitable portion of the benefits will be paid. The fund will be used in the region of origin of the GR and TK for capacity building activities for IPLCs.
- All new uses of GR and TK acquired pre-CBD should require the FPIC of the original holders of the GR and TK and fair and equitable sharing of benefits arising from such use

9. Enhance the work and ensure the continuity of the WG 8(j)

- Promote increased funding for the participation of IPLC in WG 8(j)

10. Change in use

- The IR shall ensure that any change in use of GR and TK that goes beyond the original MAT should require new FPIC of the holders of such GR and TK.
- The IR shall ensure that any benefits arising from the commercial use of GR or TK acquired for non-commercial purposes shall be shared fairly and equitably with the original holders.

11. Paragraph 13 of AHTEG report on TK

- Where TK provides the lead to GR with potential properties, the benefits that arise from the use of such GR shall be fairly and equitably shared with the holders of such TK, even if the TK does not match the end product.

ILC organizations represented at the preparatory meeting:

Institution	Country
African Indigenous Women's Organization (AIWO)-Sudan	Sudan
Association Malienne d'Eveil au Développement Durable (ONG AMEDD)	Mali
Association pour la Redynamisation de l'Elevage au Niger (AREN)	Niger
Center for International Sustainable Development Law (CISDL)	Canada
Chibememe Earth Healing Association (CHIEHA)	Zimbabwe
Communauté des Potiers Rwandais (COPORWA)	Rwanda
Enda Tiers Monde	Sénégal
Femme Bambuti	DRC
Groots Kenya	Kenya
Gurapou-Loyiangelani	Kenya
Hadzabe Survival Council	Tanzania

Institution	Country
Imerogo Women Group	Kenya
Indigenous Information Network (IIN)	Kenya
Indigenous Peoples of Africa Co-ordinating Committee (IPACC)	Gabon
Indigenous Peoples of Africa Co-ordinating Committee (IPACC)	South Africa
Indigenous Women of Nigeria	Nigeria
Lelewal Barka	Cameroon
Lelewal Women Network	Cameroon
Ligue Nationale des Associations Autochtones Pygmées du Congo (LINAPYCO)	DRC
Maasai Cultural Heritage (MCH)	Kenya
Mbororo Social and Cultural Development Association (MBOSCUDA)	Cameroon
Melca Mahiber	Ethiopia
Movement for the Survival of the Ogoni People (MOSOP)	Nigeria
Natural Justice (Lawyers for Communities and the Environment)	South Africa
Nature Tropicale ONG	Benin
Ogiek Peoples Development Programme (OPDP)	Kenya
ONG Les Amis de la Terre-Togo	Togo
Parakuiyo Pastoralists Indigenous Community Development Organisation (PAICODEO)	Tanzania
Parakuiyo Women Development Organization (PAWODEO)	Tanzania
Res jeunne	Rwanda
Rift Valley Children and Women. Development Association (RVCWDA)	Ethiopia
South African San Institute (SASI)	South Africa
Tunga cross boarder	Uganda
Tunitman	Mali
Unissons-nous pour la Promotion des Batwa (UNI PROBA)	Burundi
United Organisation for Batwa Development in Uganda (UOBDU)	Uganda
West Africa Coalition for Indigenous Peoples' Rights (WACIPR)	Nigeria
Working Group of Indigenous Minorities in Southern Africa (WIMSA)	Botswana
Working Group of Indigenous Minorities in Southern Africa (WIMSA)	Namibia