



WG8J 10

Montreal, Canada, 13-17 December 2017

Agenda Item 3 of the provisional agenda

Rutzolijirisaxik Voluntary Guidelines

Thank you, Madam Chair,

I am speaking on behalf of the International Indigenous on Biological Diversity on Agenda Item 3, the Rutzolijirisaxik Voluntary Guidelines.

The IIFB is generally supportive of the current draft of the guidelines. They provide practical and helpful guidance for countries developing measures for the repatriation of traditional knowledge, originating the general obligation under CBD Article 17 on the Exchange of Information. After six years of negotiations, we believe that these guidelines should be sent to the COP for consideration and adoption.

Madam Chair, one of the remaining concerns we have in the development of these guidelines is in the issue of "publicly available" traditional knowledge. Issues surrounding publicly available traditional knowledge are complex, reaching outside this convention. They have been under intense discussion and negotiation at the World Intellectual Property Organization for the past 17 years.

They will not be resolved in these voluntary guidelines. The Kanawage elder reminded us, there are mutual obligations between people and nature. These obligations extend to the respectful and appropriate use of traditional knowledge, which is an integral part of indigenous peoples' ways of life. We are concerned that much publicly available traditional knowledge has been taken without free, prior and informed consent, and may be utilized in ways that are inappropriate, that violate our values and fail to respect the obligations required for their use.

We cannot resolve these issues in these voluntary guidelines. But there needs to be some guidance beyond considerations of benefit sharing alone. We propose the following textual additions which we do not believe create any obligations beyond existing those adopted in this Convention, other international obligations, or domestic laws and policies. They merely help to remind and guide:

Considering the importance of harmonization and complementarity and effective implementation of the various international arrangements, instruments, programmes, strategies, standards, guidelines reports and processes of relevance, **[and that any legal measures should not be prejudicial to the future recognition of rights]**; and

[Further considering that these guidelines touch upon complex issues that may not be settled in national or international law, particularly in relation to the meanings of "publicly available" and the "public domain,"] and



V. GOOD PRACTICES AND ACTIONS UNDERTAKEN AT VARIOUS LEVELS, INCLUDING THROUGH COMMUNITY-TO-COMMUNITY EXCHANGES, TO REPATRIATE, RECEIVE AND RESTORE TRADITIONAL KNOWLEDGE RELEVANT FOR THE CONSERVATION AND SUSTAINABLE USE OF BIOLOGICAL DIVERSITY

B. Special considerations

1. Publicly available traditional knowledge and ongoing use and benefit-sharing

Considering the importance of harmonization and complementarity and effective implementation of the various international arrangements, instruments, programmes, strategies, standards, guidelines reports and processes of relevance, [***and that any legal measures should not be prejudicial to the future recognition of rights***]; and

[Further considering that these guidelines touch upon complex issues that may not be settled in national or international law, particularly in relation to the meanings of "publicly available" and the "public domain,"] and

51 bis. Further to the issue of access to and the use of publicly available traditional knowledge, the Mo'otz Kuxtal Voluntary Guidelines for Traditional Knowledge contains advice related to "prior informed consent", "free, prior and informed consent", and "approval and involvement" relevant for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity