

# THE LIVING CONVENTION

A person with short, light-colored hair is seen from behind, sitting in a small, dark wooden boat. The boat is on a body of water with a teal or turquoise hue. The person is holding a long, dark wooden paddle that extends into the water on both sides. The water has gentle ripples around the boat. The overall scene is calm and serene.

## VOLUME I

AN ACCESSIBLE COMPENDIUM OF THE INTERNATIONAL RIGHTS OF  
INDIGENOUS PEOPLES, LOCAL COMMUNITIES AND PEASANTS

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THIRD EDITION | 2020



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## AN ACCESSIBLE COMPENDIUM OF THE INTERNATIONAL RIGHTS OF INDIGENOUS PEOPLES, LOCAL COMMUNITIES AND PEASANTS (VOLUME I)

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# DEDICATION

*The Living Convention* is dedicated to all Indigenous peoples, local communities and peasants striving to realize the right to self-determination and self-governance and to maintain the integrity of their territories of life.

It is also in memory of Ghanimat Azhdari (July 1983-January 2020), a young Indigenous woman from the Qashqai tribe who dedicated her life to advocating for collective recognition, respect, peace and justice alongside her sisters and brothers from Indigenous peoples, local communities and peasants around the world.

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# FOREWORD

*The Living Convention* has emerged from Natural Justice's work with Indigenous peoples, local communities, peasants and their organizations. It is a response to an important and often-asked question, namely: "What are our rights at the international level?" For reasons more fully discussed below, this question does not have a straightforward answer. The inaccessibility of international law amounts to a procedural injustice, denying Indigenous peoples, local communities and peasants absolute clarity about their rights and responsibilities, as well as those of other actors, under international law. *The Living Convention* is designed to democratize international law, and in doing so, better enable Indigenous peoples, local communities and peasants to assert and affirm their international rights and local responsibilities.

*The Living Convention* is an easy-to-use resource on the full spectrum of international law relating – broadly put – to the links between humans and non-human nature.

*The Living Convention* has particular significance during this time of climate and planetary crisis. With increased levels of natural disasters, limited access to clean drinking water, sea level rise, droughts, conflicts and climate-induced migration, the rights of Indigenous peoples, local communities and peasants are under increasing threat. *The Living Convention* provides a strong foundation to ensure people are in a stronger position to understand the law, shape the law and use the law.

Since the second edition (2013), we have fully updated the Compendium to include important advancements in international law, including:

- UN Declaration on the Rights of Peasants and Other People Working in Rural Areas,
- Rutzolijirisaxik Voluntary Guidelines for the repatriation of traditional knowledge relevant for the conservation and sustainable use of biological diversity, under the UN Convention on Biological Diversity, and
- Mo'otz Kuxtal Voluntary Guidelines relating to the free, prior and informed consent of Indigenous peoples and local communities relating to knowledge, innovations and practicing, also under the UN Convention on Biological Diversity.
- The Paris Agreement, under the UN Framework Convention on Climate Change.

In particular, we would like to pay tribute to the Indigenous peoples, local communities, peasants and supporting organisations with whom Natural Justice is working. Our partnerships have spurred us to think about how international law can be made more accessible and, therefore, more useful to the stewards of biological and cultural diversity. We are also grateful to the many practitioners who have given their time to discuss these issues with us. Just as your ideas have helped us in our work, we hope this publication is useful in yours.

**Lucy Mulenkei**

Executive Director,  
Indigenous Information Network  
Board Member, Natural Justice

**Pooven Moodley**

Executive Director, Natural Justice



# OVERVIEW

## INTRODUCTION AND QUICK GUIDE



## INTRODUCTION

Indigenous peoples, local communities and peasants have fought hard for the rights they have secured at the international level. Decades of commitment, tenacity, personal sacrifices, and well-executed negotiating strategies have led to important rights gains and legal recognition, perhaps most significantly enshrined in the United Nations (UN) Declaration on the Rights of Indigenous Peoples (2007) and the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018). In addition to these landmark instruments, Indigenous peoples, local communities and peasants have also engaged in a wide range of international negotiations and processes to secure rights in other instruments, such as the UN Convention on Biological Diversity (CBD) and UN Framework Convention on Climate Change. Today, Indigenous peoples', local communities' and peasants' rights are enshrined in a wide range of international instruments. The distinct bodies of rights continue to grow as new instruments are negotiated and adopted, as progressive jurisprudence is developed through regional and national courts, and as countries enact laws that respect the rights of Indigenous peoples and local communities.

*The Living Convention* has been produced primarily for Indigenous peoples, local communities and peasants, as well as their supporting organisations and other stakeholders and interested parties. It is intended as an easily accessible resource for exploring the full range of provisions in international law that address the interrelationships between, among other things: individuals, peoples and communities; livelihoods, culture and spirituality; territories, landscapes and seascapes; biodiversity and other natural resources; knowledge, innovations and practices; agricultural systems, including crops and livestock; climate change; and legislative and judicial systems.

It aims to further empower Indigenous peoples, local communities and peasants to articulate, affirm and assert their roles, responsibilities and rights in maintaining the integrity and resilience of their social-ecological systems. It underscores the legal and ethical obligations of governments, the private sector and other actors to uphold the substantive and procedural standards that are clearly elaborated in internationally-agreed instruments. It is also hoped that this publication will inform debate about why - despite the wealth of supportive international law - we are witnessing unprecedented levels of human rights abuses and environmental degradation across the globe, and how this can be effectively addressed.

## CONTENTS

*The Living Convention (Volume I)* contains a compendium of internationally recognised rights that support Indigenous peoples, local communities and peasants. It is organised so that, for example, all provisions that deal with free, prior and informed consent (FPIC) are grouped together regardless of whether they are located in human rights instruments or multilateral environmental agreements. The same is the case for provisions relating to a range of other rights, including: cultural traditions; land tenure; customary and sustainable uses of biodiversity; farming and livestock keeping; public participation in decision-making; and access to justice.

**Volume II** sets out the rationale and methodology. It illustrates how counter-mapping international law has rendered a comprehensive and integrated body of international legal provisions that are supportive of Indigenous peoples', local communities' and peasants' rights to protect their physical, cultural and spiritual relationships with their territories, areas, and related resources. For more information on *The Living Convention* and to download Volume II, please visit:

[www.naturaljustice.org/the-living-convention](http://www.naturaljustice.org/the-living-convention)

Read as a whole, *The Living Convention* aspires to build awareness around a wide range of international law, help identify gaps and ultimately provide a basis for promoting implementation, enforcement and legal reform. It also aims to spur renewed interest in the question of national implementation of international obligations and catalyse an urgent engagement with the question of the legal weight of international law.

## QUICK GUIDE TO USING THE COMPENDIUM

The compendium (Volume I) provides a comprehensive and approachable overview of international legal provisions that support the integrity of Indigenous peoples', local communities' and peasants' relationships with their territories of life. We intend the Compendium to be used like a dictionary to find out about the body of law supporting particular rights. The methodology (Volume II) can be read to engage more deeply with the framing of international law and how it can be counter-mapped to increase its local legibility and applicability.

Indigenous peoples, local communities and peasants can use the Compendium for a wide range of purposes, for example, when:

- Framing a local development plan or '*plan de vida*' and proposing new self-defined initiatives such as a land claim;
- Engaging a range of governmental and non-governmental proponents of projects proposed to take place on or that will affect their territories of life and/or natural resources, among other things;
- Negotiating or preparing for litigation with government agencies and/or the private sector; and
- Drafting petitions and advocacy strategies or articulating community protocols.

### How to Use the Compendium

1. **Identify the issue** (i.e. 'land tenure' or 'right to information').
2. If you have time, **read Volume II** (the methodology and legal weight) to contextualize the Compendium. If not, proceed to step 3.
3. **Identify the most relevant categories** of procedural and substantive rights and consult the relevant provisions.
4. **Explore other related provisions.** For example, a denial of land rights may also involve infringements of other rights, such as the right to free, prior and informed consent (FPIC) or to a social/environmental impact assessment.
5. **Refer to Annex III** to see whether the provisions you want to draw upon are contained in instruments that are applicable in your State.

Government agencies, the private sector and non-governmental organizations (NGOs), among others, can also use the Compendium to determine their obligations in international law and establish the substantive and procedural standards for engaging with Indigenous peoples, local communities and peasants, as well as the territories, areas and resources upon which their cultures and ways of life depend.

Before reading the Compendium, it is important to note three things. First, all of the provisions are directly quoted from the international instruments in which they are found. Second, the reader should always consult the original instrument from which specific provisions were sourced in order to contextualize them and access more information on the source's legal weight. Third, where the specific provision referenced is from an instrument dedicated specifically to Indigenous peoples, those paragraphs are identified with an asterisk (\*) for the avoidance of doubt.

## THE TITLE

The title has been deliberately chosen to engage people in the discussion about how the natural rights of Indigenous peoples, local communities and peasants are currently represented in the international legal framework. Because this body of rights is evolving, we refer to it as a *Living Convention*.

This is intended to highlight the point that, while the international community has never established a process to elaborate and negotiate an international instrument relating to the full spectrum of the relationships between humans and non-human nature, there is nevertheless a body of internationally negotiated law relating to the rights of Indigenous peoples, local communities and peasants to maintain the integrity and resilience of their social and ecological systems. But this landscape of rights and corresponding responsibilities has been largely hidden from view due to the dispersed nature of the provisions from which it is constituted. By drawing the otherwise disparate provisions together, the ‘Living Convention’ comes into focus. Thus, for total clarity, the compendium is not a proposal for a new international instrument, but merely the imaginative reformulation of existing international law, rendered to make it more accessible. Volume II provides a deeper explanation of the process of counter-mapping international law.

## ACKNOWLEDGEMENTS

The authors would like to wide range of people who provided comments on the development of the three editions. We are particularly grateful for the insights from members of the International Indigenous Forum on Biodiversity in the corridors at various meetings of the Convention on Biological Diversity, as well as a range of other people over email and Skype. These include: Alejandro Argumedo, Kelly Bannister, Sanjay Kabir Bavikatte, Grazia Borrini-Feyerabend, Peter Burdon, Jeff Campbell, Joji Cariño, Joan Carling, Lorenzo Cotula, Cormac Cullinan, Iain Davidson-Hunt, Louisa Denier, Natasha Duarte, Graham Dutfield, Ron Engel, Taghi Farvar, Thomas Greiber, Terence Hay-Edie, Elaine Hsiao, Holly Jonas, Mike Jones, Daniel King, Rachael Knight, Ashish Kothari, Vincenzo Lauriola, Ina Lehmann, Simone Lovera, Michelle Maloney, Elisa Morgera, Carine Nadal, Max Ooft, Gonzalo Oviedo, Ana di Pangrancio, Samson Pedragosa, Alessandro Pelizzon, Sonia Peña Moreno, Ana Persic, Krishna Prasad Oli, Ramya Rajagopalan, Dilys Roe, Annalisa Savaresi, Tui Shortland, Tristan Simpson, Maui Solomon, Brendan Tobin, Yvonne Vezina, Marie Wilke, Nick Winer, and Tomme Young.

# COMPENDIUM

A COMPENDIUM OF THE INTERNATIONAL RIGHTS  
OF INDIGENOUS PEOPLES, LOCAL  
COMMUNITIES AND PEASANTS



# PREAMBULAR PROVISIONS

## What are preambular provisions?

Preambular provisions in international instruments provide **context** to the operative provisions (the operative provisions appear in the next section). Preambular provisions often also make reference to other international instruments, to underscore the linkages between them.

## OVERARCHING HUMAN RIGHTS

*We the peoples of the United Nations determined ... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.*<sup>1</sup>

*Whereas* recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.<sup>2</sup>

*Considering that*, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.<sup>3</sup>

*Acknowledging* that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.<sup>4\*</sup>

*Recognising* the aspirations of these peoples to exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, languages and religions, within the framework of the States in which they live.<sup>5\*</sup>

*Celebrating* the importance of cultural diversity for the full realization of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other universally recognized instruments.<sup>6</sup>

*Recognizing* that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself.<sup>7</sup>

*Recalling* the principles proclaimed in the Charter of the United Nations, which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world.<sup>8</sup>

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<sup>1</sup> Charter of the United Nations Preamble.

<sup>2</sup> Universal Declaration of Human Rights (UDHR).

<sup>3</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR) Preamble.

<sup>4</sup> United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Preamble.

<sup>5</sup> Indigenous and Tribal Peoples Convention No. 169 (ILO Convention No. 169) Preamble. The use of the phrase “these peoples” in this provision of ILO Convention No. 169 is a reference to “indigenous and tribal peoples in all regions of the world.”

<sup>6</sup> UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Convention on Cultural Expressions) Preamble.

<sup>7</sup> Convention on Access to Information, Public Participation In Decision-Making, and Access to Justice In Environmental Matters (Aarhus Convention) Preamble. Please note that the Aarhus is now open to all United Nations Economic Commission for Europe (UNECE) members.

<sup>8</sup> United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) Preamble



*Reaffirming* the importance of respecting the diversity of cultures and of promoting tolerance, dialogue and cooperation.<sup>9</sup>

*Reaffirming also* the importance of the Declaration on Human Rights Defenders and its full and effective implementation, and that promoting respect, support and protection for the activities of human rights defenders, including women and indigenous human rights defenders, is essential to the overall enjoyment of human rights and for the protection and conservation of the environment, including the rights to life, to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, including adequate food and housing, and to safe drinking water and sanitation, and cultural rights.<sup>10</sup>

*Recognizing also* the importance of gender equality, the empowerment of women and the role women play as managers of natural resources and agents of change in the safeguarding of the environment, as well as the multiple and intersecting forms of violence and discrimination against women human rights defenders, indigenous peoples, children, persons belonging to minorities and rural and marginalized communities.<sup>11</sup>

*Recognizing* the need to develop protection mechanisms for environmental human rights defenders, taking into account the intersectional dimensions of violations against women human rights defenders, indigenous peoples, rural and marginalized communities, and persons belonging to minorities, and to take concrete steps to prevent and stop the use of legislation to hinder or limit unduly the ability of human rights defenders to exercise their work, including by reviewing and, where necessary, amending relevant legislation and its implementation in order to ensure compliance with international human rights law.<sup>12</sup>

*Recognizing* that the security of environmental human rights defenders is inherently linked to the security of their communities and can only be fully achieved in the context of a holistic approach that includes the strengthening of democratic institutions, the fight against impunity, a reduction in economic inequality and equal access to justice.<sup>13</sup>

*Stresses* that human rights defenders, including environmental human rights defenders, must be ensured a safe and enabling environment to undertake their work free from hindrance and insecurity, in recognition of their important role in supporting States to fulfil their obligations under the Paris Agreement and to realize the 2030

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<sup>9</sup> UNDROP Preamble

<sup>10</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development.

<sup>11</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development.

<sup>12</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development.

<sup>13</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development.

Agenda for Sustainable Development, including the pledge that no one will be left behind and to reach the furthest behind first.<sup>14</sup>

## **RIGHT TO A HEALTHY ENVIRONMENT**

*Recognizing also* that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations.<sup>15</sup>

## **CULTURAL AND NATURAL HERITAGE**

*Considering* that the deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world.<sup>16</sup>

*Considering* that, in view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance which, although not taking the place of action by the State concerned, will serve as an efficient complement thereto.<sup>17</sup>

*Being aware* that cultural diversity creates a rich and varied world, which increases the range of choices and nurtures human capacities and values, and therefore is a mainspring for sustainable development for communities, peoples and nations.<sup>18</sup>

*Being aware* of the universal will and the common concern to safeguard the intangible cultural heritage of humanity.<sup>19</sup>

*Recognizing* that communities, in particular indigenous communities, groups and, in some cases, individuals, play an important role in the production, safeguarding, maintenance and re-creation of the intangible cultural heritage, thus helping to enrich cultural diversity and human creativity.<sup>20</sup>

*Affirming* also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind.<sup>21</sup>

*Taking into account* the importance of the vitality of cultures, including for persons belonging to minorities and indigenous peoples, as manifested in their freedom to

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<sup>14</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development (2).

<sup>15</sup> Aarhus Convention Preamble.

<sup>16</sup> UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention) Preamble.

<sup>17</sup> World Heritage Convention Preamble.

<sup>18</sup> Convention on Cultural Expressions Preamble.

<sup>19</sup> UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (Convention on Intangible Cultural Heritage) Preamble.

<sup>20</sup> Convention on Intangible Cultural Heritage Preamble.

<sup>21</sup> UNDRIP Preamble.

create, disseminate and distribute their traditional cultural expressions and to have access thereto, so as to benefit them for their own development.<sup>22</sup>

## **EDUCATION AND LANGUAGES**

*Recalling* that linguistic diversity is a fundamental element of cultural diversity, and reaffirming the fundamental role that education plays in the protection and promotion of cultural expressions.<sup>23</sup>

## **KNOWLEDGE, INNOVATIONS AND PRACTICES**

*Recognizing* the importance of traditional knowledge as a source of intangible and material wealth, and in particular the knowledge systems of indigenous peoples, and its positive contribution to sustainable development, as well as the need for its adequate protection and promotion.<sup>24</sup>

*Recognizing* the importance of intellectual property rights in sustaining those involved in cultural creativity.<sup>25</sup>

*Recognizing* that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment.<sup>26\*</sup>

The ecosystem approach, a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use of biological diversity in an equitable way, is consistent with the spiritual and cultural values as well as customary practices of many indigenous and local communities and their traditional knowledge, innovations and practices.<sup>27</sup>

*Recognizing* that indigenous and local communities are the holders of their traditional knowledge, innovations and practices, access to their traditional knowledge, innovations and practices should be subject to their prior informed consent or approval and involvement.<sup>28</sup>

Cultural and spiritual values and practices of indigenous and local communities play an important role in the conservation and sustainable use of biological diversity and transmitting its importance to the next generation.<sup>29</sup>

Cultural, social, economic and ecological elements associated with the traditional management systems of lands, waters and territories of indigenous and local communities and their involvement in the management of these areas should be

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<sup>22</sup> Convention on Cultural Expressions Preamble.

<sup>23</sup> Convention on Cultural Expressions Preamble.

<sup>24</sup> Convention on Cultural Expressions Preamble.

<sup>25</sup> Convention on Cultural Expressions Preamble.

<sup>26</sup> UNDRIP Preamble.

<sup>27</sup> UNEP/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (4).

<sup>28</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (5).

<sup>29</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (6.c.).

recognized, secured and protected, as they contribute to customary sustainable use of biological diversity.<sup>30</sup>

Traditional knowledge and customary sustainable use of biological diversity are central to the full implementation of the ecosystem approach, which provides an important tool to strengthen the capacity of indigenous and local communities to fully practice customary sustainable use of biological diversity, as appropriate.<sup>31</sup>

*Taking into account* that many currently poor communities have traditionally been very effective conservers of nature and its biodiversity, such as through various forms of indigenous and community conserved areas and territories, and have been users of biodiversity and ecosystem services.<sup>32</sup>

*Encourages* Parties to consider traditional knowledge related to biodiversity conservation in their national policies and initiatives.<sup>33</sup>

*Recognizing further* that existing approaches for the monitoring and assessment of the contribution of collective action of indigenous peoples and local communities require development of specific methodologies, including case studies, pilot projects and associated studies, to refine methodologies, and recalling, in this connection, paragraph 30 of decision XII/3.<sup>34</sup>

## DEVELOPMENT

*Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs...<sup>35\*</sup>

*Concerned* that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.<sup>36\*</sup>

*Reaffirming* the Declaration on the Right to Development, and that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.<sup>37</sup>

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<sup>30</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (6.f.).

<sup>31</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (6.g.).

<sup>32</sup> UNEP/CBD/COP/DEC/XII/5, Biodiversity for poverty eradication and sustainable development.

<sup>33</sup> UNEP/CBD/COP/DEC/XII/5, Biodiversity for poverty eradication and sustainable development (13).

<sup>34</sup> CDB/COP/DEC/XIII/20, Resource Mobilisation.

<sup>35</sup> UNDRIP Preamble.

<sup>36</sup> UNDRIP Preamble.

<sup>37</sup> UNDROP Preamble

*Recognizing* that access to land, water, seeds and other natural resources is an increasing challenge for rural people, and stressing the importance of improving access to productive resources and investment in appropriate rural development.<sup>38</sup>

*Reaffirming* that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.<sup>39</sup>

## **LAND, NATURAL RESOURCES, CUSTOMARY USES AND CONSERVATION**

*Recognizing* the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources.<sup>40\*</sup>

*Recalling* that access by indigenous and local communities to lands and waters traditionally occupied or used by indigenous and local communities, together with the opportunity to practice traditional knowledge on those lands and waters, is paramount for the retention of traditional knowledge, and the development of innovations and practices relevant for the conservation and sustainable use of biological diversity.<sup>41\*</sup>

Biodiversity, customary sustainable use and traditional knowledge are intrinsically linked. Indigenous and local communities, through customary sustainable use of biological diversity, constantly shape and reshape social and ecological systems, landscapes, seascapes, plants and animal populations, genetic resources and related management practices, and are therefore well placed to adapt to changing conditions such as climate change, and to contribute to the maintenance of biodiversity and ecosystem services, and the strengthening of the resilience of the social and ecological systems. Indigenous and local communities and holders of traditional knowledge related to customary sustainable use of biological diversity also contribute to the generation of new knowledge for the benefit not only of indigenous and local communities but of human well-being at large.<sup>42</sup>

Indigenous and local communities depend directly on biodiversity and its customary sustainable use and management for their livelihoods, resilience and cultures and are therefore well placed, through their collective actions, to efficiently and economically manage ecosystems using the ecosystem approach.<sup>43</sup>

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<sup>38</sup> UNDROP Preamble.

<sup>39</sup> UNDROP Preamble.

<sup>40</sup> UNDRIP Preamble.

<sup>41</sup> The Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities (Tkarihwaí:ri Code of Ethical Conduct) Preamble.

<sup>42</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (6.a.).

<sup>43</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (6.b.).

Customary sustainable use of biological diversity is useful in facilitating learning of socio-ecological systems and possible innovations for productive ecosystems and continued human well-being.<sup>44</sup>

*Further encourages* Parties, other Governments, international organizations and relevant stakeholders to support indigenous and community conserved areas and territories, community-based management, customary sustainable use and community governance of biodiversity, and ensure the full and effective participation of indigenous and local communities in decision-making processes, taking into account international instruments and law related to human rights in accordance with national legislation.<sup>45</sup>

## **FOOD AND AGRICULTURE**

*Aware* of their responsibility to past and future generations to conserve the World's diversity of plant genetic resources for food and agriculture.<sup>46</sup>

*Recognizing* also the past, present and future contributions of peasants and other people working in rural areas in all regions of the world to development and to conserving and improving biodiversity, which constitute the basis of food and agricultural production throughout the world, and their contribution in ensuring the right to adequate food and food security which are fundamental to attaining the internationally agreed development goals, including the 2030 Agenda for Sustainable Development.<sup>47</sup>

*Convinced* that peasants and other people working in rural areas should be supported in their efforts to promote and undertake sustainable practices of agricultural production that support and are in harmony with nature, also referred to as Mother Earth in a number of countries and regions, including by respecting the biological and natural ability of ecosystems to adapt and regenerate through natural processes and cycles.<sup>48</sup>

*Recognizing* that the concept of food sovereignty has been used in many States and regions to designate the right to define their food and agriculture systems and the right to healthy and culturally appropriate food produced through ecologically sound and sustainable methods that respect human rights.<sup>49</sup>

## **CLIMATE CHANGE**

*Concerned* that human activities have been substantially increasing the atmospheric concentrations of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the

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<sup>44</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity (6.h.).

<sup>45</sup> UNEP/CBD/COP/DEC/XII/5, Biodiversity for poverty eradication and sustainable development (11).

<sup>46</sup> International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) Preamble.

<sup>47</sup> UNDROP Preamble.

<sup>48</sup> UNDROP Preamble.

<sup>49</sup> UNDROP Preamble.

Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind.<sup>50</sup>

*Recognizing further* that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change.<sup>51</sup>

*Acknowledging* that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.<sup>52</sup>

*Noting* the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity, recognized by some cultures as Mother Earth, and noting the importance for some of the concept of "climate justice", when taking action to address climate change.<sup>53</sup>

## **DESERTIFICATION**

*Acknowledging* that desertification and drought are problems of global dimension in that they affect all regions of the world and that joint action of the international community is needed to combat desertification and/or mitigate the effects of drought.<sup>54</sup>

## **GENETIC RESOURCES AND TRADITIONAL KNOWLEDGE**

*Recalling* that the fair and equitable sharing of benefits arising from the utilization of genetic resources is one of three core objectives of the *Convention on Biological Diversity*, and recognizing that this *Nagoya Protocol* pursues the implementation of this objective within the *Convention on Biological Diversity*.<sup>55</sup>

*Recalling* the relevance of Article 8(j) of the *Convention on Biological Diversity* as it relates to traditional knowledge associated with genetic resources and the fair and equitable sharing of benefits arising from the utilization of such knowledge.<sup>56</sup>

*Noting* the interrelationship between genetic resources and traditional knowledge, their inseparable nature for indigenous and local communities, the importance of the

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<sup>50</sup> United Nations Framework Convention on Climate Change (UNFCCC) Preamble.

<sup>51</sup> UNFCCC Preamble.

<sup>52</sup> Paris Agreement Preamble.

<sup>53</sup> Paris Agreement Preamble.

<sup>54</sup> United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (Convention on Desertification) Preamble.

<sup>55</sup> Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol) Preamble.

<sup>56</sup> Nagoya Protocol Preamble.

traditional knowledge for the conservation of biological diversity and the sustainable use of its components, and for the sustainable livelihoods of these communities.<sup>57</sup>

*Recognizing* the diversity of circumstances in which traditional knowledge associated with genetic resources is held or owned by indigenous and local communities.<sup>58</sup>

*Mindful* that it is the right of indigenous and local communities to identify the rightful holders of their traditional knowledge associated with genetic resources, within their communities.<sup>59</sup>

Traditional knowledge should be valued, respected and considered as useful and necessary for biodiversity conservation and sustainable use as other forms of knowledge.<sup>60</sup>

## **INFORMATION, DECISION MAKING, IMPLEMENTATION AND ACCESS TO JUSTICE**

*Aiming* ... to further the accountability of and transparency in decision-making and to strengthen public support for decisions on the environment.<sup>61</sup>

*Recognizing* the importance of fully integrating environmental considerations in governmental decision-making and the consequent need for public authorities to be in possession of accurate, comprehensive and up-to-date environmental information.<sup>62</sup>

*Considering* that, to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters, and acknowledging in this regard that citizens may need assistance in order to exercise their rights.<sup>63</sup>

*Recognizing* that, in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns.<sup>64</sup>

*Recognizing also* that the public needs to be aware of the procedures for participation in environmental decision-making, have free access to them and know how to use them.<sup>65</sup>

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<sup>57</sup> Nagoya Protocol Preamble.

<sup>58</sup> Nagoya Protocol Preamble.

<sup>59</sup> Nagoya Protocol Preamble.

<sup>60</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity, (3).

<sup>61</sup> Aarhus Convention Preamble.

<sup>62</sup> Aarhus Convention Preamble.

<sup>63</sup> Aarhus Convention Preamble.

<sup>64</sup> Aarhus Convention Preamble.

<sup>65</sup> Aarhus Convention Preamble.



The full and effective participation of indigenous and local communities, in particular women, is of primary importance for the successful development and implementation of policies and programmes for customary sustainable use of biological diversity.<sup>66</sup>

*Stressing* further that several factors make it difficult for peasants and other people working in rural areas, including small-scale fishers and fish workers, pastoralists, foresters and other local communities to make their voices heard, to defend their human rights and tenure rights, and to secure the sustainable use of the natural resources on which they depend.<sup>67</sup>

The development and implementation of all activities under the plan of action on customary sustainable use of biological diversity should be undertaken with the full and effective participation of indigenous and local communities, particularly women and youth.<sup>68</sup>

*Noting* that restoration needs to be carried out in ways that balance social, economic and environmental objectives, and that the engagement of all relevant stakeholders, such as land owners, and indigenous peoples and local communities, is crucial at all stages of the restoration process especially as regards the participation of women, recognizing that women are powerful agents of change and their leadership is critical in community revitalization and renewable natural resource management.<sup>69</sup>

*Encourages* Parties to facilitate the full and effective participation of indigenous peoples and local communities in the implementation of national biodiversity-related activities on ecosystem conservation and restoration.<sup>70</sup>

## **CAPACITY BUILDING AND AWARENESS**

*Considering* the need to build greater awareness, especially among the younger generations, of the importance of the intangible cultural heritage and of its safeguarding.<sup>71</sup>

*Realizing* that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Declaration and in national law.<sup>72</sup>

*Recalls* its invitation to Parties to report progress in achieving these milestones, as well as any additional milestones and timelines established at the national level, in the context of national circumstances, policies and capabilities, through their national reports or, as appropriate, through the online reporting framework on implementing the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets, and invites Parties to also include information on national analytical studies that identify

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<sup>66</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity, (6.d.)

<sup>67</sup> UNDROP Preamble.

<sup>68</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action on Customary Sustainable Use of Biological Diversity, General Principles (2).

<sup>69</sup> CBD/COP/DEC/XIII/5, Ecosystem restoration: short-term action plan.

<sup>70</sup> CBD/COP/DEC/XIII/5, Ecosystem restoration: short-term action plan (10).

<sup>71</sup> Convention on Intangible Cultural Heritage Preamble.

<sup>72</sup> UNDROP Preamble.

candidates for elimination, phase-out or reform of incentives, including subsidies, that are harmful for biodiversity, and that identify opportunities to promote the design and implementation of positive incentive measures, such as appropriate recognition and support for indigenous peoples and local communities that conserve territories and areas, and other effective community conservation initiatives.<sup>73</sup>

## OPERATIVE PROVISIONS

### What are ‘operative provisions’?

‘Operative provisions’ within international instruments set out **objective standards** that signatories to the instruments agree to uphold. We present these in two parts:

**Substantive rights** that set out rights to the substance of being human (life, dignity) that signatories are required to uphold (the ‘what’).

**Procedural rights** that set out practical means of upholding standards, such as by access to information, participation and access to justice (the ‘how’).

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<sup>73</sup> CDB/COP/DEC/XIII/20, Resource Mobilisation (23).

# I. SUBSTANTIVE RIGHTS

## OVERARCHING HUMAN RIGHTS

All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.<sup>74</sup>

All human beings are afforded human rights, civil and political rights, economic social and cultural rights, and to be free from all forms of racial discrimination.<sup>75</sup>

States should ensure that all actions are consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments. In the case of indigenous peoples, States should meet their relevant obligations and voluntary commitments to protect, promote and implement human rights, including as appropriate from the International Labour Organization Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, the Convention on Biological Diversity and the United Nations Declaration on the Rights of Indigenous Peoples.<sup>76</sup>

States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.<sup>77</sup>

States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.<sup>78</sup>

States shall consider measures to strengthen relevant national institutions for the promotion and protection of all human rights, including the rights described in the present Declaration.<sup>79</sup>

The Human Rights Council calls upon States to: (a) To respect, protect and fulfil human rights, including in all actions undertaken to address environmental challenges,

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<sup>74</sup> International Covenant on Civil and Political Rights (ICCPR), ICESCR, UNDRIP. This provision is explicitly reaffirmed in UNDRIP Article 3 that states: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

<sup>75</sup> Charter of the United Nations, UDHR, ICCPR, ICESCR, International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

<sup>76</sup> FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (FAO Tenure Guidelines) No. 9(3).

<sup>77</sup> United Nations Declaration on the Right to Development (Declaration on the Right to Development) Article 5.

<sup>78</sup> Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities) Article 4(1).

<sup>79</sup> UNDRIP Article 12 (4).

including the rights to life and to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food and housing, to safe drinking water and sanitation, and cultural rights, and to human rights as they relate to enjoyment of a safe, clean, healthy and sustainable environment; ... (c) To facilitate public awareness of and participation in environmental decision-making, implementation, monitoring and follow-up and review of the 2030 Agenda for Sustainable Development, including of civil society, women, children, youth, indigenous peoples, rural and local communities, peasants and others who depend directly on biodiversity and the services provided by ecosystems, by protecting all human rights, including the rights to freedom of expression and to freedom of peaceful assembly and association, both online and offline; (d) To implement fully their obligations to respect, protect and fulfil human rights without distinction of any kind, including in the application of environmental laws and policies; (e) To provide a safe and empowering context for initiatives organized by young people and children to defend human rights relating to the environment; (f) To promote a safe and enabling environment in which individuals, groups and organs of society, including those working on human rights and environmental issues, including biodiversity, can operate free from violence, threats, hindrance and insecurity; ... (i) To take into account human rights obligations and commitments relating to the enjoyment of a safe, clean, healthy and sustainable environment in the gender-responsive implementation of and follow-up to the 2030 Agenda for Sustainable Development, bearing in mind the integrated and multi-sectoral nature of the latter.<sup>80</sup>

## **WOMEN'S RIGHTS**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.<sup>81</sup>

States shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas and to promote their empowerment in order to ensure, on the basis of equality between men and women, that they fully and equally enjoy all human rights and fundamental freedoms and that they are able to freely pursue, participate in and benefit from rural economic, social, political and cultural development.<sup>82</sup>

States shall ensure that peasant women and other women working in rural areas enjoy without discrimination all the human rights and fundamental freedoms set out in the present Declaration and in other international human rights instruments, including the rights: (a) To participate equally and effectively in the formulation and implementation of development planning at all levels; (b) To have equal access to the highest attainable standard of physical and mental health, including adequate health-

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<sup>80</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development (14).

<sup>81</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Article 3.

<sup>82</sup> UNDROP Article 4 (1).

care facilities, information, counselling and services in family planning; (c) To benefit directly from social security programmes; (d) To receive all types of training and education, whether formal or non-formal, including training and education relating to functional literacy, and to benefit from all community and extension services in order to increase their technical proficiency; (e) To organize self-help groups, associations and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment; (f) To participate in all community activities; (g) To have equal access to financial services, agricultural credit and loans, marketing facilities and appropriate technology; (h) To equal access to, use of and management of land and natural resources, and to equal or priority treatment in land and agrarian reform and in land resettlement schemes; (i) To decent employment, equal remuneration and social protection benefits, and to have access to income-generating activities; (j) To be free from all forms of violence.<sup>83</sup>

All parties should recognize the role women often play in the post-harvest subsector and support improvements to facilitate women's participation in such work. States should ensure that amenities and services appropriate for women are available as required in order to enable women to retain and enhance their livelihoods in the post-harvest subsector.<sup>84</sup>

All parties should recognize that achieving gender equality requires concerted efforts by all and that gender mainstreaming should be an integral part of all small-scale fisheries development strategies. These strategies to achieve gender equality require different approaches in different cultural contexts and should challenge practices that are discriminatory against women.<sup>85</sup>

States should comply with their obligations under international human rights law and implement the relevant instruments to which they are party, including, inter alia, CEDAW, and should bear in mind the Beijing Declaration and Platform for Action. States should endeavour to secure women's equal participation in decision-making processes for policies directed towards small-scale fisheries. States should adopt specific measures to address discrimination against women, while creating spaces for CSOs, in particular for women fish workers and their organizations, to participate in monitoring their implementation. Women should be encouraged to participate in fisheries organizations, and relevant organizational development support should be provided.<sup>86</sup>

States should establish policies and legislation to realize gender equality and, as appropriate, adapt legislation, policies and measures that are not compatible with gender equality, taking into account social, economic and cultural aspects. States should be at the forefront of implementing actions for achieving gender equality by, inter alia, recruiting both men and women as extension staff and ensuring that both

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<sup>83</sup> UNDROP Article 4 (2).

<sup>84</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.2).

<sup>85</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (8.1).

<sup>86</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (8.2).

men and women have equal access to extension and technical services, including legal support, related to fisheries. All parties should collaborate to develop functional evaluation systems to assess the impact of legislation, policies and actions for improving women's status and achieving gender equality.<sup>87</sup>

All parties should encourage the development of better technologies of importance and appropriate to women's work in small-scale fisheries.<sup>88</sup>

## **CHILDREN'S RIGHTS**

1.[<sup>89</sup>] States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. 2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.<sup>90</sup>

Children of peasants and other people working in rural areas have the right to be protected from any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to a child's health or physical, mental, spiritual, moral or social development.<sup>91</sup>

States shall take appropriate measures to combat malnutrition in rural children, including within the framework of primary health care through, inter alia, the application of readily available technology and the provision of adequate nutritious food and by ensuring that women have adequate nutrition during pregnancy and lactation. States shall also ensure that all segments of society, in particular parents and children, are informed, have access to nutritional education and are supported in the use of basic knowledge on child nutrition and the advantages of breastfeeding.<sup>92</sup>

All children of peasants and other people working in rural areas have the right to education in accordance with their culture, and with all the rights contained in human rights instruments.<sup>93</sup>

## **INDIGENOUS PEOPLES' RIGHTS**

### ***Overarching Rights***

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.<sup>94\*</sup>

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<sup>87</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (8.3).

<sup>88</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (8.4).

<sup>89</sup> In certain instances, numbering from provisions has been included for purposes of clarity.

<sup>90</sup> Convention on the Rights of the Child Article 8.

<sup>91</sup> UNDROP Article 13 (2).

<sup>92</sup> UNDROP Article 15 (3).

<sup>93</sup> UNDROP Article 25 (2).

<sup>94</sup> UNDRIP Article 1.

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.<sup>95\*</sup>

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.<sup>96\*</sup>

Every indigenous individual has the right to a nationality.<sup>97\*</sup>

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. 2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.<sup>98\*</sup>

Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.<sup>99\*</sup>

Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.<sup>100\*</sup>

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.<sup>101\*</sup>

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders. 2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.<sup>102\*</sup>

The rights recognized herein *in the UN Declaration on the Rights of Indigenous Peoples* constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.<sup>103\*</sup>

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<sup>95</sup> UNDRIP Article 2.

<sup>96</sup> UNDRIP Article 4.

<sup>97</sup> UNDRIP Article 6.

<sup>98</sup> UNDRIP Article 7.

<sup>99</sup> UNDRIP Article 20(1).

<sup>100</sup> UNDRIP Article 21(1).

<sup>101</sup> UNDRIP Article 35.

<sup>102</sup> UNDRIP Article 36.

<sup>103</sup> UNDRIP Article 43. As discussed below in Part II, Clarifications, the full names of instruments have been inserted into provisions in italics in order to improve readability.

1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity. 2. Such action shall include measures for: (a) ensuring that members of these peoples benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population; (b) promoting the full realisation of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions; (c) assisting the members of the peoples concerned to eliminate socio-economic gaps that may exist between indigenous and other members of the national community, in a manner compatible with their aspirations and ways of life.<sup>104\*</sup>

1. Indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to male and female members of these peoples. 2. No form of force or coercion shall be used in violation of the human rights and fundamental freedoms of the peoples concerned, including the rights contained in this Convention.<sup>105\*</sup>

1. Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned. 2. Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned. 3. Enjoyment of the general rights of citizenship, without discrimination, shall not be prejudiced in any way by such special measures.<sup>106\*</sup>

Governments shall take appropriate measures, including by means of international agreements, to facilitate contacts and co-operation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields.<sup>107\*</sup>

### ***Recognition and Observance of Treaties***

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements. 2. Nothing in this *UN Declaration on the Rights of Indigenous Peoples* may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.<sup>108\*</sup>

### ***Labour and Employment***

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law. 2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect

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<sup>104</sup> ILO Convention No. 169 Article 2.

<sup>105</sup> ILO Convention No. 169 Article 3.

<sup>106</sup> ILO Convention No. 169 Article 4.

<sup>107</sup> ILO Convention No. 169 Article 32.

<sup>108</sup> UNDRIP Article 37.



indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment. 3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.<sup>109\*</sup>

The exaction from members of the peoples concerned of compulsory personal services in any form, whether paid or unpaid, shall be prohibited and punishable by law, except in cases prescribed by law for all citizens.<sup>110\*</sup>

Governments shall, within the framework of national laws and regulations, and in co-operation with the peoples concerned, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples, to the extent that they are not effectively protected by laws applicable to workers in general.<sup>111\*</sup>

Governments shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers, in particular as regards: (a) admission to employment, including skilled employment, as well as measures for promotion and advancement; (b) equal remuneration for work of equal value; (c) medical and social assistance, occupational safety and health, all social security benefits and any other occupationally related benefits, and housing; (d) the right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organisations.<sup>112\*</sup>

3. The measures taken shall include measures to ensure: (a) that workers belonging to the peoples concerned, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, enjoy the protection afforded by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labour legislation and of the means of redress available to them; (b) that workers belonging to these peoples are not subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances; (c) that workers belonging to these peoples are not subjected to coercive recruitment systems, including bonded labour and other forms of debt servitude; (d) that workers belonging to these peoples enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.<sup>113\*</sup>

Particular attention shall be paid to the establishment of adequate labour inspection services in areas where workers belonging to the peoples concerned undertake wage

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<sup>109</sup> UNDRIP Article 17. For other rights related to labour and employment see ILO Convention No. 169 Articles 11 and 20.

<sup>110</sup> ILO Convention No. 169 Article 11.

<sup>111</sup> ILO Convention No. 169 Article 20(1).

<sup>112</sup> ILO Convention No. 169 Article 20(2).

<sup>113</sup> ILO Convention No. 169 Article 20(3).

employment, in order to ensure compliance with the provisions of this Part of this *ILO Convention No. 169*.<sup>114\*</sup>

States should promote decent work for all small-scale fisheries workers, including both the formal and informal sectors. States should create the appropriate conditions to ensure that fisheries activities in both the formal and informal sectors are taken into account in order to ensure the sustainability of small-scale fisheries in accordance with national law.<sup>115</sup>

States should promote decent work for all small-scale fisheries workers, including both the formal and informal sectors. States should create the appropriate conditions to ensure that fisheries activities in both the formal and informal sectors are taken into account in order to ensure the sustainability of small-scale fisheries in accordance with national law.<sup>116</sup>

States should take steps with a view to the progressive realization of the right of small-scale fishers and fish workers to an adequate standard of living and to work in accordance with national and international human rights standards. States should create an enabling environment for sustainable development in small-scale fishing communities. States should pursue inclusive, non-discriminatory and sound economic policies for the use of marine, freshwater and land areas in order to permit small-scale fishing communities and other food producers, particularly women, to earn a fair return from their labour, capital and management, and encourage conservation and sustainable management of natural resources.<sup>117</sup>

States should address occupational health issues and unfair working conditions of all small-scale fishers and fish workers by ensuring that the necessary legislation is in place and is implemented in accordance with national legislation and international human rights standards and international instruments to which a State is a contracting party, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and relevant conventions of the International Labour Organization (ILO). All parties should strive to ensure that occupational health and safety is an integral part of fisheries management and development initiatives.<sup>118</sup>

States should eradicate forced labour, prevent debt-bondage of women, men and children, and adopt effective measures to protect fishers and fish workers, including migrants, with a view to the complete elimination of forced labour in fisheries, including small-scale fisheries.<sup>119</sup>

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<sup>114</sup> ILO Convention No. 169 Article 20(4).

<sup>115</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.6)

<sup>116</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.6).

<sup>117</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.7).

<sup>118</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.12).

<sup>119</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.13).

States should provide and enable access to schools and education facilities that meet the needs of small-scale fishing communities and that facilitate gainful and decent employment of youth, respecting their career choices and providing equal opportunities for all boys and girls and young men and women.<sup>120</sup>

### ***Social and Health Services***

Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.<sup>121\*</sup>

Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.<sup>122\*</sup>

Social security schemes shall be extended progressively to cover the peoples concerned, and applied without discrimination against them.<sup>123\*</sup>

1. Governments shall ensure that adequate health services are made available to the peoples concerned, or shall provide them with resources to allow them to design and deliver such services under their own responsibility and control, so that they may enjoy the highest attainable standard of physical and mental health. 2. Health services shall, to the extent possible, be community-based. These services shall be planned and administered in co-operation with the peoples concerned and take into account their economic, geographic, social and cultural conditions as well as their traditional preventive care, healing practices and medicines. 3. The health care system shall give preference to the training and employment of local community health workers, and focus on primary health care while maintaining strong links with other levels of health care services. 4. The provision of such health services shall be co-ordinated with other social, economic and cultural measures in the country.<sup>124\*</sup>

States should promote social security protection for workers in small-scale fisheries. They should take into account the characteristics of small-scale fisheries and apply security schemes to the entire value chain.<sup>125</sup>

States should support the development of and access to other services that are appropriate for small-scale fishing communities with regard to, for example, savings, credit and insurance schemes, with special emphasis on ensuring the access of women to such services.<sup>126</sup>

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<sup>120</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.14).

<sup>121</sup> UNDRIP Article 24(1).

<sup>122</sup> UNDRIP Article 24(2).

<sup>123</sup> ILO Convention No. 169 Article 24.

<sup>124</sup> ILO Convention No. 169 Article 25.

<sup>125</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.3).

<sup>126</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.4).

### ***Freedom from Discrimination***

States shall provide effective mechanisms for prevention of, and redress for: ... Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.<sup>127\*</sup>

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.<sup>128\*</sup>

States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.<sup>129\*</sup>

States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.<sup>130\*</sup>

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination. 2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.<sup>131\*</sup>

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this *UN Declaration on the Rights of Indigenous Peoples*. 2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.<sup>132\*</sup>

All the rights and freedoms recognized herein the *UN Declaration on the Rights of Indigenous Peoples* are equally guaranteed to male and female indigenous individuals.<sup>133\*</sup>

### ***Implementation of Rights***

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this *UN Declaration on the Rights of Indigenous Peoples*.<sup>134\*</sup>

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<sup>127</sup> UNDRIP Article 8(2)(e).

<sup>128</sup> UNDRIP Article 9.

<sup>129</sup> UNDRIP Article 12(2).

<sup>130</sup> UNDRIP Article 15(2).

<sup>131</sup> UNDRIP Article 16.

<sup>132</sup> UNDRIP Article 22.

<sup>133</sup> UNDRIP Article 44.

<sup>134</sup> UNDRIP Article 38.

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this *UN Declaration on the Rights of Indigenous Peoples*.<sup>135\*</sup>

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this *UN Declaration on the Rights of Indigenous Peoples* through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.<sup>136\*</sup>

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this *UNDRIP* and follow up the effectiveness of this *UN Declaration on the Rights of Indigenous Peoples*.<sup>137\*</sup>

Nothing in this *UN Declaration on the Rights of Indigenous Peoples* may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.<sup>138\*</sup>

1. Nothing in this *UN Declaration on the Rights of Indigenous Peoples* may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States. 2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society. 3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.<sup>139\*</sup>

1. The governmental authority responsible for the matters covered in this *ILO Convention No. 169* shall ensure that agencies or other appropriate mechanisms exist to administer the programmes affecting the peoples concerned, and shall ensure that they have the means necessary for the proper fulfilment of the functions assigned to them. 2. These programmes shall include: (a) the planning, co-ordination, execution and evaluation, in co-operation with the peoples concerned, of the measures provided for in this Convention; (b) the proposing of legislative and other measures to the

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<sup>135</sup> UNDRIP Article 39.

<sup>136</sup> UNDRIP Article 41.

<sup>137</sup> UNDRIP Article 42.

<sup>138</sup> UNDRIP Article 45.

<sup>139</sup> UNDRIP Article 46.

competent authorities and supervision of the application of the measures taken, in co-operation with the peoples concerned.<sup>140\*</sup>

Taking into account the Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security including section 254, all parties should protect the human rights and dignity of small-scale fisheries stakeholders in situations of armed conflict in accordance with international humanitarian law to allow them to pursue their traditional livelihoods, to have access to customary fishing grounds and to preserve their culture and way of life. Their effective participation in decision-making on matters that impact them should be facilitated.<sup>141</sup>

States should recognize the need for and work towards policy coherence with regard to, inter alia: national legislation; international human rights law; other international instruments, including those related to indigenous peoples; economic development policies; energy, education, health and rural policies; environmental protection; food security and nutrition policies; labour and employment policies; trade policies; disaster risk management (DRM) and climate change adaptation (CCA) policies; fisheries access arrangements; and other fisheries sector policies, plans, actions and investments in order to promote holistic development in small-scale fishing communities. Special attention should be paid to ensuring gender equity and equality.<sup>142</sup>

States should, as appropriate, develop and use spatial planning approaches, including inland and marine spatial planning, which take due account of the small-scale fisheries interests and role in integrated coastal zone management. Through consultation, participation and publicizing, gender-sensitive policies and laws on regulated spatial planning should be developed as appropriate. Where appropriate, formal planning systems should consider methods of planning and territorial development used by small-scale fishing and other communities with customary tenure systems, and decision-making processes within those communities.<sup>143</sup>

States should adopt specific policy measures to ensure the harmonization of policies affecting the health of marine and inland waterbodies and ecosystems and to ensure

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<sup>140</sup> ILO Convention No. 169 Article 33. Article 34 provides that “[t]he nature and scope of the measures to be taken to give effect to this *ILO Convention No. 169* shall be determined in a flexible manner, having regard to the conditions characteristic of each country” and Article 35 states that “[t]he application of the provisions of this *ILO Convention No. 169* shall not adversely affect rights and benefits of the peoples concerned pursuant to other Conventions and Recommendations, international instruments, treaties, or national laws, awards, custom or agreements.”

<sup>141</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable, (6.18).

<sup>142</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (10.1).

<sup>143</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (10.2).

that fisheries, agriculture and other natural-resource policies collectively enhance the interrelated livelihoods derived from these sectors.<sup>144</sup>

States should ensure that fisheries policy provides a long-term vision for sustainable small-scale fisheries and the eradication of hunger and poverty, using an ecosystem approach. The overall policy framework for fisheries should be coherent with the long-term vision and policy framework for small-scale fisheries and human rights, paying particular attention to vulnerable and marginalized people.<sup>145</sup>

States should establish and promote the institutional structures and linkages – including local-national-regional-global linkages and networks – necessary for achieving policy coherence, cross-sectoral collaboration and the implementation of holistic and inclusive ecosystem approaches in the fisheries sector. At the same time, there is a need for clear responsibilities and there should be well-defined points of contact in government authorities and agencies for small-scale fishing communities.<sup>146</sup>

Small-scale fisheries stakeholders should promote collaboration among their professional associations, including fisheries cooperatives and CSOs. They should establish networks and platforms for the exchange of experiences and information and to facilitate their involvement in policy- and decision- making processes relevant to small-scale fishing communities.<sup>147</sup>

States should recognize, and promote as appropriate, that local governance structures may contribute to an effective management of small-scale fisheries, taking into account the ecosystem approach and in accordance with national law.<sup>148</sup>

States should promote enhanced international, regional and subregional cooperation in securing sustainable small-scale fisheries. States, as well as international, regional and subregional organizations, as appropriate, should support capacity development to enhance the understanding of small-scale fisheries and assist the subsector in matters that require subregional, regional or international collaboration, including appropriate and mutually agreed technology transfer.<sup>149</sup>

States and all other parties should promote aid effectiveness and responsible use of financial resources. Development partners, specialized Agencies of the United Nations, and regional organizations are encouraged to support voluntary efforts by States to

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<sup>144</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (10.3).

<sup>145</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (10.4).

<sup>146</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting (10.5).

<sup>147</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting (10.6).

<sup>148</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting (10.7).

<sup>149</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting (10.8).

implement these Guidelines, including through South–South cooperation. Such support could include technical cooperation, financial assistance, institutional capacity development, knowledge sharing and exchange of experiences, assistance in developing national small-scale fisheries policies and transfer of technology.<sup>150</sup>

## PEASANTS' RIGHTS

### *Overarching Rights*

1. Peasants and other people working in rural areas have the right to life, physical and mental integrity, liberty and security of person. 2. Peasants and other people working in rural areas shall not be subjected to arbitrary arrest or detention, torture or other cruel, inhuman or degrading treatment or punishment, and shall not be held in slavery or servitude.<sup>151</sup>

1. Peasants and other people working in rural areas have the right to recognition everywhere as persons before the law. 2. States shall take appropriate measures to facilitate the freedom of movement of peasants and other people working in rural areas. 3. States shall, where required, take appropriate measures to cooperate with a view to addressing transboundary tenure issues affecting peasants and other people working in rural areas that cross international boundaries, in accordance with article 28 of the present Declaration.<sup>152</sup>

1. Peasants and other people working in rural areas have the right to freedom of thought, belief, conscience, religion, opinion, expression and peaceful assembly. They have the right to express their opinion, either orally, in writing or in print, in the form of art, or through any other media of their choice, at the local, regional, national and international levels. 2. Peasants and other people working in rural areas have the right, individually and/or collectively, in association with others or as a community, to participate in peaceful activities against violations of human rights and fundamental freedoms. 3. The exercise of the rights provided for in the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (*ordre public*), or of public health or morals. 4. States shall take all necessary measures to ensure protection by the competent authorities of everyone, individually and in association with others, against any violence, threat, retaliation, de jure or de facto discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise and defence of the rights described in the present Declaration.<sup>153</sup>

1. Peasants and other people working in rural areas have the right to form and join organizations, trade unions, cooperatives or any other organization or association of their own choosing for the protection of their interests, and to bargain collectively.

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<sup>150</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting (13.2).

<sup>151</sup> UNDROP Article 6.

<sup>152</sup> UNDROP Article 7.

<sup>153</sup> UNDROP Article 8.



Such organizations shall be independent and voluntary in character, and remain free from all interference, coercion or repression. 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. 3. States shall take appropriate measures to encourage the establishment of organizations of peasants and other people working in rural areas, including unions, cooperatives or other organizations, particularly with a view to eliminating obstacles to their establishment, growth and pursuit of lawful activities, including any legislative or administrative discrimination against such organizations and their members, and provide them with support to strengthen their position when negotiating contractual arrangements in order to ensure that conditions and prices are fair and stable and do not violate their rights to dignity and to a decent life.<sup>154</sup>

### ***Labour and Employment***

Peasants and other people working in rural areas have the right to work, which includes the right to choose freely the way they earn their living.<sup>155</sup>

States shall create an enabling environment with opportunities for work for peasants and other people working in rural areas and their families that provide remuneration allowing for an adequate standard of living.<sup>156</sup>

In States facing high levels of rural poverty and in the absence of employment opportunities in other sectors, States shall take appropriate measures to establish and promote sustainable food systems that are sufficiently labour-intensive to contribute to the creation of decent employment.<sup>157</sup>

No one shall be required to perform forced, bonded or compulsory labour, be subject to the risk of becoming a victim of human trafficking or be held in any other form of contemporary slavery. States shall, in consultation and cooperation with peasants and other people working in rural areas and their representative organizations, take appropriate measures to protect them from economic exploitation, child labour and all forms of contemporary slavery, such as debt bondage of women, men and children, and forced labour, including of fishers and fish workers, forest workers, or seasonal or migrant workers.<sup>158</sup>

Peasants and other people working in rural areas, irrespective of whether they are temporary, seasonal or migrant workers, have the rights to work in safe and healthy working conditions, to participate in the application and review of safety and health measures, to select safety and health representatives and representatives in safety and health committees, to the implementation of measures to prevent, reduce and control hazards and risks, to have access to adequate and appropriate protective clothing and equipment and to adequate information and training on occupational safety, to work free from violence and harassment, including sexual harassment, to

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<sup>154</sup> UNDROP Article 9.

<sup>155</sup> UNDROP Article 13(1)

<sup>156</sup> UNDROP Article 13(3)

<sup>157</sup> UNDROP Article 13(4).

<sup>158</sup> UNDROP Article 13(6).

report unsafe and unhealthy working conditions, and to remove themselves from danger resulting from their work activity when they reasonably believe that there is an imminent and serious risk to their safety or health, without being subject to any work-related retaliation for exercising such rights.<sup>159</sup>

States shall take appropriate measures to ensure favourable safe and healthy working conditions for peasants and other people working in rural areas, and shall in particular designate appropriate competent authorities responsible, and establish mechanisms for intersectoral coordination for the implementation of policies and enforcement of national laws and regulations on occupational safety and health in agriculture, the agro-industry and fisheries, provide for corrective measures and appropriate penalties, and establish and support adequate and appropriate systems of inspection for rural workplaces.<sup>160</sup>

States shall take appropriate measures to ensure fair wages and equal remuneration for work of equal value, without distinction of any kind.<sup>161</sup>

States shall take appropriate measures to ensure that peasants and other people working in rural areas enjoy, without discrimination, a safe, clean and healthy environment.<sup>162</sup>

### ***Social and Health Services***

Peasants and other people working in rural areas have the right not to use or to be exposed to hazardous substances or toxic chemicals, including agrochemicals or agricultural or industrial pollutants.<sup>163</sup>

States shall take all measures necessary to ensure: (a) The prevention of risks to health and safety derived from technologies, chemicals and agricultural practices, including through their prohibition and restriction; (b) An appropriate national system or any other system approved by the competent authority establishing specific criteria for the importation, classification, packaging, distribution, labelling and use of chemicals used in agriculture, and for their prohibition or restriction; (c) That those who produce, import, provide, sell, transfer, store or dispose of chemicals used in agriculture comply with national or other recognized safety and health standards, and provide adequate and appropriate information to users in the appropriate official language or languages of the country and, on request, to the competent authority; (d) That there is a suitable system for the safe collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers of chemicals so as to avoid their use for other purposes and to eliminate or minimize the risks to safety and health and to the environment; (e) The development and implementation of educational and public awareness programmes on the health and environmental effects of chemicals commonly used in rural areas, and on alternatives to them.<sup>164</sup>

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<sup>159</sup> UNDROP Article 14 (1).

<sup>160</sup> UNDROP Article 14 (3).

<sup>161</sup> UNDROP Article 16 (6).

<sup>162</sup> UNDROP Article 18 (2).

<sup>163</sup> UNDROP Article 14 (2).

<sup>164</sup> UNDROP Article 14 (4).

1. Peasants and other people working in rural areas have the right to social security, including social insurance. 2. States shall, according to their national circumstances, take appropriate steps to promote the enjoyment of the right to social security of all migrant workers in rural areas. 3. States shall recognize the rights of peasants and other people working in rural areas to social security, including social insurance, and, in accordance with national circumstances, should establish or maintain their social protection floors comprising basic social security guarantees. The guarantees should ensure at a minimum that, over the life cycle, all in need have access to essential health care and to basic income security, which together secure effective access to goods and services defined as necessary at the national level. 4. Basic social security guarantees should be established by law. Impartial, transparent, effective, accessible and affordable grievance and appeal procedures should also be specified. Systems should be in place to enhance compliance with national legal frameworks.<sup>165</sup>

1. Peasants and other people working in rural areas have the right to the enjoyment of the highest attainable standard of physical and mental health. They also have the right to have access, without any discrimination, to all social and health services. 2. Peasants and other people working in rural areas have the right to use and protect their traditional medicines and to maintain their health practices, including access to and conservation of their plants, animals and minerals for medicinal use. 3. States shall guarantee access to health facilities, goods and services in rural areas on a non-discriminatory basis, especially for groups in vulnerable situations, access to essential medicines, immunization against major infectious diseases, reproductive health, information concerning the main health problems affecting the community, including methods of preventing and controlling them, maternal and child health care, as well as training for health personnel, including education on health and human rights.<sup>166</sup>

Peasants and other people working in rural areas have the right to adequate housing. They have the right to sustain a secure home and community in which to live in peace and dignity, and the right to non-discrimination in this context.<sup>167</sup>

### ***Freedom from Discrimination***

1. Peasants and other people working in rural areas have the right to enjoy their own culture and to pursue freely their cultural development, without interference or any form of discrimination. They also have the right to maintain, express, control, protect and develop their traditional and local knowledge, such as ways of life, methods of production or technology, or customs and tradition. No one may invoke cultural rights to infringe upon the human rights guaranteed by international law, nor to limit their scope. 2. Peasants and other people working in rural areas have the right, individually and/or collectively, in association with others or as a community, to express their local customs, languages, culture, religions, literature and art, in conformity with international human rights standards. 3. States shall respect, and take measures to recognize and protect, the rights of peasants and other people working in rural areas relating to their traditional knowledge, and eliminate discrimination against the

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<sup>165</sup> UNDROP Article 22.

<sup>166</sup> UNDROP Article 23.

<sup>167</sup> UNDROP Article 24 (1).

traditional knowledge, practices and technologies of peasants and other people working in rural areas.<sup>168</sup>

States should facilitate access to local, national, regional and international markets and promote equitable and non-discriminatory trade for small-scale fisheries products. States should work together to introduce trade regulations and procedures that in particular support regional trade in products from small-scale fisheries and taking into account the agreements under the World Trade Organization (WTO), bearing in mind the rights and obligations of WTO members where appropriate.<sup>169</sup>

### ***Implementation of Rights***

1. The specialized agencies, funds and programmes of the United Nations system, and other intergovernmental organizations, including international and regional financial organizations, shall contribute to the full realization of the present Declaration, including through the mobilization of, inter alia, development assistance and cooperation. Ways and means of ensuring the participation of peasants and other people working in rural areas on issues affecting them shall be considered. 2. The United Nations and its specialized agencies, funds and programmes, and other intergovernmental organizations, including international and regional financial organizations, shall promote respect for and the full application of the present Declaration, and follow up on its effectiveness.<sup>170</sup>

1. Nothing in the present Declaration may be construed as diminishing, impairing or nullifying the rights that peasants and other people working in rural areas and indigenous peoples currently have or may acquire in the future. 2. The human rights and fundamental freedoms of all, without discrimination of any kind, shall be respected in the exercise of the rights enunciated in the present Declaration. The exercise of the rights set forth in the present Declaration shall be subject only to such limitations as are determined by law and that are compliant with international human rights obligations. Any such limitations shall be non-discriminatory and necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others, and for meeting the just and most compelling requirements of a democratic society.<sup>171</sup>

### **TRADITIONAL GOVERNANCE SYSTEMS AND CUSTOMARY LAWS**

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.<sup>172\*</sup>

In applying the provisions of this *ILO Convention No. 169*: (a) the social, cultural, religious and spiritual values and practices of these peoples shall be recognised and

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<sup>168</sup> UNDROP Article 26.

<sup>169</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.6).

<sup>170</sup> UNDROP Article 27.

<sup>171</sup> UNDROP Article 28.

<sup>172</sup> UNDRIP, Article 5.

protected, and due account shall be taken of the nature of the problems which face them both as groups and as individuals; (b) the integrity of the values, practices and institutions of these peoples shall be respected; (c) policies aimed at mitigating the difficulties experienced by these peoples in facing new conditions of life and work shall be adopted, with the participation and co-operation of the peoples affected.<sup>173\*</sup>

1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws. 2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle. 3. The application of paragraphs 1 and 2 of this Article shall not prevent members of these peoples from exercising the rights granted to all citizens and from assuming the corresponding duties.<sup>174\*</sup>

1. To the extent compatible with the national legal system and internationally recognised human rights, the methods customarily practised by the peoples concerned for dealing with offences committed by their members shall be respected. 2. The customs of these peoples in regard to penal matters shall be taken into consideration by the authorities and courts dealing with such cases.<sup>175\*</sup>

Consistent with Article 10(c) on customary use, take into account, *inter alia*, the work on customary use of the Ad Hoc Open-ended Inter-sessional Working Group on Article 8(j) and Related Provisions, and the United Nations Declaration on the Rights of Indigenous Peoples<sup>8</sup> in dealing with issues of natural resource governance, the need to appropriately recognize indigenous and community conserved territories and areas and their traditional knowledge and conservation practices as the basis for local biodiversity conservation plans without interfering in their customary governance systems (helping to meet Aichi Biodiversity Target 11), and to set local biodiversity conservation plans as the basis for programmes aimed at poverty eradication for sustainable livelihoods in order to enhance the basis for the achievement of sustainable development goals.<sup>176</sup>

Recognize and fully include traditional knowledge, ensuring the complementarity of knowledge systems, the creation of conditions for effective dialogue among knowledge systems, including science, and processes that allow the co-creation of knowledge from the start.<sup>177</sup>

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<sup>173</sup> ILO Convention No. 169 Article 5.

<sup>174</sup> ILO Convention No. 169 Article 8.

<sup>175</sup> ILO Convention No. 169 Article 9.

<sup>176</sup> UNEP/CBD/COP/DEC/XII/5, Annex: Chennai Guidance for the Integration of Biodiversity and Poverty Eradication (B.b).

<sup>177</sup> CBD/COP/DEC/14/16, Methodological guidance concerning the contributions of indigenous peoples and local communities, (a).

Recognize that collective actions are related to customary sustainable use and that the outcomes may be broad, encompassing such matters as livelihoods and food security, as well as mental and physical well-being.<sup>178</sup>

Include other relevant elements of governance assessments, specifically the role, features and vitality of customary governance systems.<sup>179</sup>

## **CULTURAL, SPIRITUAL AND RELIGIOUS INTEGRITY**

Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.<sup>180\*</sup>

Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.<sup>181\*</sup>

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.<sup>182\*</sup>

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live. 2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.<sup>183\*</sup>

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.<sup>184\*</sup>

In applying the provisions of this Part of the *ILO Convention No. 169* governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.<sup>185\*</sup>

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<sup>178</sup> CBD/COP/DEC/14/16, Methodological guidance concerning the contributions of indigenous peoples and local communities, (j).

<sup>179</sup> CBD/COP/DEC/14/16, Methodological guidance concerning the contributions of indigenous peoples and local communities, (l).

<sup>180</sup> UNDRIP Article 12(1).

<sup>181</sup> UNDRIP Article 15(1).

<sup>182</sup> UNDRIP Article 25.

<sup>183</sup> UNDRIP Article 33.

<sup>184</sup> UNDRIP Article 34.

<sup>185</sup> ILO Convention No. 169 Article 13(1).

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.<sup>186</sup>

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.<sup>187</sup>

1. The States Parties to the *International Covenant on Civil and Political Rights* recognize the right of everyone: (a) To take part in cultural life; ... 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.<sup>188</sup>

States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.<sup>189</sup>

The States Parties to the *International Covenant on Civil and Political Rights* recognize the right of everyone: (a) To take part in cultural life; (b) To enjoy the benefits of scientific progress and its applications; (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.<sup>190</sup>

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.<sup>191</sup>

States Parties shall respect the right of the child to freedom of thought, conscience and religion.<sup>192</sup>

## **NO FORCED ASSIMILATION**

Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.<sup>193\*</sup>

States shall provide effective mechanisms for prevention of, and redress for: ... Any form of forced assimilation or integration ...<sup>194\*</sup>

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<sup>186</sup> UDHR Article 27(1).

<sup>187</sup> ICCPR Article 27.

<sup>188</sup> ICESCR Article 15.

<sup>189</sup> Declaration on the Rights of Minorities Article 1.

<sup>190</sup> ICESCR Article 15(1).

<sup>191</sup> ICCPR Article 18.

<sup>192</sup> Convention on the Rights of the Child Article 14(1).

<sup>193</sup> UNDRIP Article 8(1).

<sup>194</sup> UNDRIP Article 8(2)(d).

States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.<sup>195</sup>

## CULTURAL TRADITIONS

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature. 2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.<sup>196\*</sup>

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons. 2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.<sup>197\*</sup>

Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.<sup>198</sup>

States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.<sup>199</sup>

In compliance with the fundamental obligations laid down in article 2 of this *International Convention on the Elimination of All Forms of Racial Discrimination*, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (d) Other civil rights, in particular: ... (vii) The right to freedom of thought, conscience and religion; (viii) The right to freedom of opinion and expression; ... (e) ... (vi) The right to equal participation in cultural activities; ...<sup>200</sup>

## DIVERSITY OF CULTURAL EXPRESSIONS

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<sup>195</sup> Convention on the Rights of the Child Article 8(1).

<sup>196</sup> UNDRIP Article 11 and 31(2).

<sup>197</sup> UNDRIP Article 13.

<sup>198</sup> Declaration on the Rights of Minorities Article 2(1).

<sup>199</sup> Declaration on the Rights of Minorities Article 4(2).

<sup>200</sup> CERD Article 5. For ease of reference: Article 2 of the CERD states that “States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races ...” and sets forth several specific duties on the part of the States Parties.



The protection and promotion of the diversity of cultural expressions presuppose the recognition of equal dignity of and respect for all cultures, including the cultures of persons belonging to minorities and indigenous peoples.<sup>201</sup>

Cultural diversity is a rich asset for individuals and societies. The protection, promotion and maintenance of cultural diversity are an essential requirement for sustainable development for the benefit of present and future generations.<sup>202</sup>

The Parties, in conformity with the Charter of the United Nations, the principles of international law and universally recognized human rights instruments, reaffirm their sovereign right to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions and to strengthen international cooperation to achieve the purposes of this *Convention on Cultural Expressions*.<sup>203</sup>

Within the framework of its cultural policies and measures as defined in Article 4.6 and taking into account its own particular circumstances and needs, each Party may adopt measures aimed at protecting and promoting the diversity of cultural expressions within its territory.<sup>204</sup>

Parties shall endeavour to create in their territory an environment which encourages individuals and social groups: (a) to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples; (b) to have access to diverse cultural expressions from within their territory as well as from other countries of the world.<sup>205</sup>

... [A] Party may determine the existence of special situations where cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding.<sup>206</sup>

Parties may take all appropriate measures to protect and preserve cultural expressions ... in a manner consistent with the provisions of this *Convention on Cultural Expressions*.<sup>207</sup>

Parties acknowledge the fundamental role of civil society in protecting and promoting the diversity of cultural expressions. Parties shall encourage the active participation of civil society in their efforts to achieve the objectives of this *Convention on Cultural Expressions*.<sup>208</sup>

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<sup>201</sup> Convention on Cultural Expressions Article 2(3).

<sup>202</sup> Convention on Cultural Expressions Article 2(6).

<sup>203</sup> Convention on Cultural Expressions Article 5(1).

<sup>204</sup> Convention on Cultural Expressions Article 6(1).

<sup>205</sup> Convention on Cultural Expressions Article 7(1).

<sup>206</sup> Convention on Cultural Expressions Article 8(1). This provision is without prejudice to Articles 5 and 6.

<sup>207</sup> Convention on Cultural Expressions Article 8(2). This provision relates to situations referred to in paragraph 1, that states, "where cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding ..."

<sup>208</sup> Convention on Cultural Expressions Article 11.

Parties shall endeavour to integrate culture in their development policies at all levels for the creation of conditions conducive to sustainable development and, within this framework, foster aspects relating to the protection and promotion of the diversity of cultural expressions.<sup>209</sup>

## KNOWLEDGE, INNOVATIONS AND PRACTICES

1. Handicrafts, rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the maintenance of their cultures and in their economic self-reliance and development. Governments shall, with the participation of these people and whenever appropriate, ensure that these activities are strengthened and promoted. 2. Upon the request of the peoples concerned, appropriate technical and financial assistance shall be provided wherever possible, taking into account the traditional technologies and cultural characteristics of these peoples, as well as the importance of sustainable and equitable development.<sup>210\*</sup>

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.<sup>211\*</sup>

Each Contracting Party *to the Convention on Biological Diversity* shall, as far as possible and as appropriate: ... Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices.<sup>212</sup>

By 2020, the traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected, subject to national legislation and relevant international obligations, and fully integrated and reflected in the implementation of the *Convention on Biological Diversity* with the full and effective participation of indigenous and local communities, at all relevant levels.<sup>213</sup>

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<sup>209</sup> Convention on Cultural Expressions Article 13.

<sup>210</sup> ILO Convention No. 169 Article 23.

<sup>211</sup> UNDRIP Article 31(1).

<sup>212</sup> CBD Article 8(j).

<sup>213</sup> Aichi Biodiversity Target 18. This provision is contained in The Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets. The Strategic Plan includes 20 headline targets for 2015 or 2020 (the “Aichi Biodiversity Targets”), organized under five strategic goals. The goals and targets

Consistent with the ecosystem approach, proponents of development proposals should recognize the importance of understanding and applying the values and knowledge, where relevant, of use of biological diversity held by indigenous and local communities and their application for sustainable development.<sup>214</sup>

41. ... [G]uidelines should assist Parties and stakeholders in the development of mutually agreed terms to ensure the fair and equitable sharing of benefits. ... 44. The following provides an indicative list of typical mutually agreed terms: ... (g) Whether the knowledge, innovations and practices of indigenous and local communities have been respected, preserved and maintained, and whether the customary use of biological resources in accordance with traditional practices has been protected and encouraged; ...<sup>215</sup>

Appropriate indigenous capacity and local knowledge regarding the conservation and sustainable development of forests should, through institutional and financial support and in collaboration with the people in the local communities concerned, be recognized, respected, recorded, developed and, as appropriate, introduced in the implementation of programmes. Benefits arising from the utilization of indigenous knowledge should therefore be equitably shared with such people.<sup>216</sup>

To achieve the purpose of the *United Nations Forum on Forests (UNFF) Instrument on Forests*, and taking into account national policies, priorities, conditions and available resources, Member States should: ... (f) Support the protection and use of traditional forest-related knowledge and practices in sustainable forest management with the approval and involvement of the holders of such knowledge, and promote fair and equitable sharing of benefits from their utilization, according to national legislation and relevant international agreements; ... (h) Create enabling environments to encourage private sector investment, as well as investment by and involvement of local and indigenous communities, other forest users and forest owners and other relevant stakeholders, in sustainable forest management, through a framework of policies, incentives and regulations; ... (y) Enhance access by households, small-scale forest owners, forest- dependent local and indigenous communities, living in and outside forest areas, to forest resources and relevant markets in order to support livelihoods and income diversification from forest management, consistent with sustainable forest management ...<sup>217</sup>

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comprise both: (i) aspirations for achievement at the global level; and (ii) a flexible framework for the establishment of national or regional targets.

<sup>214</sup> Akwé: Kon Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities (Akwé: Kon Guidelines) No. 59.

<sup>215</sup> Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization (Bonn Guidelines) Provisions 41, 44(g).

<sup>216</sup> United Nations Conference on Environment and Development Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests (UNCED Forest Principles) Paragraph 12(d).

<sup>217</sup> United Nations Forum on Forests Non-legally Binding Instrument on All Types of Forests (UNFF Instrument on Forests) Provision 6(f). The term “Member States” in the UNFF Instrument on Forests refers to Member States of the United Nations.

1. Peasants and other people working in rural areas have the right to seeds, in accordance with article 28 of the present Declaration, including: (a) The right to the protection of traditional knowledge relevant to plant genetic resources for food and agriculture; (b) The right to equitably participate in sharing the benefits arising from the utilization of plant genetic resources for food and agriculture; (c) The right to participate in the making of decisions on matters relating to the conservation and sustainable use of plant genetic resources for food and agriculture; (d) The right to save, use, exchange and sell their farm-saved seed or propagating material. 2. Peasants and other people working in rural areas have the right to maintain, control, protect and develop their own seeds and traditional knowledge. 3. States shall take measures to respect, protect and fulfil the right to seeds of peasants and other people working in rural areas. ... 6. States shall take appropriate measures to support peasant seed systems, and promote the use of peasant seeds and agrobiodiversity.<sup>218</sup>

States shall take appropriate measures to promote and protect the traditional knowledge, innovation and practices of peasants and other people working in rural areas, including traditional agrarian, pastoral, forestry, fisheries, livestock and agroecological systems relevant to the conservation and sustainable use of biological diversity.<sup>219</sup>

All parties should ensure that the knowledge, culture, traditions and practices of small-scale fishing communities, including indigenous peoples, are recognized and, as appropriate, supported, and that they inform responsible local governance and sustainable development processes. The specific knowledge of women fishers and fish workers must be recognized and supported. States should investigate and document traditional fisheries knowledge and technologies in order to assess their application to sustainable fisheries conservation, management and development.<sup>220</sup>

Importance of collective action. The collective action of indigenous peoples and local communities contributes to achieving the Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets. In particular, traditional knowledge provides an important contribution to decision-making and reporting processes. It is important for the ways and means of holding and transmitting traditional knowledge to be recognized and fully included when reporting on the contribution of collective action by indigenous peoples and local communities.<sup>221</sup>

Multiplicity of values. The multiple perspectives and world views on value, as articulated through social roles and social-biological relationships that are specific to each territory and knowledge system need to be recognized in assessing the contribution of collective action.<sup>222</sup>

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<sup>218</sup> UNDROP Article 19.

<sup>219</sup> UNDROP Article 20 (2).

<sup>220</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.6).

<sup>221</sup> CBD/COP/DEC/XIII/20, Annex: Guiding principles on assessing the contribution of collective action by indigenous peoples and local communities (1).

<sup>222</sup> CBD/COP/DEC/XIII/20, Annex: Guiding principles on assessing the contribution of collective action by indigenous peoples and local communities (3).

Linkages to work on customary sustainable use. Recognizing and assessing the contribution of collective action can contribute to protect and promote the intergenerational transfer of traditional knowledge, innovations and practices, as this transfer is based on collective actions related to customary sustainable use and the conservation of biodiversity.<sup>223</sup>

Repatriation is best facilitated building on the following principles and considerations: (a) Whenever possible, indigenous peoples and local communities should be entitled to repatriation of their traditional knowledge, including from across international borders, to assist them with the recovery of traditional knowledge relevant to the conservation and sustainable use of biological diversity; (b) Underpinning successful repatriation efforts is the concept embedded in Article 8(j) of “respect” for traditional knowledge, taking into account the United Nations Declaration on the Rights of Indigenous Peoples and other instruments, as appropriate; (c) Respect for traditional knowledge implies respect for, inter alia, the values, practices, world views, customary laws, community protocols, rights and interests of indigenous peoples and local communities, consistent with international obligations and national circumstances; (d) Repatriation requires the development of enduring relationships with indigenous peoples and local communities, in order to build trust, good relations, mutual understanding, intercultural spaces, knowledge exchanges and reconciliation. Such relationships can be mutually beneficial and embody the concept of reciprocity; (e) Repatriation efforts should be forward-looking, should foster the building of relationships, and should encourage the creation of intercultural spaces and the co-sharing of knowledge; (f) Preparedness of institutions holding, storing or housing traditional knowledge and related or complementary information relevant for conservation and sustainable use of biological diversity, to repatriate, including preparedness to cooperate with indigenous peoples and local communities to develop appropriate measures, is essential for a successful process; (g) Repatriation may require assisting indigenous peoples and local communities to be prepared to receive and keep safe, repatriated traditional knowledge and related information, in culturally appropriate ways, as specified by them; (h) Parties, repatriating institutions and entities should recognise the importance of repatriating secret or sacred, gender-specific or sensitive traditional knowledge as identified by the relevant indigenous peoples and local communities, as a priority for indigenous peoples and local communities; (i) Repatriation can be enhanced by developing the awareness and professional practice of those working on repatriation, including information professionals and indigenous peoples and local communities, in accordance with best practice ethical standards, including the Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant to the Conservation and Sustainable Use of Biological Diversity; (j) Repatriation includes recognition and support of community-to-community efforts to restore traditional knowledge relevant to conservation and sustainable use of biological diversity; (k) Repatriation may include efforts to restore indigenous peoples and local communities’ governance of their traditional knowledge, and may involve

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<sup>223</sup> CBD/COP/DEC/XIII/20, Annex: Guiding principles on assessing the contribution of collective action by indigenous peoples and local communities (6).

prior and informed consent, free prior and informed consent or approval and involvement, as appropriate, mutually agreed terms and benefit-sharing arrangements, when appropriate; (l) Repatriation of traditional knowledge and related information should facilitate the exchange of information, rather than limit or restrict it, while respecting the rights of the original holder of such knowledge and not impede the use of traditional knowledge that is publicly available in the Party, institution or entity that decides to repatriate it.<sup>224</sup>

Tools for preventing and reporting on unlawful appropriation and use of traditional knowledge should be established.<sup>225</sup>

Where tools and measures are not in place, Parties should take appropriate actions so that traditional knowledge is accessed in accordance with the “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, of the holders of that traditional knowledge, to ensure that mutually agreed terms have been established.<sup>226</sup>

Parties and other Governments may wish to consider: (a) The complex nature of traditional knowledge and evidentiary issues in customary legal traditions mean that customary law may be appropriate to settle disputes arising over traditional knowledge, to the extent that it does not contravene national law; (b) That a competent national authority, established according to national law, should engage users and providers of traditional knowledge early in the access process, and may need to revisit its approval of an application upon the complaint by a concerned indigenous peoples and local community; (c) Encouraging indigenous peoples and local communities to resolve differences internally according to customary law or alternate dispute resolution processes in cases of disputes concerning access to and use of their traditional knowledge. Additionally, the competent national authority could play a facilitating role in alternative dispute resolution.<sup>227</sup>

## **EDUCATION AND LANGUAGES**

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. 2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination. 3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.<sup>228\*</sup>

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<sup>224</sup> CBD/COP/DEC/14/12, Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, 17.

<sup>225</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (15).

<sup>226</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (16).

<sup>227</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (28).

<sup>228</sup> UNDRIP Article 14.

Members of the peoples concerned shall enjoy opportunities at least equal to those of other citizens in respect of vocational training measures.<sup>229\*</sup>

1. Measures shall be taken to promote the voluntary participation of members of the peoples concerned in vocational training programmes of general application. 2. Whenever existing programmes of vocational training of general application do not meet the special needs of the peoples concerned, governments shall, with the participation of these peoples, ensure the provision of special training programmes and facilities. 3. Any special training programmes shall be based on the economic environment, social and cultural conditions and practical needs of the peoples concerned. Any studies made in this connection shall be carried out in co-operation with these peoples, who shall be consulted on the organisation and operation of such programmes. Where feasible, these peoples shall progressively assume responsibility for the organisation and operation of such special training programmes, if they so decide.<sup>230\*</sup>

Measures shall be taken to ensure that members of the peoples concerned have the opportunity to acquire education at all levels on at least an equal footing with the rest of the national community.<sup>231\*</sup>

1. Education programmes and services for the peoples concerned shall be developed and implemented in co-operation with them to address their special needs, and shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations. 2. The competent authority shall ensure the training of members of these peoples and their involvement in the formulation and implementation of education programmes, with a view to the progressive transfer of responsibility for the conduct of these programmes to these peoples as appropriate. 3. In addition, governments shall recognise the right of these peoples to establish their own educational institutions and facilities, provided that such institutions meet minimum standards established by the competent authority in consultation with these peoples. Appropriate resources shall be provided for this purpose.<sup>232\*</sup>

1. Children belonging to the peoples concerned shall, wherever practicable, be taught to read and write in their own indigenous language or in the language most commonly used by the group to which they belong. When this is not practicable, the competent authorities shall undertake consultations with these peoples with a view to the adoption of measures to achieve this objective. 2. Adequate measures shall be taken to ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country. 3. Measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned.<sup>233\*</sup>

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<sup>229</sup> ILO Convention No. 169 Article 21.

<sup>230</sup> ILO Convention No. 169 Article 22.

<sup>231</sup> ILO Convention No. 169 Article 26.

<sup>232</sup> ILO Convention No. 169 Article 27.

<sup>233</sup> ILO Convention No. 169 Article 28.

The imparting of general knowledge and skills that will help children belonging to the peoples concerned to participate fully and on an equal footing in their own community and in the national community shall be an aim of education for these peoples.<sup>234\*</sup>

1. Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this *ILO Convention No. 169*. 2. If necessary, this shall be done by means of written translations and through the use of mass communications in the languages of these peoples.<sup>235\*</sup>

Educational measures shall be taken among all sections of the national community, and particularly among those that are in most direct contact with the peoples concerned, with the object of eliminating prejudices that they may harbour in respect of these peoples. To this end, efforts shall be made to ensure that history textbooks and other educational materials provide a fair, accurate and informative portrayal of the societies and cultures of these peoples.<sup>236\*</sup>

3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue. 4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.<sup>237</sup>

The States Parties to the present *Covenant on Economic, Social and Cultural Rights* recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.<sup>238</sup>

To achieve the purpose of the instrument, and taking into account national policies, priorities, conditions and available resources, Member States should: ... (v) Support education, training and extension programmes involving local and indigenous communities, forest workers and forest owners, in order to develop resource management approaches that will reduce the pressure on forests, particularly fragile ecosystems ...<sup>239</sup>

... States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour,

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<sup>234</sup> ILO Convention No. 169 Article 29.

<sup>235</sup> ILO Convention No. 169 Article 30.

<sup>236</sup> ILO Convention No. 169 Article 31.

<sup>237</sup> Declaration on the Rights of Minorities Article 4(3)-(4).

<sup>238</sup> ICESCR Article 13(1).

<sup>239</sup> UNFF Instrument on Forests Provision 6(v).



or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (e) Economic, social and cultural rights, in particular: ... (v) The right to education and training ...<sup>240</sup>

## DEVELOPMENT

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development, which may affect them directly. 2. The improvement of the conditions of life and work and levels of health and education of the peoples concerned, with their participation and co-operation, shall be a matter of priority in plans for the overall economic development of areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement. 3. Governments shall ensure that, whenever appropriate, studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities. 4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.<sup>241\*</sup>

States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.<sup>242\*</sup>

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.<sup>243\*</sup>

1. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. 2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.<sup>244</sup>

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<sup>240</sup> CERD Article 5.

<sup>241</sup> ILO Convention No. 169 Article 7.

<sup>242</sup> UNDRIP Article 21(2).

<sup>243</sup> UNDRIP Article 23.

<sup>244</sup> Declaration on the Right to Development Article 1.

1. The human person is the central subject of development and should be the active participant and beneficiary of the right to development. 2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development. 3. States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.<sup>245</sup>

1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices. 2. States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.<sup>246</sup>

Parties shall endeavour to support cooperation for sustainable development and poverty reduction, especially in relation to the specific needs of developing countries, in order to foster the emergence of a dynamic cultural sector ...<sup>247</sup>

States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.<sup>248</sup>

## **CULTURAL AND NATURAL HERITAGE**

Each State Party to this *World Heritage Convention* recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1<sup>249</sup> and 2<sup>250</sup> and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.<sup>251</sup>

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<sup>245</sup> Declaration on the Right to Development Article 2.

<sup>246</sup> Declaration on the Right to Development Article 8.

<sup>247</sup> Convention on Cultural Expressions Article 14.

<sup>248</sup> Declaration on the Rights of Minorities Article 4(5).

<sup>249</sup> Article 1 of the World Heritage Convention defines “cultural heritage” as certain monuments, groups of buildings, and sites.

<sup>250</sup> Article 2 of the World Heritage Convention defines “natural heritage” as certain natural features, geological and physiographical formations and precisely delineated areas, and natural sites or precisely delineated natural areas.

<sup>251</sup> World Heritage Convention Article 4.

The States Parties to this *World Heritage Convention* shall endeavor by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and 2 of the *World Heritage Convention*.<sup>252</sup>

Each State Party shall: (a) take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory; (b) among the safeguarding measures referred to in Article 2, paragraph 3,<sup>253</sup> identify and define the various elements of the intangible cultural heritage present in its territory, with the participation of communities, groups and relevant non-governmental organizations.<sup>254</sup>

To ensure identification with a view to safeguarding, each State Party shall draw up, in a manner geared to its own situation, one or more inventories of the intangible cultural heritage present in its territory. These inventories shall be regularly updated.<sup>255</sup>

Each State Party shall endeavour, by all appropriate means, to: (a) ensure recognition of, respect for, and enhancement of the intangible cultural heritage in society ... (b) keep the public informed of the dangers threatening such heritage, and of the activities carried out in pursuance of this *Convention on Intangible Cultural Heritage*; (c) promote education for the protection of natural spaces and places of memory whose existence is necessary for expressing the intangible cultural heritage.<sup>256</sup>

Within the framework of its safeguarding activities of the intangible cultural heritage, each State Party shall endeavour to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management.<sup>257</sup>

Without prejudice to the provisions of their national legislation and customary law and practices, the States Parties recognize that the safeguarding of intangible cultural heritage is of general interest to humanity, and to that end undertake to cooperate at the bilateral, subregional, regional and international levels.<sup>258</sup>

Creation draws on the roots of cultural tradition, but flourishes in contact with other cultures. For this reason, heritage in all its forms must be preserved, enhanced and handed on to future generations as a record of human experience and aspirations, so

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<sup>252</sup> World Heritage Convention Article 27(1). The definitions in Articles 1 and 2 of the World Heritage Convention are given above.

<sup>253</sup> Article 2, Paragraph 3 of the Convention on Intangible Cultural Heritage provides as follows: "‘Safeguarding’ means measures aimed at ensuring the viability of the intangible cultural heritage, including the identification, documentation, research, preservation, protection, promotion, enhancement, transmission, particularly through formal and non- formal education, as well as the revitalization of the various aspects of such heritage."

<sup>254</sup> Convention on Intangible Cultural Heritage Article 11.

<sup>255</sup> Convention on Intangible Cultural Heritage Article 12.

<sup>256</sup> Convention on Intangible Cultural Heritage Article 14.

<sup>257</sup> Convention on Intangible Cultural Heritage Article 15.

<sup>258</sup> Convention on Intangible Cultural Heritage Article 19(2).

as to foster creativity in all its diversity and to inspire genuine dialogue among cultures.<sup>259</sup>

## LAND TENURE

States should: 1. Recognize and respect all legitimate tenure right holders and their rights. They should take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not; to refrain from infringement of tenure rights of others; and to meet the duties associated with tenure rights. 2. Safeguard legitimate tenure rights against threats and infringements. They should protect tenure right holders against the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with their existing obligations under national and international law. 3. Promote and facilitate the enjoyment of legitimate tenure rights. They should take active measures to promote and facilitate the full realization of tenure rights or the making of transactions with the rights, such as ensuring that services are accessible to all. 4. Provide access to justice to deal with infringements of legitimate tenure rights. They should provide effective and accessible means to everyone, through judicial authorities or other approaches, to resolve disputes over tenure rights; and to provide affordable and prompt enforcement of outcomes. States should provide prompt, just compensation where tenure rights are taken for public purposes. 5. Prevent tenure disputes, violent conflicts and corruption. They should take active measures to prevent tenure disputes from arising and from escalating into violent conflicts. They should endeavour to prevent corruption in all forms, at all levels, and in all settings.<sup>260</sup>

States should strive to ensure responsible governance of tenure because land, fisheries and forests are central for the realization of human rights, food security, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, and social and economic growth.<sup>261</sup>

States should provide appropriate recognition and protection of the legitimate tenure rights of indigenous peoples and other communities with customary tenure systems, consistent with existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments. Such recognition should take into account the land, fisheries and forests that are used exclusively by a community and those that are shared, and respect the general principles of responsible governance. Information on any such recognition should be publicized in an accessible location, in an appropriate form which is understandable and in applicable languages.<sup>262</sup>

Where indigenous peoples and other communities with customary tenure systems have legitimate tenure rights to the ancestral lands on which they live, States should recognize and protect these rights.<sup>263</sup>

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<sup>259</sup> UNESCO Universal Declaration on Cultural Diversity Article 7.

<sup>260</sup> FAO Tenure Guidelines No. 3(1).

<sup>261</sup> FAO Tenure Guidelines No. 4(1).

<sup>262</sup> FAO Tenure Guidelines No. 9(4).

<sup>263</sup> FAO Tenure Guidelines No. 9(5).

States should consider adapting their policy, legal and organizational frameworks to recognize tenure systems of indigenous peoples and other communities with customary tenure systems. Where constitutional or legal reforms strengthen the rights of women and place them in conflict with custom, all parties should cooperate to accommodate such changes in the customary tenure systems.<sup>264</sup>

States should, in drafting tenure policies and laws, take into account the social, cultural, spiritual, economic and environmental values of land, fisheries and forests held under tenure systems of indigenous peoples and other communities with customary tenure systems. There should be full and effective participation of all members or representatives of affected communities, including vulnerable and marginalized members, when developing policies and laws related to tenure systems of indigenous peoples and other communities with customary tenure systems.<sup>265</sup>

States should respect and promote customary approaches used by indigenous peoples and other communities with customary tenure systems to resolving tenure conflicts within communities consistent with their existing obligations under national and international law, and with due regard to voluntary commitments under applicable regional and international instruments. For land, fisheries and forests that are used by more than one community, means of resolving conflict between communities should be strengthened or developed.<sup>266</sup>

States should take measures to promote and protect the security of land tenure, especially with respect to women, and poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, including the right to inherit. As appropriate, States should consider establishing legal and other policy mechanisms, consistent with their international human rights obligations and in accordance with the rule of law, that advance land reform to enhance access for the poor and women. Such mechanisms should also promote conservation and sustainable use of land. Special consideration should be given to the situation of indigenous communities.<sup>267</sup>

Non-state actors including business enterprises have a responsibility to respect human rights and legitimate tenure rights.<sup>268</sup>

Peasants and other people living in rural areas have the right to land, individually and/or collectively, in accordance with article 28 of the present Declaration, including the right to have access to, sustainably use and manage land and the water bodies, coastal seas, fisheries, pastures and forests therein, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.<sup>269</sup>

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<sup>264</sup> FAO Tenure Guidelines No. 9(6).

<sup>265</sup> FAO Tenure Guidelines No. 9(7).

<sup>266</sup> FAO Tenure Guidelines No. 9(11).

<sup>267</sup> FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (FAO Food Security Guidelines) No. 8.10.

<sup>268</sup> FAO Tenure Guidelines No. 3(2).

<sup>269</sup> UNDROP Article 17 (1).

States shall take appropriate measures to remove and prohibit all forms of discrimination relating to the right to land, including those resulting from change of marital status, lack of legal capacity or lack of access to economic resources.<sup>270</sup>

Where appropriate, States shall take appropriate measures to carry out agrarian reforms in order to facilitate broad and equitable access to land and other natural resources necessary to ensure that peasants and other people working in rural areas enjoy adequate living conditions, and to limit excessive concentration and control of land, taking into account its social function. Landless peasants, young people, small-scale fishers and other rural workers should be given priority in the allocation of public lands, fisheries and forests.<sup>271</sup>

States shall take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems.<sup>272</sup>

B. Improving the institutional enabling environment for ecosystem restoration ... 2. Review, improve or establish a legal and policy framework for land tenure, and for recognizing the rights of indigenous peoples and local communities.<sup>273</sup>

Seek to contribute to the recognition of rights, particularly land tenure and access to customary resources and their influence on the effectiveness of collective action, and through community empowerment to advance security of tenure and access.<sup>274</sup>

## **NON-REMOVAL FROM LANDS OR TERRITORIES**

States shall provide effective mechanisms for prevention of, and redress for: ... (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights ...<sup>275\*</sup>

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.<sup>276\*</sup>

1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy. 2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the

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<sup>270</sup> UNDROP Article 17 (2).

<sup>271</sup> UNDROP Article 17 (6).

<sup>272</sup> UNDROP Article 17 (3).

<sup>273</sup> CBD/COP/DEC/XIII/5, Annex: Short-term Action Plan on Ecosystem Restoration (14).

<sup>274</sup> CBD/COP/DEC/14/16, Methodological guidance concerning the contributions of indigenous peoples and local communities, (k).

<sup>275</sup> UNDRIP Article 8(2).

<sup>276</sup> UNDRIP Article 10.

peoples concerned. 3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist. 4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees. 5. Persons thus relocated shall be fully compensated for any resulting loss or injury.<sup>277\*</sup>

... States shall protect legitimate tenure, and ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed. States shall recognize and protect the natural commons and their related systems of collective use and management.<sup>278</sup>

Where indigenous peoples and other communities with customary tenure systems have legitimate tenure rights to the ancestral lands on which they live, States should recognize and protect these rights. Indigenous peoples and other communities with customary tenure systems should not be forcibly evicted from such ancestral lands.<sup>279</sup>

Activities/interactions related to biological diversity, and the objectives of the *Convention on Biological Diversity*, such as conservation, ought not to cause indigenous and local communities to be removed from their lands and/or lands and waters traditionally occupied or used by them, as applicable, by force or coercion and without their consent. Where they consent to removal they should be compensated. Whenever possible, these indigenous and local communities should have the right to return to their traditional lands. Such activities/interactions should not cause indigenous and local community members, especially the elderly, the disabled and children to be removed from their families by force or coercion.<sup>280</sup>

States should protect legitimate tenure rights, and ensure that people are not arbitrarily evicted and that their legitimate tenure rights are not otherwise extinguished or infringed.<sup>281</sup>

Peasants and other people working in rural areas have the right to be protected against arbitrary and unlawful displacement from their land or place of habitual residence, or from other natural resources used in their activities and necessary for the enjoyment of adequate living conditions. States shall incorporate protections against displacement into domestic legislation that are consistent with international human rights and humanitarian law. States shall prohibit arbitrary and unlawful forced eviction, the destruction of agricultural areas and the confiscation or expropriation of land and other natural resources, including as a punitive measure or as a means or method of war.<sup>282</sup>

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<sup>277</sup> ILO Convention No. 169 Article 16.

<sup>278</sup> UNDROP Article 17 (3).

<sup>279</sup> FAO Tenure Guidelines No. 9(5).

<sup>280</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(19).

<sup>281</sup> FAO Tenure Guidelines No. 4(5).

<sup>282</sup> UNDROP Article 17 (4).

Peasants and other people working in rural areas who have been arbitrarily or unlawfully deprived of their lands have the right, individually and/or collectively, in association with others or as a community, to return to their land of which they were arbitrarily or unlawfully deprived, including in cases of natural disasters and/or armed conflict and to have restored their access to the natural resources used in their activities and necessary for the enjoyment of adequate living conditions, whenever possible, or to receive just, fair and lawful compensation when their return is not possible.<sup>283</sup>

2. Peasants and other people working in rural areas have the right to be protected against forced eviction from their home, harassment and other threats. 3. States shall not, arbitrarily or unlawfully, either temporarily or permanently, remove peasants or other people working in rural areas against their will from the homes or land that they occupy without providing or affording access to appropriate forms of legal or other protection. When eviction is unavoidable, the State must provide or ensure fair and just compensation for any material or other losses.<sup>284</sup>

## **STEWARDSHIP, GOVERNANCE, MANAGEMENT, AND USE OF TERRITORIES, LANDS AND NATURAL RESOURCES**

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.<sup>285\*</sup>

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.<sup>286\*</sup>

Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.<sup>287\*</sup>

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples

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<sup>283</sup> UNDROP Article 17 (5).

<sup>284</sup> UNDROP Article 24.

<sup>285</sup> UNDRIP Article 26.

<sup>286</sup> UNDRIP Article 27.

<sup>287</sup> UNDRIP Article 30(1).



concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.<sup>288\*</sup>

1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect. 2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession. 3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.<sup>289\*</sup>

The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.<sup>290\*</sup>

1. Procedures established by the peoples concerned for the transmission of land rights among members of these peoples shall be respected. 2. The peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community. 3. Persons not belonging to these peoples shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them.<sup>291\*</sup>

Adequate penalties shall be established by law for unauthorised intrusion upon, or use of, the lands of the peoples concerned, and governments shall take measures to prevent such offences.<sup>292\*</sup>

Traditional guardianship/custodianship recognizes the holistic interconnectedness of humanity with ecosystems and obligations and responsibilities of indigenous and local communities, to preserve and maintain their traditional role as traditional guardians and custodians of these ecosystems through the maintenance of their cultures, spiritual beliefs and customary practices. Because of this, cultural diversity, including linguistic diversity, ought to be recognized as keys to the conservation and sustainable use of biological diversity. Therefore, indigenous and local communities should, where

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<sup>288</sup> UNDRIP Article 32.

<sup>289</sup> ILO Convention No. 169 Article 14.

<sup>290</sup> ILO Convention No. 169 Article 15(1). In this Article “[t]he use of the term lands ... shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.” ILO Convention No. 169 Article 13(2).

<sup>291</sup> ILO Convention No. 169 Article 17.

<sup>292</sup> ILO Convention No. 169 Article 18.

relevant, be actively involved in the management of lands and waters traditionally occupied or used by them, including sacred sites and protected areas. Indigenous and local communities may also view certain species of plants and animals as sacred and, as custodians of biological diversity, have responsibilities for their well-being and sustainability, and this should be respected and taken into account in all activities/interactions.<sup>293</sup>

States should facilitate sustainable, non-discriminatory and secure access and utilization of resources consistent with their national law and with international law and protect the assets that are important for people's livelihoods. States should respect and protect the rights of individuals with respect to resources such as land, water, forests, fisheries and livestock without any discrimination. Where necessary and appropriate, States should carry out land reforms and other policy reforms consistent with their human rights obligations and in accordance with the rule of law in order to secure efficient and equitable access to land and to strengthen pro-poor growth. Special attention may be given to groups such as pastoralists and indigenous people and their relation to natural resources.<sup>294</sup>

Given that all human rights are universal, indivisible, interdependent and interrelated, the governance of tenure of land, fisheries and forests should not only take into account rights that are directly linked to access and use of land, fisheries and forests, but also all civil, political, economic, social and cultural rights. In doing so, States should respect and protect the civil and political rights of defenders of human rights, including the human rights of peasants, indigenous peoples, fishers, pastoralists and rural workers, and should observe their human rights obligations when dealing with individuals and associations acting in defence of land, fisheries and forests.<sup>295</sup>

States should protect indigenous peoples and other communities with customary tenure systems against the unauthorized use of their land, fisheries and forests by others. Where a community does not object, States should assist to formally document and publicize information on the nature and location of land, fisheries and forests used and controlled by the community. Where tenure rights of indigenous peoples and other communities with customary tenure systems are formally documented, they should be recorded with other public, private and communal tenure rights to prevent competing claims.<sup>296</sup>

The representatives of the Contracting Parties at such Conferences should include persons who are experts on wetlands or waterfowl by reason of knowledge and experience gained in scientific, administrative or other appropriate capacities.<sup>297</sup>

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<sup>293</sup> Tkarihwaïé:ri Code of Ethical Conduct Section 2(20).

<sup>294</sup> FAO Food Security Guidelines No. 8.1.

<sup>295</sup> FAO Tenure Guidelines No. 4(8).

<sup>296</sup> FAO Tenure Guidelines No. 9(8).

<sup>297</sup> Convention on Wetlands of International Importance (Ramsar Convention) Article 7(1). The "Conferences" referred to in this Article are ordinary meetings of the Conference of the Contracting Parties (COP) to the Ramsar Convention convened at intervals of not more than three years. Although the Ramsar Convention itself does not mention Indigenous peoples or local communities, the COP has increasingly recognized their role in its Resolutions.

Peasants and other people working in rural areas have the right to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage.<sup>298</sup>

States shall comply with their respective international obligations to combat climate change. Peasants and other people working in rural areas have the right to contribute to the design and implementation of national and local climate change adaptation and mitigation policies, including through the use of practices and traditional knowledge.<sup>299</sup>

## CUSTOMARY USE

Each Contracting Party shall, as far as possible and as appropriate: ... protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.<sup>300</sup>

State and non-state actors should acknowledge that land, fisheries and forests have social, cultural, spiritual, economic, environmental and political value to indigenous peoples and other communities with customary tenure systems.<sup>301</sup>

Parties, in their implementation of this *Nagoya Protocol*, shall, as far as possible, not restrict the customary use and exchange of genetic resources and associated traditional knowledge within and amongst indigenous and local communities in accordance with the objectives of the *Convention on Biological Diversity*.<sup>302</sup>

Traditional resource rights are collective in nature but may include other interests and obligations and apply to traditional resources occurring on lands and waters traditionally occupied or used by indigenous and local communities. Access of indigenous and local communities to traditional resources is crucial for the sustainable use of biological diversity and cultural survival. Activities/interactions should not interfere with access to traditional resources except with the approval of the community concerned. Activities/interactions should respect customary rules governing access to resources where this is required by the community concerned.<sup>303</sup>

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<sup>298</sup> UNDROP Article 18(1).

<sup>299</sup> UNDROP Article 18(3).

<sup>300</sup> CBD Article 10(c).

<sup>301</sup> FAO Tenure Guidelines No. 9(1).

<sup>302</sup> Nagoya Protocol Article 12(4).

<sup>303</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(18).

## SUSTAINABLE USE<sup>304</sup>

Sustainability of use of biodiversity components will be enhanced if the following practical principles and related operational guidelines are applied.<sup>305</sup>

### ***Excerpts from the Addis Ababa Principles and Guidelines***<sup>306</sup>

**Practical Principle 1:** Supportive policies, laws, and institutions are in place at all levels of governance and there are effective linkages between these levels.

#### *Operational guidelines*

- Consider local customs and traditions (and customary law where recognized) when drafting new legislation and regulations.

**Practical Principle 2:** Recognizing the need for a governing framework consistent with international/national laws, local users of biodiversity components should be sufficiently empowered and supported by rights to be responsible and accountable for use of the resources concerned.

#### *Operational guidelines*

- Where possible adopt means that aim toward delegating rights, responsibility, and accountability to those who use and/or manage biological resources; ...
- Review existing regulations to see if they can be used for delegating rights; amend regulations where needed and possible; and/or draft new regulations where needed. Throughout local custom and traditions (including customary law where recognized) should be considered ...

**Practical principle 4:** Adaptive management should be practiced, based on: (a) Science and traditional and local knowledge; (b) Iterative, timely and transparent feedback derived from monitoring the use, environmental, socio-economic impacts, and the status of the resource being used; and (c) Adjusting management based on timely feedback from the monitoring procedures.

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<sup>304</sup> The provisions in the following section are excerpted from the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity (Addis Ababa Principles and Guidelines). Specifically, they are taken from Section B., entitled “practical principles, rationale and operational guidelines for the sustainable use of biodiversity”. The purpose of the Addis Ababa Principles and Guidelines is to assist Parties in achieving sustainable use of biological diversity, one of the three objectives of the Convention on Biological Diversity. Specifically, Article 10 of the Convention on Biological Diversity sets the agenda for sustainable use of the components of biological diversity.

<sup>305</sup> The Addis Ababa Principles and Guidelines note in Practical Principle 2 that “[w]here consistency with international law is referred to this recognizes: (i) that there are cases where a country will not be a party to a specific international convention and accordingly that law will not apply directly to them; and (ii) that from time to time countries are not able to achieve full compliance with the conventions to which they are a party and may need assistance.”

<sup>306</sup> The Addis Ababa Principles and Guidelines note in Practical Principle 2 that “[w]here consistency with international law is referred to this recognizes: (i) that there are cases where a country will not be a party to a specific international convention and accordingly that law will not apply directly to them; and (ii) that from time to time countries are not able to achieve full compliance with the conventions to which they are a party and may need assistance.”

*Operational guidelines*

- Require adaptive management plans to incorporate systems to generate sustainable revenue, where the benefits go to indigenous and local communities and local stakeholders to support successful implementation ...

**Practical principle 6:** Interdisciplinary research into all aspects of the use and conservation of biological diversity should be promoted and supported.

*Operational guidelines*

- Encourage active collaboration between scientific researchers and people with local and traditional knowledge; ...
- Develop cooperation between researchers and biodiversity users (private or local communities), in particular, involve indigenous and local communities as research partners and use their expertise to assess management methods and technologies; ...
- Investigate and develop means of ensuring rights of access and methods for helping to ensure that the benefits derived from using components of biodiversity are equitably shared; ...

**Practical principle 9:** An interdisciplinary, participatory approach should be applied at the appropriate levels of management and governance related to the use.

*Rationale:* Sustainability of use depends on biological parameters of the resources being utilized. However, it is recognized that social, cultural, political and economic factors are equally important. It is therefore necessary to take such factors into consideration and involve indigenous and local communities and stakeholders, including and the private sector, and the people experienced in these different fields, at all levels of the decision-making process.

**Practical principle 12:** The needs of indigenous and local communities who live with and are affected by the use and conservation of biological diversity, along with their contributions to its conservation and sustainable use, should be reflected in the equitable distribution of the benefits from the use of those resources.

*Rationale:* Indigenous and local communities and local stakeholders often shoulder significant costs or forgo benefits of potential use of biological diversity, in order to ensure or enhance benefits accruing to others. Many resources (e.g., timber, fisheries) are over-exploited because regulations are ignored and not enforced. When local people are involved as stakeholders such violations are generally reduced. Management regimes are enhanced when constructive programmes that benefit local communities are implemented, such as capacity training that can provide income alternatives, or assistance in diversifying their management capacities.

*Operational guidelines*

- Promote economic incentives that will guarantee additional benefits to indigenous and local communities and stakeholders who are involved in the management of any biodiversity components, e.g., job opportunities for

local peoples, equal distribution of returns amongst locals and outside investors/co-management;

- Adopt policies and regulations that ensure that indigenous and local communities and local stakeholders who are engaged in the management of a resource for sustainable use receive an equitable share of any benefits derived from that use; ...
- Ensure that an equitable share of the benefits remain with the local people in those cases where foreign investment is involved;
- Involve local stakeholders, including indigenous and local communities, in the management of any natural resource and provide those involved with equitable compensation for their efforts, taking into account monetary and non-monetary benefits;
- In the event that management dictates a reduction in harvest levels, to the extent practicable assistance should be provided for local stakeholders, including indigenous and local communities, who are directly dependent on the resource to have access to alternatives.

States shall take measures aimed at the conservation and sustainable use of land and other natural resources used in their production, including, among others, through agroecology, and ensure the conditions for the regeneration of biological and other natural capacities and cycles.<sup>307</sup>

States shall take effective measures to ensure that no hazardous material, substance or waste is stored or disposed of on the land of peasants and other people working in rural areas, and shall cooperate to address the threats to the enjoyment of their rights that result from transboundary environmental harm.<sup>308</sup>

States, small-scale fisheries actors and other value chain actors should recognize that benefits from international trade should be fairly distributed. States should ensure that effective fisheries management systems are in place to prevent overexploitation driven by market demand that can threaten the sustainability of fisheries resources, food security and nutrition. Such fisheries management systems should include responsible post-harvest practices, policies and actions to enable export income to benefit small-scale fishers and others in an equitable manner throughout the value chain.<sup>309</sup>

## **EQUITABLE CONSERVATION OF BIODIVERSITY**

By 2020, at least 17 per cent of terrestrial and inland water areas, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other

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<sup>307</sup> UNDROP Article 17(7).

<sup>308</sup> UNDROP Article 18(4).

<sup>309</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.8).

effective area-based conservation measures, and integrated into the wider landscapes and seascapes.<sup>310</sup>

By 2020, ecosystems that provide essential services, including services related to water, and contribute to health, livelihoods and well-being, are restored and safeguarded, taking into account the needs of women, indigenous and local communities, and the poor and vulnerable.<sup>311</sup>

Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.<sup>312\*</sup>

The Parties shall encourage users and providers to direct benefits arising from the utilization of genetic resources towards the conservation of biological diversity and the sustainable use of its components.<sup>313</sup>

States shall take appropriate measures, in accordance with their relevant international obligations, to prevent the depletion and ensure the conservation and sustainable use of biodiversity in order to promote and protect the full enjoyment of the rights of peasants and other people working in rural areas.<sup>314</sup>

2. Minimizing adverse impacts, and facilitating participation ... (d) Promote, as appropriate, the implementation of safeguard measures, such as mitigation hierarchy, to avoid adverse impacts on biodiversity and ecosystem integrity, and to improve long-term livelihood and well-being of indigenous and local communities, and smallholders, with special attention to women, the poor, marginalized and vulnerable people in particular, according to national circumstances and priorities by: (i) Taking measures to promote land management transparency and access to natural resources for the poor and landless, paying special attention to women, indigenous and local communities and marginalized groups; ... (iii) Strengthening community-based management and the role of collective action in the management of natural resources and traditional indigenous knowledge systems and local communities and smallholders' traditional knowledge systems.<sup>315</sup>

## **PROTECTED AREAS<sup>316</sup>**

*Goal 1.1 of the Convention on Biological Diversity's Programme of Work on Protected Areas:* To establish and strengthen national and regional systems of protected areas integrated into a global network as a contribution to globally agreed goals.

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<sup>310</sup> Aichi Biodiversity Target 11.

<sup>311</sup> Aichi Biodiversity Target 14.

<sup>312</sup> UNDRIP Article 29(1).

<sup>313</sup> Nagoya Protocol Article 9.

<sup>314</sup> UNDROP Article 20 (1).

<sup>315</sup> UNEP/CBD/COP/DEC/XII/5, Annex: Chennai Guidance for the Integration of Biodiversity and Poverty Eradication.

<sup>316</sup> This section is taken from Elements 1 and 2 of the CBD Program of Work on Protected Areas (PoWPA). Element 1 is entitled "Direct actions for planning, selecting, establishing, strengthening, and managing, protected area systems and sites." Element 2 is entitled "Governance, Participation, Equity and Benefit Sharing."

*Under Goal 1.1, Parties to the Convention on Biological Diversity are called on to:*<sup>317</sup>

By 2006, conduct, with the full and effective participation of indigenous and local communities and relevant stakeholders, national-level reviews of existing and potential forms of conservation, and their suitability for achieving biodiversity conservation goals, including innovative types of governance for protected areas that need to be recognized and promoted through legal, policy, financial institutional and community mechanisms, such as protected areas run by Government agencies at various levels, co-managed protected areas, private protected areas, indigenous and local community conserved areas.<sup>318</sup>

1.1.7 Encourage the establishment of protected areas that benefit indigenous and local communities, including by respecting, preserving, and maintaining their traditional knowledge in accordance with article 8(j) and related provisions.<sup>319</sup>

*Goal 1.4 of the Convention on Biological Diversity's Programme of Work on Protected Areas:* To substantially improve site-based protected area planning and management.

*Under Goal 1.4, Parties to the Convention on Biological Diversity are called on to:*<sup>320</sup>

Create a highly participatory process, involving indigenous and local communities and relevant stakeholders, as part of site-based planning in accordance with the ecosystem approach, and use relevant ecological and socio-economic data required to develop effective planning processes.<sup>321</sup>

*Goal 1.5 of the Convention on Biological Diversity's Programme of Work on Protected Areas:* To prevent and mitigate the negative impacts of key threats to protected areas.

*Under Goal 1.5, Parties to the Convention on Biological Diversity are called on to:*

Apply, as appropriate, timely environmental impact assessments to any plan or project with the potential to have effects on protected areas, and ensure timely information flow among all concerned parties to that end, taking into account decision VI/7 A of the Conference of the Parties on guidelines for incorporating biodiversity related issues into environmental impact assessment legislation and/or processes and in strategic environmental assessments.<sup>322</sup>

Develop policies, improve governance, and ensure enforcement of urgent measures that can halt the illegal exploitation of resources from protected areas, and strengthen international and regional cooperation to eliminate illegal trade in such resources taking into account sustainable customary resource use of indigenous and local communities in accordance with article 10(c) of the Convention.<sup>323</sup>

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<sup>317</sup> This text does not appear in the CBD PoWPA. It is inserted to introduce the following paragraphs that contain suggested activities for Parties to the CBD and contained within the Goals of the CBD PoWPA listed here. This text is duplicated in this section for PoWPA Goals 1.4, 1.5, 2.1, and 2.2.

<sup>318</sup> CBD PoWPA 1.1.4.

<sup>319</sup> CBD PoWPA 1.1.7.

<sup>320</sup> As noted above, this text does not appear in the CBD PoWPA.

<sup>321</sup> CBD PoWPA 1.4.1.

<sup>322</sup> CBD PoWPA 1.5.1.

<sup>323</sup> CBD PoWPA 1.5.6.



*Goal 2.1 of the Convention on Biological Diversity's Programme of Work on Protected Areas:* To promote equity and benefit sharing [e]stablish by 2008 mechanisms for the equitable sharing of both costs and benefits arising from the establishment and management of protected areas.<sup>324</sup>

*Under Goal 2.1, Parties to the Convention on Biological Diversity are called on to:*<sup>325</sup>

Assess the economic and socio-cultural costs, benefits and impacts arising from the establishment and maintenance of protected areas, particularly for indigenous and local communities, and adjust policies to avoid and mitigate negative impacts, and where appropriate compensate costs and equitably share benefits in accordance with the national legislation.<sup>326</sup>

Recognize and promote a broad set of protected area governance types related to their potential for achieving biodiversity conservation goals in accordance with the Convention, which may include areas conserved by indigenous and local communities and private nature reserves. The promotion of these areas should be by legal and/or policy, financial and community mechanisms.<sup>327</sup>

Establish policies and institutional mechanisms with full participation of indigenous and local communities, to facilitate the legal recognition and effective management of indigenous and local community conserved areas in a manner consistent with the goals of conserving both biodiversity and the knowledge, innovations and practices of indigenous and local communities.<sup>328</sup>

Use social and economic benefits generated by protected areas for poverty reduction, consistent with protected-area management objectives.<sup>329</sup>

Engage indigenous and local communities and relevant stakeholders in participatory planning and governance, recalling the principles of the ecosystem approach.<sup>330</sup>

*Goal 2.2 of the Convention on Biological Diversity's Programme of Work on Protected Areas:* To enhance and secure involvement of indigenous and local communities and relevant stakeholders. Target: Full and effective participation by 2008, of indigenous and local communities, in full respect of their rights and recognition of their responsibilities, consistent with national law and applicable international obligations, and the participation of relevant stakeholders, in the management of existing, and the establishment and management of new, protected areas.

*Under Goal 2.2, Parties to the Convention on Biological Diversity are called on to:*<sup>331</sup>

Carry out participatory national reviews of the status, needs and context-specific mechanisms for involving stakeholders, ensuring gender and social equity, in

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<sup>324</sup> CBD PoWPA Element 2.

<sup>325</sup> As noted above, this text does not appear in the CBD PoWPA.

<sup>326</sup> CBD PoWPA 2.1.1.

<sup>327</sup> CBD PoWPA 2.1.2.

<sup>328</sup> CBD PoWPA 2.1.3.

<sup>329</sup> CBD PoWPA 2.1.4.

<sup>330</sup> CBD PoWPA 2.1.5.

<sup>331</sup> As noted above, this text does not appear in the CBD PoWPA.

protected areas policy and management, at the level of national policy, protected area systems and individual sites.<sup>332</sup>

Implement specific plans and initiatives to effectively involve indigenous and local communities, with respect for their rights consistent with national legislation and applicable international obligations, and stakeholders at all levels of protected areas planning, establishment, governance and management, with particular emphasis on identifying and removing barriers preventing adequate participation.<sup>333</sup>

Support participatory assessment exercises among stakeholders to identify and harness the wealth of knowledge, skills, resources and institutions of importance for conservation that are available in society.<sup>334</sup>

Promote an enabling environment (legislation, policies, capacities, and resources) for the involvement of indigenous and local communities and relevant stakeholders in decision making, and the development of their capacities and opportunities to establish and manage protected areas, including community-conserved and private protected areas.<sup>335</sup>

Ensure that any resettlement of indigenous communities as a consequence of the establishment or management of protected areas will only take place with their prior informed consent that may be given according to national legislation and applicable international obligations.<sup>336</sup>

*A. Suggested steps for enhancing and supporting integration into landscapes, seascapes and sectors*<sup>337</sup> ... (g) *Prioritize and implement measures to decrease habitat fragmentation within landscapes and seascapes and to increase connectivity, including the creation of new protected areas and the identification of other effective area-based conservation measures, as well as indigenous and community conserved areas, that can serve as stepping stones between habitats, the creation of conservation corridors to connect key habitats, the creation of buffer zones to mitigate the impacts of various sectors, to enhance the protected and conserved areas estate, and the promotion of sectoral practices that reduce and mitigate their impacts on biodiversity, such as organic agriculture and long-rotation forestry.*

*B. Suggested steps for enhancing and supporting the mainstreaming of protected areas and other effective area-based conservation measures across sectors ... (b)*

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<sup>332</sup> CBD PoWPA 2.2.1.

<sup>333</sup> CBD PoWPA 2.2.2.

<sup>334</sup> CBD PoWPA 2.2.3.

<sup>335</sup> CBD PoWPA 2.2.4. It should be noted that a footnote link in the PoWPA website following the word “stakeholders” in this activity does not work.

<sup>336</sup> CBD PoWPA 2.2.5.

<sup>337</sup> CBD/SBSTTA/REC/22/5, Annex I: Voluntary Guidance on the Integration of Protected Areas and Other Area-Based Effective Conservation Measures Into Wider Land- and Seascapes and Mainstreaming Across Sectors to Contribute, Inter Alia to the Sustainable Development Goals.

*Review and update sectoral plans* to ensure that the many values provided by protected areas are recognized and incorporated into sectoral plans.<sup>338</sup>

Governance arrangements for protected and conserved areas that are tailored to their specific context, socially inclusive, respectful of rights, and effective in delivering conservation and livelihood outcomes tend to increase the legitimacy of protected and conserved areas for indigenous peoples and local communities, and society at large.<sup>339</sup>

*A. Voluntary guidance on governance diversity ...* In line with decisions VII/28 and X/31, this voluntary guidance suggests steps that can be followed in relation to the recognition, support, verification and coordination, tracking, monitoring and reporting of areas voluntarily conserved by indigenous peoples and local communities, private landowners and other actors. Particularly in the case of territories and areas under the governance of indigenous peoples and local communities, such steps should only be taken with their free, prior and informed consent, and based on respect for their rights, knowledge and institutions. In addition, in the case of areas conserved by private landowners, such steps should only be taken with their approval and on the basis of respect for the owners' rights and knowledge.<sup>340</sup>

*B. Voluntary guidance on effective and equitable governance models ...* The concept of equity is one element of good governance. Equity can be broken down into three dimensions: recognition, procedure and distribution: "Recognition" is the acknowledgement of and respect for the rights and the diversity of identities, values, knowledge systems and institutions of rights holders<sup>32</sup> and stakeholders; "Procedure" refers to inclusiveness of rule- and decision-making; "Distribution" implies that costs and benefits resulting from the management of protected areas must be equitably shared among different actors. The figure below shows the three dimensions. A recently developed framework for advancing equity in the context of protected areas<sup>33,34</sup> proposes a set of principles against which the three dimensions can be assessed.<sup>341</sup>

Elements of effective and equitable governance models for protected and conserved areas may include: (a) Appropriate procedures and mechanisms for the full and effective participation of indigenous peoples and local communities, ensuring gender equality in full respect of their rights and recognition of their responsibilities, and ensuring legitimate representation, including in the establishment, governance, planning, monitoring and reporting of protected and conserved areas on their

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<sup>338</sup> CBD/SBSTTA/REC/22/5, Annex I: Voluntary Guidance on the Integration of Protected Areas and Other Area-Based Effective Conservation Measures Into Wider Land- and Seascapes and Mainstreaming Across Sectors to Contribute, Inter Alia to the Sustainable Development Goals.

<sup>339</sup> CBD/SBSTTA/REC/22/5, Annex II: Voluntary Guidance on Effective Governance Models for Management of Protected Areas, Including Equity Taking Into Account Work Being Undertaken Under Article 8(j), (2).

<sup>340</sup> CBD/SBSTTA/REC/22/5, Annex II: Voluntary Guidance on Effective Governance Models for Management of Protected Areas, Including Equity Taking Into Account Work Being Undertaken Under Article 8(j), (6).

<sup>341</sup> CBD/SBSTTA/REC/22/5, Annex II: Voluntary Guidance on Effective Governance Models for Management of Protected Areas, Including Equity Taking Into Account Work Being Undertaken Under Article 8(j), (9).

traditional territories (lands and waters); (b) Appropriate procedures and mechanisms for the effective participation of and/or coordination with other stakeholders; (c) Appropriate procedures and mechanisms to recognize and accommodate customary tenure and governance systems in protected areas, including customary practices and customary sustainable use, in line with the Plan of Action on Customary Sustainable Use; (d) Appropriate mechanisms for transparency and accountability, taking into consideration internationally agreed standards and best practices; (e) Appropriate procedures and mechanisms for fair dispute or conflict resolution; (f) Provisions for equitable sharing of benefits and costs, including through: (i) assessing the economic and sociocultural costs and benefits associated with the establishment and management of protected areas; (ii) mitigating, avoiding or compensating for costs; and (iii) equitably sharing benefits based on criteria agreed among rights holders and stakeholders; (g) Safeguards that ensure the impartial and effective implementation of the rule of law; (h) A monitoring system that covers governance issues, including impacts on the well-being of indigenous peoples and local communities; (i) Consistency with Articles 8(j) and 10(c) and related provisions, principles and guidelines, including through respecting, preserving, and maintaining the traditional knowledge of indigenous peoples and local communities, and respecting their right to customary sustainable use of biodiversity.<sup>342</sup>

A. Definition “Other effective area-based conservation measure” (OECM) means “A geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained outcomes for the in situ conservation of biodiversity, with associated ecosystem services and cultural and spiritual values.” B. Guiding Principles ... (g) Recognition of OECMs in areas within the territories of indigenous peoples and local communities should be on the basis of self-identification and require their free, prior and informed consent; (i) Areas conserved for cultural and spiritual values, and governance and management that respect and are informed by cultural and spiritual values, often result in positive biodiversity outcomes; (j) OECMs recognize, promote and make visible the roles of different governance systems and actors in biodiversity conservation; (k) Incentives to ensure effectiveness can include a range of social and ecological benefits, including empowerment of indigenous peoples and local communities; (l) The best available scientific information, including indigenous and local knowledge, should be used for recognizing OECMs, delimiting their location and size, informing management approaches and measuring performance. D. Further Considerations ... 3. Additional Governance ... (b) Monitoring the effectiveness of OECMs needs more guidance, information sharing, networking and sharing of available tools, and development of new tools where necessary. This guidance could include: (i) baseline data, such as documentation of the biodiversity values and elements; (ii) ongoing community-based monitoring and incorporation of traditional knowledge; (iii) monitoring over the long term, including how to sustain biodiversity and improve in situ conservation; and (iv) monitoring of governance and management systems that contribute to the

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<sup>342</sup> CBD/SBSTTA/REC/22/5, Annex II: Voluntary Guidance on Effective Governance Models for Management of Protected Areas, Including Equity Taking Into Account Work Being Undertaken Under Article 8(j), (11).

biodiversity outcomes; (c) Manuals for reporting in the World Database on Protected Areas, the registry of territories and areas conserved by indigenous peoples and local communities maintained by the United Nations Environment Programme's World Conservation Monitoring Centre, and other guidance documents of the Convention on Biological Diversity and, as appropriate, sectoral agencies provide useful guidance for reporting OECMs; ... (g) Further guidance is needed on how OECMs of indigenous people and local communities are recognized and supported.<sup>343</sup>

There exist a number of different types of area-based conservation/management measures that are applied in marine and coastal areas. Such measures can be categorized in different ways and are not necessarily mutually exclusive. These area-based conservation/management measures can be generally categorized as: ... (b) *Territories and areas governed and managed by indigenous peoples and local communities*: in these types of approaches, some or all of the governance and/or management authority is often ceded to the indigenous peoples and local communities, and conservation objectives are often tied to food security and access to resources for indigenous peoples and local communities.<sup>344</sup>

The following approaches could accelerate national progress in achieving Aichi Biodiversity Target 11 in marine and coastal areas, recognizing that these are not exhaustive and that there are other sources of guidance on these issues: 1. Providing an adequate base of information (b) Synthesize and harmonize various types of information, with the free, prior and informed consent of knowledge-holders, including information on ecologically or biologically significant marine areas (EBSAs), Key Biodiversity Areas (KBAs), vulnerable marine ecosystems (VMEs), Particularly Sensitive Sea Areas (PSSAs), Important Marine Mammal Areas (IMMAs); ... 3. Governance, monitoring and enforcement ... (d) Engage indigenous peoples and local communities, as well as respected local leaders, in monitoring and enforcement, and enhance the capacity of local communities to conduct monitoring; (e) Enhance the capacity of scientists to use indigenous and local knowledge, respecting the appropriate cultural contexts; ... (j) Recognize and support the role of indigenous peoples and local communities in governance, monitoring and enforcement. ... 4. Assessing and reporting progress in achieving the qualitative aspects of Aichi Biodiversity Target 11 ... Reporting (f) Engage indigenous peoples and local communities in reporting and assessment; ... 4. The workshop discussions highlighted the following approaches to accelerate national progress in achieving Aichi Target 11 in marine and coastal areas, in particular with regard to ensuring the effective integration of marine protected areas and other effective area-based conservation measures into wider landscapes and seascapes, recognizing that these are not exhaustive and that there are other sources of guidance on these issues: ... (c) Identify available sources of data and information (including traditional and local knowledge), identify information gaps and compile available data, models and other relevant

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<sup>343</sup> CBD/SBSTTA/REC/22/5, Annex III: Scientific and Technical Advice on Definition, Management Approaches and Identification of Other Area-Based Conservation Measures and Their Role in Achieving Aichi Biodiversity Target 11, Decision XIII/2, (10).

<sup>344</sup> CBD/SBSTTA/REC/22/5 Annex IV: Considerations in Achieving Aichi Biodiversity Target 11 in Marine and Coastal Areas, 2 (b).

information, and develop and/or improve user-friendly, open-source, efficient and transparent tools for data visualization and integration; ... (d) Recognize and understand diverse value systems; (e) Ensure the full and effective engagement of indigenous peoples and local communities.<sup>345</sup>

## **SACRED NATURAL SITES**

Recognition of sacred sites, culturally significant sites and lands and waters traditionally occupied or used by indigenous and local communities: ... This principle recognizes the integral connection of indigenous and local communities to their sacred sites, culturally significant sites and lands and waters traditionally occupied or used by them and associated traditional knowledge, and that their cultures, lands and waters are interrelated. In accordance with national domestic law and international obligations, in this context, traditional land tenure of indigenous and local communities should be recognized, as access to traditional lands and waters and sacred sites is fundamental to the retention of traditional knowledge and associated biological diversity. Sparsely populated lands and waters ought not to be presumed to be empty or unoccupied but may be occupied or used by indigenous or local communities.<sup>346</sup>

When developments are proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities, personnel associated with such developments should recognize that many sacred sites, and areas or places of other cultural significance may have important functions with respect to the conservation and sustainable use of biological diversity and, by extension, the maintenance of the natural resources upon which such communities rely for their well-being.<sup>347</sup>

## **FOOD AND AGRICULTURE**

The States Parties to the present *Covenant on Economic, Social and Cultural Rights*, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources ...<sup>348</sup>

Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. The four pillars of food security are availability, stability of supply, access and utilization.<sup>349</sup>

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<sup>345</sup> CBD/SBSTTA/REC/22/5, Annex IV: Considerations in Achieving Aichi Biodiversity Target 11 in Marine and Coastal Areas, 3.

<sup>346</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(17).

<sup>347</sup> Akwé: Kon Guidelines No. 31.

<sup>348</sup> ICESCR Article 11(2).

<sup>349</sup> FAO Food Security Guidelines Introduction, Paragraph 15.

States should promote and safeguard a free, democratic and just society in order to provide a peaceful, stable and enabling economic, social, political and cultural environment in which individuals can feed themselves and their families in freedom and dignity.

Recognizing the primary responsibility of States for the progressive realization of the right to adequate food, States are encouraged to apply a multi-stakeholder approach to national food security to identify the roles of and involve all relevant stakeholders, encompassing civil society and the private sector, drawing together their know-how with a view to facilitating the efficient use of resources.<sup>350</sup>

Peasants and other people working in rural areas have the right to adequate food and the fundamental right to be free from hunger. This includes the right to produce food and the right to adequate nutrition, which guarantee the possibility of enjoying the highest degree of physical, emotional and intellectual development.<sup>351</sup>

States shall ensure that peasants and other people working in rural areas enjoy physical and economic access at all times to sufficient and adequate food that is produced and consumed sustainably and equitably, respecting their cultures, preserving access to food for future generations, and that ensures a physically and mentally fulfilling and dignified life for them, individually and/or collectively, responding to their needs.<sup>352</sup>

### ***Local Agricultural Systems***

National agrarian programmes shall secure to the peoples concerned treatment equivalent to that accorded to other sectors of the population with regard to: (a) the provision of more land for these peoples when they have not the area necessary for providing the essentials of a normal existence, or for any possible increase in their numbers; (b) the provision of the means required to promote the development of the lands which these peoples already possess.<sup>353\*</sup>

States, taking into account the importance of biodiversity, and consistent with their obligations under relevant international agreements, should consider specific national policies, legal instruments and supporting mechanisms to prevent the erosion of and ensure the conservation and sustainable use of genetic resources for food and agriculture, including, as appropriate, for the protection of relevant traditional knowledge and equitable participation in sharing benefits arising from the use of these resources, and by encouraging, as appropriate, the participation of local and indigenous communities and farmers in making national decisions on matters related to the conservation and sustainable use of genetic resources for food and agriculture.<sup>354</sup>

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<sup>350</sup> FAO Food Security Guidelines No. 6.1.

<sup>351</sup> UNDROP Article 15 (1).

<sup>352</sup> UNDROP Article 15 (2).

<sup>353</sup> ILO Convention No. 169 Article 19.

<sup>354</sup> FAO Food Security Guidelines No. 8.12.

## ***Fishers***

3.1. These Guidelines are based on international human rights standards, responsible fisheries standards and practices and sustainable development according to the United Nations Conference on Sustainable Development (Rio+20) outcome document 'The future we want', the Code and other relevant instruments, paying particular attention to vulnerable and marginalized groups and the need to support the progressive realization of the right to adequate food. ... 2. Respect of cultures: recognizing and respecting existing forms of organization, traditional and local knowledge and practices of small-scale fishing communities, including indigenous peoples and ethnic minorities encouraging women leadership and taking into account Art. 5 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). 3. Non-discrimination: promoting in the small-scale fisheries the elimination of all kinds of discrimination in policies and in practice. 4. Gender equality and equity is fundamental to any development. Recognizing the vital role of women in small-scale fisheries, equal rights and opportunities should be promoted. 5. Equity and equality: promoting justice and fair treatment – both legally and in practice – of all people and peoples, including equal rights to the enjoyment of all human rights. At the same time, differences between women and men should be acknowledged and specific measures taken to accelerate de facto equality, i.e. using preferential treatment where required to achieve equitable outcomes, particularly for vulnerable and marginalized groups. 6. Consultation and participation: ensuring active, free, effective, meaningful and informed participation of small-scale fishing communities, including indigenous peoples, taking into account the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in the whole decision-making process related to fishery resources and areas where small-scale fisheries operate as well as adjacent land areas, and taking existing power imbalances between different parties into consideration. This should include feedback and support from those who could be affected by decisions prior to these being taken, and responding to their contributions.<sup>355</sup>

States, in accordance with their legislation, and all other parties should recognize, respect and protect all forms of legitimate tenure rights, taking into account, where appropriate, customary rights to aquatic resources and land and small-scale fishing areas enjoyed by small-scale fishing communities. When necessary, in order to protect various forms of legitimate tenure rights, legislation to this effect should be provided. States should take appropriate measures to identify, record and respect legitimate tenure right holders and their rights. Local norms and practices, as well as customary or otherwise preferential access to fishery resources and land by small-scale fishing communities including indigenous peoples and ethnic minorities, should be recognized, respected and protected in ways that are consistent with international human rights law. The UN DRIP and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities should be taken into account, as appropriate. Where constitutional or legal reforms strengthen the rights of women

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<sup>355</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Guidelines.



and place them in conflict with custom, all parties should cooperate to accommodate such changes in the customary tenure systems.<sup>356</sup>

States should recognize the role of small- scale fishing communities and indigenous peoples to restore, conserve, protect and co- manage local aquatic and coastal ecosystems.<sup>357</sup>

Where States own or control water (including fishery resources) and land resources, they should determine the use and tenure rights of these resources taking into consideration, inter alia, social, economic and environmental objectives. States should, as applicable, recognize and safeguard publicly owned resources that are collectively used and managed, in particular by small-scale fishing communities.<sup>358</sup>

Taking due account of Art. 6.18 of the Code, States should where appropriate grant preferential access of small-scale fisheries to fish in waters under national jurisdiction, with a view to achieving equitable outcomes for different groups of people, in particular vulnerable groups. Where appropriate, specific measures, inter alia, the creation and enforcement of exclusive zones for small-scale fisheries, should be considered. Small-scale fisheries should be given due consideration before agreements on resource access are entered into with third countries and third parties.<sup>359</sup>

States should adopt measures to facilitate equitable access to fishery resources for small-scale fishing communities, including, as appropriate, redistributive reform, taking into account the provisions of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.<sup>360</sup>

States should ensure that small-scale fishing communities are not arbitrarily evicted and that their legitimate tenure rights are not otherwise extinguished or infringed. States should recognize that competition from other users is increasing within small-scale fisheries areas and that small-scale fishing communities, in particular vulnerable and marginalized groups, are often the weaker party in conflicts with other sectors and may require special support if their livelihoods are threatened by the development and activities of other sectors.<sup>361</sup>

States and all those engaged in fisheries management should adopt measures for the long-term conservation and sustainable use of fisheries resources and to secure the ecological foundation for food production. They should promote and implement

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<sup>356</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable Development (5.4).

<sup>357</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable Development (5.5).

<sup>358</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.6).

<sup>359</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.7).

<sup>360</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.8).

<sup>361</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.9).

appropriate management systems, consistent with their existing obligations under national and international law and voluntary commitments, including the Code, that give due recognition to the requirements and opportunities of small-scale fisheries.<sup>362</sup>

All parties should recognize that rights and responsibilities come together; tenure rights are balanced by duties, and support the long-term conservation and sustainable use of resources and the maintenance of the ecological foundation for food production. Small-scale fisheries should utilize fishing practices that minimize harm to the aquatic environment and associated species and support the sustainability of the resource.<sup>363</sup>

Where transboundary and other similar issues exist, e.g. shared waters and fishery resources, States should work together to ensure that the tenure rights of small-scale fishing communities that are granted are protected.<sup>364</sup>

All parties should consider integrated, ecosystem and holistic approaches to small-scale fisheries management and development that take the complexity of livelihoods into account. Due attention to social and economic development may be needed to ensure that small-scale fishing communities are empowered and can enjoy their human rights.<sup>365</sup>

States should give due consideration to the impact of international trade in fish and fishery products and of vertical integration on local small-scale fishers, fish workers and their communities. States should ensure that promotion of international fish trade and export production do not adversely affect the nutritional needs of people for whom fish is critical to a nutritious diet, their health and well-being and for whom other comparable sources of food are not readily available or affordable.<sup>366</sup>

Recognizing the role of small-scale fisheries in seafood production, States and other parties should promote the consumption of fish and fishery products within consumer education programmes in order to increase awareness of the nutritional benefits of eating fish and impart knowledge on how to assess fish and fishery product quality.<sup>367</sup>

### ***Farmers and Crop Diversity***

Each Contracting Party shall, subject to national legislation, and in cooperation with other Contracting Parties where appropriate, promote an integrated approach to the exploration, conservation and sustainable use of plant genetic resources for food and agriculture and shall in particular, as appropriate: ... c) Promote or support, as

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<sup>362</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.13).

<sup>363</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.14).

<sup>364</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.19).

<sup>365</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.1).

<sup>366</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.7).

<sup>367</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.11).

appropriate, farmers and local communities' efforts to manage and conserve on-farm their plant genetic resources for food and agriculture; d) Promote in situ conservation of wild crop relatives and wild plants for food production, including in protected areas, by supporting, inter alia, the efforts of indigenous and local communities ...<sup>368</sup>

The Contracting Parties shall, as appropriate, take steps to minimize or, if possible, eliminate threats to plant genetic resources for food and agriculture.<sup>369</sup>

The Contracting Parties shall develop and maintain appropriate policy and legal measures that promote the sustainable use of plant genetic resources for food and agriculture.<sup>370</sup>

The sustainable use of plant genetic resources for food and agriculture may include such measures as: a) pursuing fair agricultural policies that promote, as appropriate, the development and maintenance of diverse farming systems that enhance the sustainable use of agricultural biological diversity and other natural resources; b) strengthening research which enhances and conserves biological diversity by maximizing intra- and inter-specific variation for the benefit of farmers, especially those who generate and use their own varieties and apply ecological principles in maintaining soil fertility and in combating diseases, weeds and pests; c) promoting, as appropriate, plant breeding efforts which, with the participation of farmers, particularly in developing countries, strengthen the capacity to develop varieties particularly adapted to social, economic and ecological conditions, including in marginal areas; d) broadening the genetic base of crops and increasing the range of genetic diversity available to farmers; e) promoting, as appropriate, the expanded use of local and locally adapted crops, varieties and underutilized species; f) supporting, as appropriate, the wider use of diversity of varieties and species in on-farm management, conservation and sustainable use of crops and creating strong links to plant breeding and agricultural development in order to reduce crop vulnerability and genetic erosion, and promote increased world food production compatible with sustainable development ...<sup>371</sup>

States should promote agricultural research and development, in particular to promote basic food production with its positive effects on basic incomes and its benefits to small and women farmers, as well as poor consumers.<sup>372</sup>

States shall recognize the rights of peasants to rely either on their own seeds or on other locally available seeds of their choice, and to decide on the crops and species that they wish to grow.<sup>373</sup>

### ***Sui Generis Plant Variety Protection***

[P]atents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are

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<sup>368</sup> ITPGRFA Article 5(1).

<sup>369</sup> ITPGRFA Article 5(2).

<sup>370</sup> ITPGRFA Article 6(1).

<sup>371</sup> ITPGRFA Article 6(2).

<sup>372</sup> FAO Food Security Guidelines No. 8.4.

<sup>373</sup> UNDROP Article 19 (5).

capable of industrial application.<sup>374</sup> ... Members may also exclude from patentability: ... (b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof. The provisions of this subparagraph shall be reviewed four years after the date of entry into force of the WTO Agreement.<sup>375</sup>

States shall ensure that seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws respect and take into account the rights, needs and realities of peasants and other people working in rural areas.<sup>376</sup>

### ***Livestock Keepers***

The main aims of the Global Plan of Action for Animal Genetic Resources are: ... to promote the sustainable use and development of animal genetic resources, for food security, sustainable agriculture, and human well-being in all countries; to ensure the conservation of the important animal genetic resource diversity, for present and future generations, and to halt the random loss of these crucial resources; to promote a fair and equitable sharing of the benefits arising from the use of animal genetic resources for food and agriculture, and recognize the role of traditional knowledge, innovations and practices relevant to the conservation of animal genetic resources and their sustainable use, and, where appropriate, put in place effective policies and legislative measures; to meet the needs of pastoralists and farmers, individually and collectively, within the framework of national law, to have non-discriminatory access to genetic material, information, technologies, financial resources, research results, marketing systems, and natural resources, so that they may continue to manage and improve animal genetic resources, and benefit from economic development ...<sup>377</sup>

A diversity of animal genetic resources will ensure the ability of the livestock sector to meet changing market demands and environmental circumstances, including climate change and emerging diseases. Farmers and pastoralists require animal breeds that meet local needs and provide employment within rural communities, and that are resilient to a variety of biotic and abiotic factors, including extreme climatic conditions, feed availability, parasites and other disease factors. Furthermore, livestock provide a direct food source in times of crop failure.<sup>378</sup>

Pastoralists, farmers and breeders, individually and collectively, and indigenous and local communities, play a crucial role in in situ conservation and development of animal genetic resources. It is important to better understand and support their roles in a context of rapid economic and social change, so that they can play an effective function in in situ management, and share fairly and equitably in the benefits arising from the utilization of these resources. A number of actors and stakeholders can assist

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<sup>374</sup> Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) Article 27(1).

<sup>375</sup> TRIPS Article 27(3).

<sup>376</sup> UNDPOP Article 19 (8).

<sup>377</sup> Global Plan of Action for Animal Genetic Resources (GPA) No. 15.

<sup>378</sup> GPA No. 16.

livestock keepers and their communities in playing this role: researchers, extension agencies, the private sector, non-governmental organizations and local cooperatives.<sup>379</sup>

Establish national species and breed development strategies and programmes ... Provide information to farmers and livestock keepers to assist in facilitating access to animal genetic resources from various sources.<sup>380</sup>

Support indigenous and local production systems and associated knowledge systems of importance to the maintenance and sustainable use of animal genetic resources ... The historic contribution of indigenous and local communities to animal genetic diversity, and the knowledge systems that manage these resources, needs to be recognized, and their continuity supported. Today, the adaptive animal genetic resources management strategies of these communities continue to have economic, social and cultural significance, and to be highly relevant to food security in many rural subsistence societies, particularly, though not exclusively, in dry lands and mountainous regions. Measures to support such systems should take their specific ecological and socio-economic and cultural features into consideration.<sup>381</sup>

Support indigenous and local livestock systems of importance to animal genetic resources, including through the removal of factors contributing to genetic erosion. Support may include the provision of veterinary and extension services, delivery of microcredit for women in rural areas, appropriate access to natural resources and to the market, resolving land tenure issues, the recognition of cultural practices and values, and adding value to their specialist products.<sup>382</sup>

Promote and enable relevant exchange, interaction and dialogue among indigenous and rural communities and scientists and government officials and other stakeholders, in order to integrate traditional knowledge with scientific approaches.<sup>383</sup>

Loss of local breeds will cause cultural erosion and diminish the ability of communities to maintain their cultures and livelihoods. Structural changes in the livestock sector may result in a situation where the previous keepers of a breed are no longer in a position to maintain it: in such circumstances, other ways need to be identified to preserve the breed, as part of the global heritage of animal genetic resources.<sup>384</sup>

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<sup>379</sup> GPA No. 16.

<sup>380</sup> Strategic Priority 2. GPA at 19. The GPA contains twenty-three Strategic Priorities grouped within four Strategic Priority Areas. The four Strategic Priority Areas are: (1) Characterization, Inventory and Monitoring of Trends and Associated Risks; (2) Sustainable Use and Development; (3) Conservation; and (4) Policies, Institutions and Capacity-building. Each Strategic Priority contains a Rationale and Actions for its implementation. The GPA does not specify who is responsible for implementing each action, although presumably primary responsibility would fall to the governments who adopted the GPA. As stated in the Foreword: "Governments must now demonstrate sustained political will and mobilize the considerable resources needed to implement the Global Plan of Action successfully. This will require wide regional and international cooperation. FAO, other relevant international organizations, the countries, the scientific community, donors, civil society organizations and the private sector all have important roles to play."

<sup>381</sup> Strategic Priority 6. GPA at 20.

<sup>382</sup> GPA at 20.

<sup>383</sup> GPA at 20.

<sup>384</sup> GPA No. 33.

Loss of animal genetic resources reduces opportunities to develop rural economies in some countries. It may also have negative social and cultural impacts, given the long history of domestication and the resulting incorporation of domestic animals into community culture. Replacement of indigenous breeds could result in the loss of products and services preferred by local people, and the conservation of local breeds must therefore be considered within the broader context of sustaining rural communities and their existing economic foundations. Moreover, such losses now may limit future development options, based on animal products and services from specific breeds, that otherwise could have added considerable economic value as consumer demands become more varied.<sup>385</sup>

The loss of local breeds may have negative environmental impacts in some production environments, especially in dry lands and mountainous areas. Many Country Reports indicated the importance of local breeds in contributing to landscape management, vegetation control, and rangeland ecosystem sustainability, preventing the erosion of associated biodiversity.<sup>386</sup>

Appropriate conservation measures should ensure that farmers and researchers have access to a diverse gene pool for further breeding and research ...<sup>387</sup>

Establish or strengthen national educational and research facilities ... Review the national educational needs of livestock keepers, while respecting traditional knowledge and indigenous practices.<sup>388</sup>

We [the representatives of one hundred and nine States, and the European Community and forty-two Organizations] recognize that the genetic resources of animal species most critical to food security, sustainable livelihoods and human well-being are the result of both natural selection, and directed selection by smallholders, farmers, pastoralists and breeders, throughout the world, over generations. ...<sup>389</sup>

We acknowledge that maintaining the diversity of animal genetic resources for food and agriculture is essential to enable farmers, pastoralists and animal breeders to meet current and future production challenges resulting from changes in the environment, including climate change; to enhance resistance to disease and parasites; and to respond to changes in consumer demand for animal products. We also recognize the intrinsic value of biological diversity and the environmental, genetic, social, economic, medicinal, scientific, educational, cultural and spiritual importance of breeds of livestock, and our ethical responsibility to ensure genetic resources are available to future human generations.<sup>390</sup>

We recognize the enormous contribution that the local and indigenous communities and farmers, pastoralists and animal breeders of all regions of the world have made, and will continue to make for the sustainable use, development and conservation of

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<sup>385</sup> GPA No. 34.

<sup>386</sup> GPA No. 35.

<sup>387</sup> GPA No. 37.

<sup>388</sup> Strategic Priority 13. GPA at 28.

<sup>389</sup> Interlaken Declaration on Animal Genetic Resources (Interlaken Declaration) Article 9. The Interlaken Declaration was adopted along with the GPA.

<sup>390</sup> Interlaken Declaration Article 10.

animal genetic resources for food and agriculture ... We affirm the desirability, as appropriate, subject to national legislation, of respecting, preserving and maintaining traditional knowledge relevant to animal breeding and production as a contribution to sustainable livelihoods, and the need for the participation of all stakeholders in making decisions, at the national level, on matters related to the sustainable use, development and conservation of animal genetic resources.<sup>391</sup>

### ***Living Modified Organisms***

The Parties to the *Cartagena Protocol on Biosafety* shall ensure that the development, handling, transport, use, transfer and release of any living modified organisms are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health.<sup>392</sup>

The Parties shall, taking into account Article 8(g) of the *Convention on Biological Diversity*, establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in the risk assessment provisions of this *Cartagena Protocol on Biosafety* associated with the use, handling and transboundary movement of living modified organisms.<sup>393</sup>

In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take necessary measures to require that living modified organisms that are subject to intentional transboundary movement within the scope of this Protocol are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.<sup>394</sup>

The Parties shall, in accordance with their respective laws and regulations, consult the public in the decision-making process regarding living modified organisms and shall make the results of such decisions available to the public, while respecting confidential information in accordance with Article 21.<sup>395</sup>

The Parties, in reaching a decision on import under this *Cartagena Protocol on Biosafety* or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.<sup>396</sup>

The Parties are encouraged to cooperate on research and information exchange on any socio-economic impacts of living modified organisms, especially on indigenous and local communities.<sup>397</sup>

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<sup>391</sup> Interlaken Declaration Article 12.

<sup>392</sup> Cartagena Protocol on Biosafety to the Convention on Biological Diversity (Cartagena Protocol on Biosafety) Article 2(2).

<sup>393</sup> Cartagena Protocol on Biosafety Article 16(1).

<sup>394</sup> Cartagena Protocol on Biosafety Article 18(1).

<sup>395</sup> Cartagena Protocol on Biosafety Article 23(2).

<sup>396</sup> Cartagena Protocol on Biosafety Article 26(1).

<sup>397</sup> Cartagena Protocol on Biosafety Article 26(2).

Parties shall require the appropriate operator or operators, in the event of damage, subject to any requirements of the competent authority, to: (a) Immediately inform the competent authority; (b) Evaluate the damage; and (c) Take appropriate response measures.<sup>398</sup>

## **WATER**

The States Parties to the present *Covenant on Economic, Social and Cultural Rights* recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.<sup>399</sup>

The States Parties to the present *Covenant on Economic, Social and Cultural Rights* recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.<sup>400</sup>

Bearing in mind that access to water in sufficient quantity and quality for all is fundamental for life and health, States should strive to improve access to, and promote sustainable use of, water resources and their allocation among users giving due regard to efficiency and the satisfaction of basic human needs in an equitable manner and that balances the requirement of preserving or restoring the functioning of ecosystems with domestic, industrial and agricultural needs, including safeguarding drinking-water quality.<sup>401</sup>

States Parties ... shall ensure to such women the right: ... To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.<sup>402</sup>

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: ... (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and

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<sup>398</sup> Nagoya-Kuala Lumpur Supplementary Protocol On Liability and Redress to the Cartagena Protocol on Biosafety (N-KL Supplementary Protocol) Article 5(1). Pursuant to Article 3, the N-KL Supplementary Protocol applies to “damage resulting from living modified organisms which find their origin in a transboundary movement.”

<sup>399</sup> ICESCR Article 11(1). The United Nations Committee on Economic, Social and Cultural Rights has concluded that the right to water emanates from and is inextricably linked to ICESCR Article 11(1) and Article 12(1), referenced below. Committee on Economic, Social and Cultural Rights General Comment No. 15 (2002).

<sup>400</sup> ICESCR Article 12(1).

<sup>401</sup> FAO Food Security Guidelines No. 8.11.

<sup>402</sup> CEDAW Article 14(2)(h).



through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; ...<sup>403</sup>

Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with a view to attaining optimal and sustainable utilization thereof and benefits therefrom, taking into account the interests of the watercourse States concerned, consistent with adequate protection of the watercourse.<sup>404</sup>

Utilization of an international watercourse in an equitable and reasonable manner within the meaning of article 5 requires taking into account all relevant factors and circumstances, including: ... (c) The population dependent on the watercourse in each watercourse State; ... (f) Conservation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect ...<sup>405</sup>

Peasants and other people working in rural areas have the human rights to safe and clean drinking water and to sanitation, which are essential for the full enjoyment of life and all human rights and human dignity. These rights include water supply systems and sanitation facilities that are of good quality, affordable and physically accessible, and non-discriminatory and acceptable in cultural and gender terms.<sup>406</sup>

Peasants and other people working in rural areas have the right to water for personal and domestic use, farming, fishing and livestock keeping and to securing other water-related livelihoods, ensuring the conservation, restoration and sustainable use of water. They have the right to equitable access to water and water management systems, and to be free from arbitrary disconnections or the contamination of water supplies.<sup>407</sup>

States shall respect, protect and ensure access to water, including in customary and community-based water management systems, on a non-discriminatory basis, and shall take measures to guarantee affordable water for personal, domestic and productive uses, and improved sanitation, in particular for rural women and girls, and persons belonging to disadvantaged or marginalized groups, such as nomadic pastoralists, workers on plantations, all migrants regardless of their migration status, and persons living in irregular or informal settlements. States shall promote appropriate and affordable technologies, including irrigation technology, technologies for the reuse of treated wastewater, and for water collection and storage.<sup>408</sup>

States shall protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes, from overuse and contamination by

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<sup>403</sup> Convention on the Rights of the Child Article 24(2)(c).

<sup>404</sup> Convention on the Law of the Non-navigational Uses of International Watercourses (Convention on Non-navigational Water Courses) Article 5(1).

<sup>405</sup> Convention on Non-navigational Water Courses Article 6(1).

<sup>406</sup> UNDROP Article 21 (1).

<sup>407</sup> UNDROP Article 21 (2).

<sup>408</sup> UNDROP Article 21 (3).

harmful substances, in particular by industrial effluent and concentrated minerals and chemicals that result in slow and fast poisoning.<sup>409</sup>

States shall prevent third parties from impairing the enjoyment of the right to water of peasants and other people working in rural areas. States shall prioritize water for human needs before other uses, promoting its conservation, restoration and sustainable use.<sup>410</sup>

## CLIMATE CHANGE

The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.<sup>411</sup>

All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall: ... promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems.<sup>412</sup>

All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall: ... Cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods.<sup>413</sup>

All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall: ... Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations.<sup>414</sup>

States should ensure that the legitimate tenure rights to land, fisheries and forests of all individuals, communities or peoples likely to be affected, with an emphasis on farmers, small-scale food producers, and vulnerable and marginalized people, are respected and protected by laws, policies, strategies and actions with the aim to prevent and respond to the effects of climate change consistent with their respective

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<sup>409</sup> UNDROP Article 21 (4).

<sup>410</sup> UNDROP Article 21 (5).

<sup>411</sup> UNFCCC Article 3(1).

<sup>412</sup> UNFCCC Article 4(1)(d).

<sup>413</sup> UNFCCC Article 4(1)(e).

<sup>414</sup> UNFCCC Article 4(1)(i).

obligations, as applicable, in terms of relevant climate change framework agreements.<sup>415</sup>

Where appropriate, States should strive to prepare and implement strategies and actions in consultation and with the participation of all people, women and men, who may be displaced due to climate change. Any provision of alternative land, fisheries, forests and livelihoods for displaced persons should not jeopardize the livelihoods of others. States may also consider offering special assistance to small island and other developing states.<sup>416</sup>

States should facilitate the participation, consistent with the principles of consultation and participation of these Guidelines, of all individuals, communities or peoples, with an emphasis on farmers, small-scale food producers, and vulnerable and marginalized people, who hold legitimate tenure rights, in the negotiations and implementation of mitigation and adaptation programmes.<sup>417</sup>

States should recognize that combating climate change, including in the context of sustainable small-scale fisheries, requires urgent and ambitious action, in accordance with the objectives, principles and provisions of the United Nations Framework Convention on Climate Change (UNFCCC), taking into account the United Nations Conference on Sustainable Development (Rio+20) outcome document 'The future we want'.<sup>418</sup>

All parties should recognize and take into account the differential impact of natural and human-induced disasters and climate change on small-scale fisheries. States should develop policies and plans to address climate change in fisheries, in particular strategies for adaptation and mitigation, where applicable, as well as for building resilience, in full and effective consultation with fishing communities including indigenous peoples, men and women, paying particular attention to vulnerable and marginalized groups. Special support should be given to small-scale fishing communities living on small islands where climate change may have particular implications for food security, nutrition, housing and livelihoods.<sup>419</sup>

All parties should recognize the need for integrated and holistic approaches, including cross-sectoral collaboration, in order to address disaster risks and climate change in small-scale fisheries. States and other relevant parties should take steps to address issues such as pollution, coastal erosion and destruction of coastal habitats due to human-induced non-fisheries-related factors. Such concerns seriously undermine the livelihoods of fishing communities as well as their ability to adapt to possible impacts of climate change.<sup>420</sup>

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<sup>415</sup> FAO Tenure Guidelines No. 23(1).

<sup>416</sup> FAO Tenure Guidelines No. 23(2).

<sup>417</sup> FAO Tenure Guidelines No. 23(3).

<sup>418</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.1).

<sup>419</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.2).

<sup>420</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.3).

States should understand how emergency response and disaster preparedness are related in small-scale fisheries and apply the concept of the relief-development continuum. Longer-term development objectives need to be considered throughout the emergency sequence, including in the immediate relief phase, and rehabilitation, reconstruction and recovery should include actions to reduce vulnerabilities to potential future threats. The concept of 'building back better' should be applied in disaster response and rehabilitation.<sup>421</sup>

## FORESTS

The vital role of all types of forests in maintaining the ecological processes and balance at the local, national, regional and global levels through, inter alia, their role in protecting fragile ecosystems, watersheds and freshwater resources and as rich storehouses of biodiversity and biological resources and sources of genetic material for biotechnology products, as well as photosynthesis, should be recognized.<sup>422</sup>

Member States should respect the following principles ... : (c) Major groups as identified in Agenda 21, local communities, forest owners and other relevant stakeholders contribute to achieving sustainable forest management and should be involved in a transparent and participatory way in forest decision-making processes that affect them, as well as in implementing sustainable forest management, in accordance with national legislation ...<sup>423</sup>

Governments should promote and provide opportunities for the participation of interested parties, including local communities and indigenous people, industries, labour, non-governmental organizations and individuals, forest dwellers and women, in the development, implementation and planning of national forest policies.<sup>424</sup>

(a) National forest policies should recognize and duly support the identity, culture and the rights of indigenous people, their communities and other communities and forest dwellers. Appropriate conditions should be promoted for these groups to enable them to have an economic stake in forest use, perform economic activities, and achieve and maintain cultural identity and social organization, as well as adequate levels of livelihood and well-being, through, inter alia, those land tenure arrangements which serve as incentives for the sustainable management of forests. (b) The full participation of women in all aspects of the management, conservation and sustainable development of forests should be actively promoted.<sup>425</sup>

The problems that hinder efforts to attain the conservation and sustainable use of forest resources and that stem from the lack of alternative options available to local communities, in particular the urban poor and poor rural populations who are

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<sup>421</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.7).

<sup>422</sup> UNCED Forest Principles Paragraph 4.

<sup>423</sup> UNFF Instrument on Forests Provision 2(c). "The major groups identified in Agenda 21 are women, children and youth, indigenous people and their communities, non-governmental organizations, local authorities, workers and trade unions, business and industry, scientific and technological communities, and farmers." UNFF Instrument on Forests Provision 2 note 7.

<sup>424</sup> UNCED Forest Principles) Paragraph 2(d).

<sup>425</sup> UNCED Forest Principles Paragraph 5.

economically and socially dependent on forests and forest resources, should be addressed by Governments and the international community.<sup>426</sup>

[The Conference of the Parties to the UN Framework Convention on Climate Change] encourages developing country Parties to contribute to mitigation actions in the forest sector by undertaking the following activities, as deemed appropriate by each Party and in accordance with their respective capabilities and national circumstances: (a) Reducing emissions from deforestation; (b) Reducing emissions from forest degradation; (c) Conservation of forest carbon stocks; (d) Sustainable management of forests; (e) Enhancement of forest carbon stocks ...<sup>427</sup>

When undertaking the activities referred to in paragraph 70 of this decision,<sup>428</sup> the following safeguards should be promoted and supported: ...

(c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;

(d) The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in the actions referred to in paragraphs 70 and 72 of this decision;<sup>429</sup>

(e) That actions are consistent with the conservation of natural forests and biological diversity, ensuring that the actions referred to in paragraph 70 of this decision are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits; ...<sup>430</sup>

## DESERTIFICATION

In order to achieve the objective of this *Convention on Desertification* and to implement its provisions, the Parties shall be guided, inter alia, by the following: (a) the Parties should ensure that decisions on the design and implementation of

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<sup>426</sup> UNCED Forest Principles Paragraph 9(b).

<sup>427</sup> UNFCCC COP, "Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention" (Cancun, 29 November-10 December 2010) FCCC/CP/2010/7/Add.1 (UNFCCC Cancun Agreements) Paragraph 70.

<sup>428</sup> In this case, the paragraph directly above this one.

<sup>429</sup> Paragraph 72 of the UNFCCC Cancun Agreements reads as follows: "Also requests developing country Parties, when developing and implementing their national strategies or action plans, to address, inter alia, the drivers of deforestation and forest degradation, land tenure issues, forest governance issues, gender considerations and the safeguards identified in paragraph 2 of appendix I to this decision, ensuring the full and effective participation of relevant stakeholders, inter alia indigenous peoples and local communities; ..."

<sup>430</sup> Paragraph 2 of Appendix I of the UNFCCC Cancun Agreements. A footnote following the semicolon in Subparagraph (e) reads as follows: "Taking into account the need for sustainable livelihoods of indigenous peoples and local communities and their interdependence on forests in most countries, reflected in the United Nations Declaration on the Rights of Indigenous Peoples, as well as the International Mother Earth Day."

programmes to combat desertification and/or mitigate the effects of drought are taken with the participation of populations and local communities and that an enabling environment is created at higher levels to facilitate action at national and local levels.<sup>431</sup>

National action programmes shall specify the respective roles of government, local communities and land users and the resources available and needed. They shall, inter alia: ... provide for effective participation at the local, national and regional levels of non-governmental organizations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organizations, in policy planning, decision-making, and implementation and review of national action programmes.<sup>432</sup>

The Parties agree, according to their respective capabilities, to integrate and coordinate the collection, analysis and exchange of relevant short term and long term data and information to ensure systematic observation of land degradation in affected areas and to understand better and assess the processes and effects of drought and desertification. This would help accomplish, inter alia, early warning and advance planning for periods of adverse climatic variation in a form suited for practical application by users at all levels, including especially local populations. To this end, they shall, as appropriate: ... (b) ensure that the collection, analysis and exchange of information address the needs of local communities and those of decision makers, with a view to resolving specific problems, and that local communities are involved in these activities.<sup>433</sup>

The Parties undertake, according to their respective capabilities, to promote technical and scientific cooperation in the fields of combating desertification and mitigating the effects of drought through appropriate national, subregional, regional and international institutions. To this end, they shall support research activities that: ... (c) protect, integrate, enhance and validate traditional and local knowledge, know-how and practices, ensuring, subject to their respective national legislation and/or policies, that the owners of that knowledge will directly benefit on an equitable basis and on mutually agreed terms from any commercial utilization of it or from any technological development derived from that knowledge.<sup>434</sup>

The Parties shall, according to their respective capabilities, and subject to their respective national legislation and/or policies, protect, promote and use in particular relevant traditional and local technology, knowledge, know-how and practices and, to that end, they undertake to ... (a) make inventories of such technology, knowledge, know-how and practices and their potential uses with the participation of local populations, and disseminate such information, where appropriate, in cooperation with relevant intergovernmental and non-governmental organizations; (b) ensure that such technology, knowledge, know-how and practices are adequately protected and that local populations benefit directly, on an equitable basis and as mutually agreed,

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<sup>431</sup> Convention on Desertification Article 3.

<sup>432</sup> Convention on Desertification Article 10(2)(f).

<sup>433</sup> Convention on Desertification Article 16(b).

<sup>434</sup> Convention on Desertification Article 17(1)(c).

from any commercial utilization of them or from any technological development derived therefrom.<sup>435</sup>

The Conference of the Parties to the *Convention on Desertification* shall establish and/or strengthen networks of regional education and training centres to combat desertification and mitigate the effects of drought ...<sup>436</sup>

## BENEFIT SHARING

Indigenous and local communities ought to receive fair and equitable benefits for their contribution to activities/interactions related to biodiversity and associated traditional knowledge proposed to take place on, or which are likely to impact on, sacred sites and lands and waters traditionally occupied or used by indigenous and local communities. Benefit-sharing should be regarded as a way of strengthening indigenous and local communities and promoting the objectives of the Convention on Biological Diversity and ought to be equitable within and among relevant groups, taking into account relevant community-level procedures.<sup>437</sup>

Each Party shall take legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from the utilization of genetic resources that are held by indigenous and local communities, in accordance with domestic legislation regarding the established rights of these indigenous and local communities over these genetic resources, are shared in a fair and equitable way with the communities concerned, based on mutually agreed terms.<sup>438</sup>

Each Party shall take legislative, administrative or policy measures, as appropriate, in order that the benefits arising from the utilization of traditional knowledge associated with genetic resources are shared in a fair and equitable way with indigenous and local communities holding such knowledge. Such sharing shall be upon mutually agreed terms.<sup>439</sup>

... In the implementation of mutually agreed terms, users [of genetic resources] should: ... Ensure the fair and equitable sharing of benefits, including technology transfer to providing countries, pursuant to Article 16 of the *Convention on Biological Diversity* arising from the commercialization or other use of genetic resources, in conformity with the mutually agreed terms they established with the indigenous and local communities or stakeholders involved; ...<sup>440</sup>

Pursuant to mutually agreed terms established following prior informed consent, benefits should be shared fairly and equitably with all those who have been identified as having contributed to the resource management, scientific and/or commercial process. The latter may include governmental, non-governmental or academic

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<sup>435</sup> Convention on Desertification Article 18(2)(a), (b).

<sup>436</sup> Convention on Desertification Article 19(4).

<sup>437</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(14).

<sup>438</sup> Nagoya Protocol Article 5(2).

<sup>439</sup> Nagoya Protocol Article 5(5).

<sup>440</sup> Bonn Guidelines Provision 16(b)(ix).

institutions and indigenous and local communities. Benefits should be directed in such a way as to promote conservation and sustainable use of biological diversity.<sup>441</sup>

The involvement of relevant stakeholders, in particular, indigenous and local communities, in the various stages of development and implementation of access and benefit-sharing arrangements can play an important role in facilitating the monitoring of compliance.<sup>442</sup>

States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas.<sup>443</sup>

Indigenous peoples and local communities should receive fair and equitable benefits based on mutually agreed terms from the use of the traditional knowledge that they hold.<sup>444</sup>

Benefit-sharing could include a way of recognizing and strengthening the contribution of indigenous peoples and local communities to the conservation and sustainable use of biological diversity, including by supporting the intergenerational transmission of traditional knowledge.<sup>445</sup>

Benefit-sharing should be fair and equitable within and among relevant groups, taking into account relevant community level procedures, and as appropriate gender and age/intergenerational considerations.<sup>446</sup>

Community protocols and customary law of indigenous peoples and local communities can play a role in processes for access to traditional knowledge and the fair and equitable sharing of benefits arising from the use of such knowledge. They can contribute to legal certainty, transparency and predictability concerning processes for obtaining “prior and informed consent” or “free, prior and informed consent” or “approval and involvement”, of indigenous peoples and local communities and for establishing mutually agreed terms for benefit-sharing, in accordance with national legislation.<sup>447</sup>

In order to achieve a fair and equitable sharing of benefits, Parties, other Governments and users of traditional knowledge should take the following into account: (a) Partnership and cooperation should guide the process of establishing mutually agreed terms to ensure the fair and equitable sharing of the benefits arising from the utilization of traditional knowledge with and among the holders of that traditional knowledge; (b) Community protocols, which may provide guidance from the community perspective on the fair and equitable sharing of benefits; (c) The benefits

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<sup>441</sup> Bonn Guidelines Provision 48.

<sup>442</sup> Bonn Guidelines Provision 56.

<sup>443</sup> UNDROP Article 5 (2c).

<sup>444</sup> CBD/COP/DEC/XIII/18, Mo'otz Kuxtal Voluntary Guidelines (12).

<sup>445</sup> CBD/COP/DEC/XIII/18, Mo'otz Kuxtal Voluntary Guidelines (13).

<sup>446</sup> CBD/COP/DEC/XIII/18, Mo'otz Kuxtal Voluntary Guidelines (14).

<sup>447</sup> CBD/COP/DEC/XIII/18, Mo'otz Kuxtal Voluntary Guidelines (18).



obtained from the use of traditional knowledge, innovations and practices, including results of research, should, as far as possible, be shared where appropriate and in line with mutually agreed terms with the relevant holders of the traditional knowledge in understandable and culturally appropriate formats, with a view to building enduring relationships, promoting intercultural exchanges, knowledge and technology transfer, synergies, complementarity and respect; (d) In developing mutually agreed terms, Parties, other Governments, and others seeking access to traditional knowledge should ensure that the holders of that traditional knowledge can negotiate on a fair and equitable basis and are fully informed about any proposals including potential opportunities and challenges in order to make informed decisions; (e) The “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances and mutually agreed terms, should constitute a legal contract between the indigenous peoples and local communities and the corresponding parties to the contract; (f) In developing mutually agreed terms, those seeking to use traditional knowledge could undertake to renegotiate if the use varies significantly from the original purpose, including on possible commercialization of the traditional knowledge within national legislation and/or contract requirements; (g) The “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, and mutually agreed terms, should contain agreed mechanisms for grievance and redress to address non-compliance with its provisions.<sup>448</sup>

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<sup>448</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (23).

## II. PROCEDURAL RIGHTS

### PRECAUTIONARY APPROACH

This principle reaffirms the precautionary approach contained in principle 15 of the Rio Declaration on Environment and Development<sup>449</sup> and in the preamble to the Convention on Biological Diversity. The prediction and assessment of potential harms to biological diversity should include local criteria and indicators, and should fully involve the relevant indigenous and local communities.<sup>450</sup>

Parties shall take into consideration in the implementation of this Agreement the concerns of Parties with economies most affected by the impacts of response measures, particularly developing country Parties.<sup>451</sup>

Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.<sup>452</sup>

When undertaking the activities referred to in paragraph 70 of this decision, the following safeguards should be promoted and supported: ... (c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples; (d) The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities, in the actions referred to in paragraphs 70 and 72 of this decision; (e) That actions are consistent with the conservation of natural forests and biological diversity, ensuring that the actions referred to in paragraph 70 of this decision are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits [With footnote: *Taking into account the need for sustainable livelihoods of indigenous peoples and local communities and their interdependence on forests in most countries, reflected in the United Nations Declaration on the Rights of Indigenous Peoples, as well as the International Mother Earth Day.*]<sup>453</sup>

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<sup>449</sup> Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, vol. I, Resolutions Adopted by the Conference (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex I.

<sup>450</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(16).

<sup>451</sup> Paris Agreement Article 4 (15).

<sup>452</sup> Paris Agreement Article 7 (5).

<sup>453</sup> Cancun Agreement Appendix I: Guidance and safeguards for policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in

## FREE, PRIOR AND INFORMED CONSENT

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.<sup>454\*</sup>

Urges States to bear in mind the importance of the empowerment and capacity-building of indigenous peoples, including their full and effective participation in decision-making processes in matters that affect them directly, and of consultations in order to obtain their free, prior and informed consent, and the important role indigenous human rights defenders play in this regard, and encourages States to work towards achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples, and also encourages those States that have not yet ratified or acceded to the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization to consider doing so.<sup>455</sup>

Ensure full and effective participation of indigenous peoples and local communities throughout the process of developing and applying the approaches, with particular attention to the involvement of women, youth, elders and all other groups that are part of the communities.<sup>456</sup>

### *Lands, Waters and Natural Resources*

In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.<sup>457\*</sup>

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent. 3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.<sup>458\*</sup>

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developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries, 2.

<sup>454</sup> UNDRIP Article 19.

<sup>455</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development (16).

<sup>456</sup> CBD/COP/DEC/14/16, Methodological guidance concerning the contributions of indigenous peoples and local communities, (g).

<sup>457</sup> ILO Convention No. 169, Article 15(2). In this Article, "[t]he use of the term lands ... shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use." ILO Convention No. 169 Article 13(2).

<sup>458</sup> UNDRIP Article 29(2)-(3).

States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.<sup>459\*</sup>

States and other parties should hold good faith consultation with indigenous peoples before initiating any project or before adopting and implementing legislative or administrative measures affecting the resources for which the communities hold rights. Such projects should be based on an effective and meaningful consultation with indigenous peoples, through their own representative institutions in order to obtain their free, prior and informed consent under the United Nations Declaration of Rights of Indigenous Peoples and with due regard for particular positions and understandings of individual States. Consultation and decision-making processes should be organized without intimidation and be conducted in a climate of trust.<sup>460\*</sup>

Protected areas established without the prior informed consent or approval and involvement of indigenous and local communities can restrict access to and use of traditional areas and therefore undermine customary practices and knowledge associated with certain areas or biological resources. At the same time, conservation of biodiversity is vital for the protection and maintenance of customary sustainable use of biological diversity and associated traditional knowledge. Customary sustainable use of biological diversity and traditional knowledge can contribute to the effective conservation of important biodiversity sites, either through shared governance or joint management of official protected areas or through indigenous and community conserved territories and areas. Community protocols and other community procedures can be used by indigenous and local communities to articulate their values, procedures and priorities and engage in dialogue and collaboration with external actors (such as government agencies and conservation organizations) towards shared aims, for example, appropriate ways to respect, recognize and support customary sustainable use of biological diversity and traditional cultural practices in protected areas.<sup>461</sup>

States and other parties should, prior to the implementation of large-scale development projects that might impact small-scale fishing communities, consider the social, economic and environmental impacts through impact studies, and hold effective and meaningful consultations with these communities, in accordance with national legislation.<sup>462</sup>

### ***Genetic Resources***

In accordance with domestic law, each Party shall take measures, as appropriate, with the aim of ensuring that the prior informed consent or approval and involvement of

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<sup>459</sup> UNDRIP Article 30(2).

<sup>460</sup> FAO Tenure Guidelines No. 9(9).

<sup>461</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action of Customary Sustainable Use of Biological Diversity (IV.9.).

<sup>462</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.10).

indigenous and local communities is obtained for access to genetic resources where they have the established right to grant access to such resources.<sup>463</sup>

Each Party shall take appropriate, effective and proportionate legislative, administrative or policy measures to provide that genetic resources utilized within its jurisdiction have been accessed in accordance with prior informed consent and that mutually agreed terms have been established, as required by the domestic access and benefit-sharing legislation or regulatory requirements of the other Party.<sup>464</sup>

Contracting Parties with users of genetic resources under their jurisdiction should take appropriate legal, administrative, or policy measures, as appropriate, to support compliance with prior informed consent of the Contracting Party providing such resources and mutually agreed terms on which access was granted. These countries could consider, inter alia, the following measures: ... (ii) Measures to encourage the disclosure of the country of origin of the genetic resources and of the origin of traditional knowledge, innovations and practices of indigenous and local communities in applications for intellectual property rights; ...<sup>465</sup>

25. ... *The Bonn Guidelines* are intended to assist Parties in the establishment of a system of prior informed consent, in accordance with Article 15, paragraph 5, of the *Convention on Biological Diversity*. ... 26. The basic principles of a prior informed consent system should include: ... (d) Consent of the relevant competent national authority(ies) in the provider country. The consent of relevant stakeholders, such as indigenous and local communities, as appropriate to the circumstances and subject to domestic law, should also be obtained.<sup>466</sup>

Respecting established legal rights of indigenous and local communities associated with the genetic resources being accessed or where traditional knowledge associated with these genetic resources is being accessed, the prior informed consent of indigenous and local communities and the approval and involvement of the holders of traditional knowledge, innovations and practices should be obtained, in accordance with their traditional practices, national access policies and subject to domestic laws.<sup>467</sup>

Prior informed consent is to be sought adequately in advance to be meaningful both for those seeking and for those granting access. Decisions on applications for access to genetic resources should also be taken within a reasonable period of time.<sup>468</sup>

### ***Traditional Knowledge, Innovations and Practices***

In accordance with domestic law, each Party shall take measures, as appropriate, with the aim of ensuring that traditional knowledge associated with genetic resources that is held by indigenous and local communities is accessed with the prior and informed

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<sup>463</sup> Nagoya Protocol Article 6(2).

<sup>464</sup> Nagoya Protocol Article 15(1).

<sup>465</sup> Bonn Guidelines Provision 16(d)(ii).

<sup>466</sup> Bonn Guidelines Provisions 25, 26. Article 15(5) of the CBD States: "Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party."

<sup>467</sup> Bonn Guidelines Provision 31.

<sup>468</sup> Bonn Guidelines Provision 33.

consent or approval and involvement of these indigenous and local communities, and that mutually agreed terms have been established.<sup>469</sup>

In implementing their obligations under this *Nagoya Protocol*, Parties shall in accordance with domestic law take into consideration indigenous and local communities' customary laws, community protocols and procedures, as applicable, with respect to traditional knowledge associated with genetic resources.<sup>470</sup>

Each Party shall take appropriate, effective and proportionate legislative, administrative or policy measures, as appropriate, to provide that traditional knowledge associated with genetic resources utilized within their jurisdiction has been accessed in accordance with prior informed consent or approval and involvement of indigenous and local communities and that mutually agreed terms have been established, as required by domestic access and benefit-sharing legislation or regulatory requirements of the other Party where such indigenous and local communities are located.<sup>471</sup>

Community and individual concerns over, and claims to, cultural and intellectual property relevant to traditional knowledge, innovations and practices related to the conservation and sustainable use of biodiversity should be acknowledged and addressed in the negotiation with indigenous and local communities, prior to starting activities/interactions.<sup>472</sup>

Indigenous and local communities should be adequately informed in advance, about the nature, scope and purpose of any proposed activities/interactions carried out by others that may involve the use of their traditional knowledge, innovations and practices related to the conservation and sustainable use of biodiversity, occurring on or likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities. This information should be provided in a manner that takes into consideration and actively engages with the body of knowledge and cultural practices of indigenous and local communities.<sup>473</sup>

Any activities/interactions related to traditional knowledge associated with the conservation and sustainable use of biological diversity, occurring on or likely to impact on sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities and impacting upon specific groups, should be carried out with the prior informed consent and/or approval and involvement of indigenous and local communities. Such consent or approval should not be coerced, forced or manipulated.<sup>474</sup>

... [T]raditional knowledge, innovations and practices should be considered an important and integral component of baseline studies,<sup>475</sup> particularly the traditional

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<sup>469</sup> Nagoya Protocol Article 7.

<sup>470</sup> Nagoya Protocol Article 12(1).

<sup>471</sup> Nagoya Protocol Article 16(1).

<sup>472</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(8).

<sup>473</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(10).

<sup>474</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(11).

<sup>475</sup> The purpose of a baseline study is "to ascertain those components of biological diversity of particular significance to the affected indigenous or local community" "in order to effectively

knowledge, innovations and practices of those who have a long association with the particular area for which the development is proposed. Traditional knowledge, innovations and practices can be cross-referenced by old photographs, newspaper articles, known historical events, archaeological records, anthropological reports, and other records contained in archival collections.<sup>476</sup>

Where consent or authority of indigenous and local communities is required with respect to traditional knowledge associated with the conservation and sustainable use of biodiversity, it is the right of indigenous and local communities, according to their customary law and procedures, to identify the relevant holders of their knowledge.<sup>477</sup>

Ecosystem restoration activities should be planned at various scales and implemented using the best available science and traditional knowledge. The prior informed consent and full and effective participation of indigenous peoples and local communities, as well as the engagement of women and other relevant stakeholders are important considerations at all stages of the processes. Communication, education and public awareness are also important to consider at all stages so that the benefits and costs of ecosystem restoration activities are widely understood.<sup>478</sup>

A. Assessment of opportunities for ecosystem restoration ... 3. Involve indigenous peoples and local communities and relevant stakeholders. Identify and obtain the prior and informed consent and full and effective participation of indigenous peoples and local communities and involve relevant stakeholders in the process, including consideration for gender balance, in the identification of priority areas for restoration.<sup>479</sup>

Access to traditional knowledge of indigenous peoples and local communities should be subject to “prior and informed consent”, “free, prior and informed consent” or “approval and involvement” depending on national circumstances, of the traditional holders of such knowledge.<sup>480</sup>

In the context of “prior and informed consent” or “free, prior and informed consent” or “approval and involvement”: (a) Free implies that indigenous peoples and local communities are not pressured, intimidated, manipulated or unduly influenced and that their consent is given, without coercion; (b) Prior implies seeking consent or approval sufficiently in advance of any authorization to access traditional knowledge respecting the customary decision-making processes in accordance with national legislation and time requirements of indigenous peoples and local communities; (c) Informed implies that information is provided that covers relevant aspects, such as: the intended purpose of the access; its duration and scope; a preliminary assessment of the likely economic, social, cultural and environmental impacts, including potential risks; personnel likely to be involved in the execution of the access; procedures the

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undertake an environmental impact assessment for a proposed development”. Akwé: Kon Guidelines No. 37.

<sup>476</sup> Akwé: Kon Guidelines No. 38.

<sup>477</sup> Tkarihwaí:ri Code of Ethical Conduct Section 1(4).

<sup>478</sup> CBD/COP/DEC/XIII/5, Annex: Short-term Action Plan on Ecosystem Restoration (10).

<sup>479</sup> CBD/COP/DEC/XIII/5, Annex: Short-term Action Plan on Ecosystem Restoration (13).

<sup>480</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (6).

access may entail and benefit-sharing arrangements; (d) Consent or approval is the agreement of the indigenous peoples and local communities who are holders of traditional knowledge or the competent authorities of those indigenous peoples and local communities, as appropriate, to grant access to their traditional knowledge to a potential user and includes the right not to grant consent or approval; (e) Involvement refers to the full and effective participation of indigenous peoples and local communities, in decision-making processes related to access to their traditional knowledge. Consultation and full and effective participation of indigenous peoples and local communities are crucial components of a consent or approval process.<sup>481</sup>

“Prior and informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, should be implemented within a context of full respect for indigenous peoples and local communities. Respect for indigenous peoples and local communities means a continual process of building mutually beneficial, ongoing arrangements between users and holders of traditional knowledge of indigenous peoples and local communities, in order to build trust, good relations, mutual understanding, intercultural spaces, knowledge exchanges, create new knowledge and reconciliation and includes the full and effective participation of indigenous peoples and local communities, taking into account national legislation and customary laws, community protocols and practices of indigenous peoples and local communities and should underpin and be an integral part of developing a relationship between users and providers of traditional knowledge.<sup>482</sup>

It is not practical to propose a “one-size-fits-all” approach for “prior and informed consent”, “free, prior and informed consent” or “approval and involvement” of indigenous peoples and local communities as regards access to the traditional knowledge they hold and, therefore, these guidelines are intended to be used taking into account national and local circumstances of the indigenous peoples and local communities concerned.<sup>483</sup>

The customary laws, community protocols, practices and customary decision-making processes of indigenous peoples and local communities, as well as national legislation should be given due importance in relation to the procedural and substantive aspects of the consent process to access traditional knowledge.<sup>484</sup>

Granting “prior informed consent”, “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, to users of traditional knowledge, unless otherwise mutually agreed, merely allows temporary use of such traditional knowledge for the purpose for which it was granted.<sup>485</sup>

Consent or approval and the establishment of mutually agreed terms for fair and equitable sharing of (a) A competent authority at the national or subnational level; (b) The competent authorities of indigenous peoples and local communities; (c) Elements of a “prior and informed consent” or “free, prior and informed consent”

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<sup>481</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (7).

<sup>482</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (8).

<sup>483</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (9).

<sup>484</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (10).

<sup>485</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (11).



or “approval and involvement”, depending on national circumstances, process including: (i) Written application in a manner and language comprehensible to the traditional knowledge holder; (ii) Legitimate and culturally appropriate process and decision-making, including possible social, cultural and economic impacts; (iii) Adequate and balanced information from a variety of sources that is made available in indigenous or local languages using terms understood by indigenous peoples and local communities and including safeguards to ensure that all parties to an agreement have the same understanding of the information and terms provided; (iv) Culturally appropriate timing and deadlines; (v) Implementation and monitoring; (d) A template taking into account the possible actions required by potential users of traditional knowledge; (e) “Prior and informed consent” or “free, prior and informed consent” or “approval and involvement”, depending on national circumstances, granted/established on the basis of mutually agreed terms ensuring the fair and equitable sharing of benefits; (f) Consultation process with indigenous peoples and local communities; (g) Due consideration for customary laws, community protocols, practices and customary decision-making processes of indigenous peoples and local communities; (h) Mutually agreed terms procedures, in accordance with national legislation.<sup>486</sup>

## **CULTURAL, ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS**

National policies should ensure that environmental impact assessments should be carried out where actions are likely to have significant adverse impacts on important forest resources, and where such actions are subject to a decision of a competent national authority.<sup>487</sup>

The purpose of these *Akwé: Kon Guidelines* is to provide a collaborative framework within which Governments, indigenous and local communities, decision makers and managers of developments can: (a) Support the full and effective participation and involvement of indigenous and local communities in screening, scoping and development planning exercises; (b) Properly take into account the cultural, environmental and social concerns and interests of indigenous and local communities, especially of women who often bear a disproportionately large share of negative development impacts; Take into account the traditional knowledge, innovations and practices of indigenous and local communities as part of environmental, social and cultural impact-assessment processes, with due regard to the ownership of and the need for the protection and safeguarding of traditional knowledge, innovations and practices; (d) Promote the use of appropriate technologies; (e) Identify and implement appropriate measures to prevent or mitigate any negative impacts of proposed developments; (f) Take into consideration the interrelationships among cultural, environmental and social elements.<sup>488</sup>

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<sup>486</sup> CBD/COP/DEC/XIII/18, Mo’otz Kuxtal Voluntary Guidelines (17).

<sup>487</sup> UNCED Forest Principles Paragraph 8(h).

<sup>488</sup> Akwé: Kon Guidelines No. 3.

The proponent of a development proposal or the responsible government authority should engage in a process of notification and public consultation of intention to carry out a development.<sup>489</sup>

The development proposal and impact assessment should be made available to organizations representing affected indigenous and local communities and relevant stakeholders for the purposes of public scrutiny and consultation. It should include all details relevant to the proposal. Notification and public consultation of the proposed development should allow for sufficient time to allow the affected indigenous or local community to prepare its response. An opportunity to present its response should be allowed for full and fair consideration by the proponent.<sup>490</sup>

In any development proposed to take place on, or likely to have an impact on, sacred sites and lands and waters traditionally occupied or used by them, indigenous and local communities should be invited to participate in and are to be accorded full respect at all stages of the assessment and development process, including planning and implementation.<sup>491</sup>

Affected indigenous and local communities should be invited to participate on any body appointed to advise on the screening and scoping phases or should be consulted on an impact assessment process for a development proposal, and should be involved in the establishment of the terms of reference for the conduct of the impact assessments, subject to national legislation. The screening and scoping phases should also take into account any community development plans and any mechanisms for strategic environmental assessment that have been formulated by an affected community.<sup>492</sup>

In addition to representation on any body established to advise on the other impact assessment process phases, the full and effective participation and involvement of affected indigenous and local communities should contemplate using participatory models of community engagement during the conduct of the impact assessments, including in decision-making. The proponent should also provide regular feedback to the affected community throughout all stages of the impact assessment and development processes.<sup>493</sup>

In order to maintain the health, well being and security of affected indigenous and local communities and the ecosystems that sustain them, and, to the extent that it is possible, in order to prevent adverse cultural, environmental and social impacts of any proposed developments, actors that should bear the responsibility for liability, redress, insurance and compensation should be clearly identified.<sup>494</sup>

Bearing in mind the unique relationship between indigenous and local communities and the environment, the *Akwé: Kon Guidelines* allow for the consideration of the

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<sup>489</sup> Akwé: Kon Guidelines No. 10.

<sup>490</sup> Akwé: Kon Guidelines No. 11.

<sup>491</sup> Akwé: Kon Guidelines No. 12.

<sup>492</sup> Akwé: Kon Guidelines No. 14.

<sup>493</sup> Akwé: Kon Guidelines No. 15.

<sup>494</sup> Akwé: Kon Guidelines No. 20.

integration of cultural, environmental, social impact assessments as a single process.<sup>495</sup>

Through the cultural impact assessment process, and particularly during the screening and scoping phases, the issues that are of particular cultural concern should be identified, such as cultural heritage, religions, beliefs and sacred teachings, customary practices, forms of social organization, systems of natural resource use, including patterns of land use, places of cultural significance, economic valuation of cultural resources, sacred sites, ceremonies, languages, customary law systems, and political structures, roles and customs. The possible impacts on all aspects of culture, including sacred sites, should therefore be taken into consideration while developing cultural impact assessments.<sup>496</sup>

In the conduct of the environmental component of an impact assessment regarding a development proposed to take place on, or which is likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities, the guidelines for incorporating biodiversity-related issues into environmental impact assessment legislation and/or process and in strategic environmental assessment, should be taken into account.<sup>497</sup>

In order to effectively undertake a social impact assessment with respect to an indigenous or local community that is or is likely to be affected by a proposed development, the screening and scoping phases should take into account gender and demographic factors, housing and accommodation, employment, infrastructure and services, income and asset distribution, traditional systems and means of production, as well as educational needs, technical skills and financial implications.<sup>498</sup>

Where the national legal regime requires prior informed consent of indigenous and local communities, the assessment process should consider whether such prior informed consent has been obtained. Prior informed consent corresponding to various phases of the impact assessment process should consider the rights, knowledge, innovations and practices of indigenous and local communities; the use of appropriate language and process; the allocation of sufficient time and the provision of accurate, factual and legally correct information. Modifications to the initial development proposal will require the additional prior informed consent of the affected indigenous and local communities.<sup>499</sup>

Indigenous and local communities should be encouraged, and provided with the necessary support and capacity to formulate their own community development plans. Such plans should include and should develop mechanisms for strategic environmental assessment that are commensurate with the goals and objectives of the development plans and appropriate poverty eradication programmes as defined by the indigenous and local communities.<sup>500</sup>

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<sup>495</sup> Akwé: Kon Guidelines No. 23.

<sup>496</sup> Akwé: Kon Guidelines No. 24.

<sup>497</sup> Akwé: Kon Guidelines No. 35.

<sup>498</sup> Akwé: Kon Guidelines No. 39.

<sup>499</sup> Akwé: Kon Guidelines No. 53.

<sup>500</sup> Akwé: Kon Guidelines No. 55.

Any developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities should maintain a balance between economic, social, cultural and environmental concerns, on the one hand, while, on the other hand, maximizing opportunities for the conservation and sustainable use of biological diversity, the access and equitable sharing of benefits and the recognition of traditional knowledge, innovations and practices in accordance with Article 8(j) of the Convention, and should seek to minimize risks to biological diversity. The cultural, environmental and social impact assessment processes should reflect this.<sup>501</sup>

In any assessment procedure, subject to national legislation consistent with international obligations, Governments, their agencies and development proponents should take into account the rights of indigenous and local communities over lands and waters traditionally occupied or used by them and the associated biological diversity.<sup>502</sup>

In all circumstances related to the proposed development, the customary laws and intellectual property rights of the indigenous and local communities with respect to their traditional knowledge, innovations and practices, should be respected. Such knowledge should only be used with the prior informed consent of the owners of that traditional knowledge. In order to safeguard their rights, indigenous and local communities should establish, or be assisted to establish, protocols consistent with relevant national legislation for access to and use of traditional knowledge, innovations and practices in the cultural, environmental and social impact assessment processes. Assistance in establishing such protocols should be provided if so requested.<sup>503</sup>

Peasants and other people working in rural areas have the right to have access to and to use in a sustainable manner the natural resources present in their communities that are required to enjoy adequate living conditions, in accordance with article 28 of the present Declaration. They also have the right to participate in the management of these resources.<sup>504</sup>

States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to a duly conducted social and environmental impact assessment.<sup>505</sup>

States should adopt policies and procedures, including environmental, social and other relevant assessments, to ensure that adverse impacts by international trade on the environment, small-scale fisheries culture, livelihoods and special needs related

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<sup>501</sup> Akwé: Kon Guidelines No. 56.

<sup>502</sup> Akwé: Kon Guidelines No. 57.

<sup>503</sup> Akwé: Kon Guidelines No. 60.

<sup>504</sup> UNDROP Article 5(1).

<sup>505</sup> UNDROP Article 5(2a).

to food security are equitably addressed. Consultation with concerned stakeholders should be part of these policies and procedures.<sup>506</sup>

## **INFORMATION, DECISION MAKING AND ACCESS TO JUSTICE**

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this *Aarhus Convention*.<sup>507</sup>

Within the scope of the relevant provisions of this *Aarhus Convention*, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.<sup>508</sup>

### ***Access to Information***

1. The Contracting Parties to the *Convention on Biological Diversity* shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries. 2. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1.<sup>509</sup> It shall also, where feasible, include repatriation of information.<sup>510</sup>

Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information: (a) Without an interest having to be stated; (b) In the form requested unless: (i) It is reasonable for the public authority to make it available in another form, in which case reasons shall

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<sup>506</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.9).

<sup>507</sup> Aarhus Convention Article 1.

<sup>508</sup> Aarhus Convention Article 3(9).

<sup>509</sup> Article 16, paragraph 1 of the CBD provides as follows: "Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment."

<sup>510</sup> CBD Article 17.

be given for making it available in that form; or (ii) The information is already publicly available in another form.<sup>511</sup>

Each Party shall ensure that, within the framework of national legislation, the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible ...<sup>512</sup>

The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of: (a) The proposed activity and the application on which a decision will be taken; (b) The nature of possible decisions or the draft decision; (c) The public authority responsible for making the decision; (d) The envisaged procedure, including, as and when this information can be provided: ... (e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.<sup>513</sup>

Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law ...<sup>514</sup>

... Contracting Parties which are countries of origin of genetic resources, or other Parties which have acquired the genetic resources in accordance with the Convention, should: ... Establish mechanisms to ensure that their decisions are made available to relevant indigenous and local communities and relevant stakeholders, particularly indigenous and local communities; ...<sup>515</sup>

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.<sup>516</sup>

Peasants and other people working in rural areas have the right to seek, receive, develop and impart information, including information about factors that may affect the production, processing, marketing and distribution of their products.<sup>517</sup>

States shall take appropriate measures to ensure that peasants and other people working in rural areas have access to relevant, transparent, timely and adequate information in a language and form and through means adequate to their cultural methods so as to promote their empowerment and to ensure their effective

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<sup>511</sup> Aarhus Convention Article 4(1).

<sup>512</sup> Aarhus Convention Article 5(2).

<sup>513</sup> Aarhus Convention Article 6(2).

<sup>514</sup> Aarhus Convention Article 9(1). Article 4 contains 8 subparagraphs. Article 4(1) is referenced above. The other subparagraphs address issues involving timing of disclosure of environmental information, grounds for refusal of such disclosure, and costs charged for such disclosure.

<sup>515</sup> Bonn Guidelines Provision 16(a)(vi).

<sup>516</sup> Convention on the Rights of the Child Article 17.

<sup>517</sup> UNDROP Article 11 (1).

participation in decision- making in matters that may affect their lives, land and livelihoods.<sup>518</sup>

States should establish systems of collecting fisheries data, including bioecological, social, cultural and economic data relevant for decision-making on sustainable management of small-scale fisheries with a view to ensuring sustainability of ecosystems, including fish stocks, in a transparent manner. Efforts should be made to also produce gender-disaggregated data in official statistics, as well as data allowing for an improved understanding and visibility of the importance of small-scale fisheries and its different components, including socio- economic aspects.<sup>519</sup>

States should endeavour to prevent corruption, particularly through increasing transparency, holding decision-makers accountable, and ensuring that impartial decisions are delivered promptly and through appropriate participation and communication with small-scale fishing communities.<sup>520</sup>

All parties should recognize small-scale fishing communities as holders, providers and receivers of knowledge. It is particularly important to understand the need for access to appropriate information by small-scale fishing communities and their organizations in order to help them cope with existing problems and empower them to improve their livelihoods. These information requirements depend on current issues facing communities and concern the biological, legal, economic, social and cultural aspects of fisheries and livelihoods.<sup>521</sup>

States should ensure that the information necessary for responsible small-scale fisheries and sustainable development is available, including on illegal, unreported and unregulated (IUU) fishing. It should relate to, inter alia, disaster risks, climate change, livelihoods and food security with particular attention to the situation of vulnerable and marginalized groups. Information systems with low data requirements should be developed for data-poor situations.<sup>522</sup>

All parties should promote the availability, flow and exchange of information, including on aquatic transboundary resources, through the establishment or use of appropriate existing platforms and networks at community, national, subregional and regional level, including both horizontal and vertical two-way information flows. Taking into account the social and cultural dimensions, appropriate approaches, tools

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<sup>518</sup> UNDROP Article 11 (2).

<sup>519</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.1).

<sup>520</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.3).

<sup>521</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.4).

<sup>522</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.5).

and media should be used for communication with and capacity development for small-scale fishing communities.<sup>523</sup>

States should recognize the importance of monitoring systems that allow their institutions to assess progress towards implementation of the objectives and recommendations in these Guidelines. Assessments of the impact on the enjoyment of the progressive realization of the right to adequate food in the context of national food security and on poverty eradication should be included. Mechanisms allowing the results of monitoring to feed back into policy formulation and implementation should be included. Gender should be taken into consideration in monitoring by using gender-sensitive approaches, indicators and data. States and all parties should elaborate participatory assessment methodologies that allow a better understanding and documentation of the true contribution of small-scale fisheries to sustainable resource management for food security and poverty eradication including both men and women.<sup>524</sup>

*Encourages* States to ensure that information held by public authorities, including that relating to environmental, land, natural resources and development issues, is proactively disclosed and not unnecessarily classified or otherwise withheld from the public, and calls upon all States to adopt transparent, clear and expedient laws and policies that provide for the effective disclosure of information held by public authorities and a general right to request and receive information, for which public access should be granted, except within narrow, proportionate, necessary and clearly defined limitations.<sup>525</sup>

Encourages all States to ensure to the maximum extent possible that the competent authorities generate, collect, publicize and disseminate environmental information relevant to their functions in a systematic, proactive, timely, regular, accessible and comprehensible manner, and periodically update that information and encourage the disaggregation and decentralization, where appropriate, of environmental information at the subnational and local levels.<sup>526</sup>

### ***Participation and Decision Making***

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.<sup>527\*</sup>

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<sup>523</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.8).

<sup>524</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (13.4).

<sup>525</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development (17).

<sup>526</sup> A/HRC/40/L.22/Rev.1, Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development (18).

<sup>527</sup> UNDRIP Article 18.



1. In applying the provisions of this *ILO Convention 169*, governments shall: (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them; (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose. 2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.<sup>528\*</sup>

Parties, if they have not already done so, should seek to ensure the full participation of affected indigenous and local communities, in accordance with national legislation, in the decision-making process for of any development proposal, including the review and appeal process, taking into account methods of mediation and dispute resolution, which may include customary methods.<sup>529</sup>

All decisions regarding activities/interactions with indigenous and local communities related to the objectives of the *Convention on Biological Diversity* should be developed and elaborated at the appropriate level to ensure indigenous and local community empowerment and effective participation, bearing in mind that such activities/interactions should respect indigenous and local community decision-making structures.<sup>530</sup>

Full and effective participation/participatory approach: This principle recognizes the crucial importance of indigenous and local communities fully and effectively participating in activities/interactions related to biological diversity and conservation that may impact on them, and of respecting their decision-making processes and time frames for such decision-making. Ethical conduct should acknowledge that there are some legitimate circumstances for indigenous and local communities to restrict access to their traditional knowledge.<sup>531</sup>

Competent national authorities, where they are established, may, in accordance with applicable national legislative, administrative or policy measures, be responsible for granting access and be responsible for advising on: ... (g) Mechanisms for the effective participation of different stakeholders, as appropriate for the different steps in the process of access and benefit- sharing, in particular, indigenous and local communities; (h) Mechanisms for the effective participation of indigenous and local communities while promoting the objective of having decisions and processes available in a language understandable to relevant indigenous and local communities.<sup>532</sup>

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<sup>528</sup> ILO Convention No. 169 Article 6.

<sup>529</sup> Akwé: Kon Guidelines No. 22.

<sup>530</sup> Tkarihwaí:ri Code of Ethical Conduct Section 3(27).

<sup>531</sup> Tkarihwaí:ri Code of Ethical Conduct Section 3(30).

<sup>532</sup> Bonn Guidelines Provision 14.

... Contracting Parties which are countries of origin of genetic resources, or other Parties which have acquired the genetic resources in accordance with the Convention, should: ... Support measures, as appropriate, to enhance indigenous and local communities' capacity to represent their interests fully at negotiations; ...<sup>533</sup>

17. Involvement of relevant stakeholders is essential to ensure the adequate development and implementation of access and benefit-sharing arrangements. ... 19. To facilitate the involvement of relevant stakeholders, including indigenous and local communities, appropriate consultative arrangements, such as national consultative committees, comprising relevant stakeholder representatives, should be made.<sup>534</sup>

Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.<sup>535</sup>

Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.<sup>536</sup>

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; ...<sup>537</sup>

... States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service; ...<sup>538</sup>

Procedures for public participation shall allow the public to submit, in writing or, as appropriate, at a public hearing or inquiry with the applicant, any comments, information, analyses or opinions that it considers relevant to the proposed activity.<sup>539</sup>

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this *Aarhus Convention*. To the extent

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<sup>533</sup> Bonn Guidelines Provision 16(a)(vii).

<sup>534</sup> Bonn Guidelines Provisions 17, 19.

<sup>535</sup> Declaration on the Rights of Minorities Article 2(2).

<sup>536</sup> Declaration on the Rights of Minorities Article 2(3).

<sup>537</sup> ICCPR Article 25. The distinctions mentioned in Article 2 of the ICCPR are: "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

<sup>538</sup> CERD Article 5.

<sup>539</sup> Aarhus Convention Article 6(7).

appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.<sup>540</sup>

Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment ...<sup>541</sup>

Within the framework of its safeguarding activities of the intangible cultural heritage, each State Party shall endeavour to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management.<sup>542</sup>

Parties, with the effective participation of the indigenous and local communities concerned, shall establish mechanisms to inform potential users of traditional knowledge associated with genetic resources about their obligations, including measures as made available through the Access and Benefit-sharing Clearing-House for access to and fair and equitable sharing of benefits arising from the utilization of such knowledge.<sup>543</sup>

The development and implementation of all activities under the plan of action on customary sustainable use of biological diversity should be undertaken with the full and effective participation of indigenous and local communities, particularly women and youth.<sup>544</sup>

Incorporating customary sustainable use of biological diversity with the effective participation of indigenous and local communities into national biodiversity strategies and action plans is an important and strategic way to integrate Article 10(c) and its implementation as a cross-cutting issue in the Strategic Plan for Biodiversity 2011-2020 and efforts to achieve the Aichi Biodiversity Targets, the importance of which was reiterated in decision XI/14.6.<sup>545</sup>

Without disregarding specific legislation on indigenous peoples, before adopting and implementing legislation and policies, international agreements and other decision-making processes that may affect the rights of peasants and other people working in rural areas, States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions, engaging with and seeking the support of peasants and other people working in rural areas who

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<sup>540</sup> Aarhus Convention Article 7. Article 6, Paragraphs 3, 4 and 8 provide as follows: “3. The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making. 4. Each Party shall provide for early public participation, when all options are open and effective public participation can take place. ... 8. Each Party shall ensure that in the decision due account is taken of the outcome of the public participation.”

<sup>541</sup> Aarhus Convention Article 8.

<sup>542</sup> Convention on Intangible Cultural Heritage Article 15.

<sup>543</sup> Nagoya Protocol Article 12(2).

<sup>544</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action of Customary Sustainable Use of Biological Diversity (2)

<sup>545</sup> UNEP/CBD/COP/DEC/XII/12, Plan of Action of Customary Sustainable Use of Biological Diversity (IV.7.).

could be affected by decisions before those decisions are made, and responding to their contributions, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.<sup>546</sup>

States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to consultations in good faith, in accordance with article 2.3 [directly above this paragraph] of the present Declaration.<sup>547</sup>

Peasants and other people working in rural areas have the right to active and free participation, directly and/or through their representative organizations, in the preparation and implementation of policies, programmes and projects that may affect their lives, land and livelihoods.<sup>548</sup>

States shall promote the participation, directly and/or through their representative organizations, of peasants and other people working in rural areas in decision-making processes that may affect their lives, land and livelihoods; this includes respecting the establishment and growth of strong and independent organizations of peasants and other people working in rural areas and promoting their participation in the preparation and implementation of food safety, labour and environmental standards that may affect them.<sup>549</sup>

Peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty. This includes the right to participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures.<sup>550</sup>

All parties should recognize the central role that the small-scale fisheries post-harvest subsector and its actors play in the value chain. All parties should ensure that post-harvest actors are part of relevant decision-making processes, recognizing that there are sometimes unequal power relationships between value chain actors and that vulnerable and marginalized groups may require special support.<sup>551</sup>

States should facilitate the formation of national-level platforms, with cross-sectoral representation and with strong representation of CSOs, to oversee implementation of the Guidelines, as appropriate. Legitimate representatives of small-scale fishing communities should be involved both in the development and application of implementation strategies for the Guidelines and in monitoring.<sup>552</sup>

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<sup>546</sup> UNDROP Article 2 (3).

<sup>547</sup> UNDROP Article 5 (2b).

<sup>548</sup> UNDROP Article 10 (1).

<sup>549</sup> UNDROP Article 10 (2).

<sup>550</sup> UNDROP Article 15 (4).

<sup>551</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.1).

<sup>552</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (13.5).

1. Integration of biodiversity and poverty eradication for sustainable development (a) Identify linkages between biodiversity and poverty eradication for sustainable development, as well as drivers of biodiversity loss and poverty, inter alia, by using specific voluntary tools such as mapping of social and environmental vulnerability, regional poverty-environment profiling, and distributional studies assessing country- and region-specific links between biodiversity and poverty, ensuring that the selected tools are gender sensitive and consider the diversity of views from indigenous and local communities, women, the poor, marginalized and vulnerable.<sup>553</sup>

2. Minimizing adverse impacts, and facilitating participation (a) Prepare and implement effective biodiversity management plans for minimizing and/or mitigating any potential adverse impacts on the biological resources and the well-being of society, in the context of poverty eradication and development, including through: ... (ii) Designing and implementing tools/mechanisms to avoid negative impacts on customary use and access to biological resources enjoyed by communities, in accordance with national legislation; ... (iv) Including indigenous and local communities, and smallholder experts in all processes, as appropriate.<sup>554</sup>

Rights and responsibilities of actors and/or stakeholders in biodiversity financing mechanisms should be carefully defined, at national level, in a fair and equitable manner, with the effective participation of all actors concerned, including the prior informed consent or approval and involvement of indigenous and local communities, taking into account, the Convention on Biological Diversity and its relevant decisions, guidance and principles and, as appropriate, the United Nations Declaration of the Rights of Indigenous Peoples.<sup>555</sup>

A. Assessment of opportunities for ecosystem restoration ... (6) Identify options to reduce or eliminate the drivers of the loss of biodiversity and the degradation of ecosystems at various scales. Utilize pre-degradation baselines where appropriate and consult with experts and stakeholders, including indigenous peoples and local communities to determine baselines and other requirements, such as: resources; behavioural changes; incentive mechanisms; addressing perverse incentives; adopting sustainable land, water, forest, fisheries and agriculture management practices; diversifying land tenure; and recognizing resource rights. Assess areas where the implementation of sustainable productive practices could contribute to ecosystem restoration and to prevent land degradation.<sup>556</sup>

Process orientation. Indigenous peoples and local communities need to be fully and effectively involved in the process of developing and applying methodologies for assessing their collective actions.<sup>557</sup>

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<sup>553</sup> UNEP/CBD/COP/DEC/XII/5, Annex: Chennai Guidance for the Integration of Biodiversity and Poverty Eradication.

<sup>554</sup> UNEP/CBD/COP/DEC/XII/5, Annex: Chennai Guidance for the Integration of Biodiversity and Poverty Eradication.

<sup>555</sup> UNEP/CBD/COP/DEC/XII/3, Annex III: Voluntary Guidelines on Safeguards in Biodiversity Financing Mechanisms (3.b).

<sup>556</sup> CBD/COP/DEC/XIII/5, Annex: Short-term Action Plan on Ecosystem Restoration (13).

<sup>557</sup> CBD/COP/DEC/XIII/20, Annex: Guiding principles on assessing the contribution of collective action by indigenous peoples and local communities (5).

### ***Equality Before the Law and Access to Justice***

States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving [Indigenous peoples and individuals] of their integrity as distinct peoples, or of their cultural values or ethnic identities;

...<sup>558\*</sup>

States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.<sup>559\*</sup>

Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.<sup>560\*</sup>

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. 2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.<sup>561\*</sup>

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.<sup>562\*</sup>

1. In imposing penalties laid down by general law on members of these peoples account shall be taken of their economic, social and cultural characteristics. 2. Preference shall be given to methods of punishment other than confinement in prison.<sup>563\*</sup>

The peoples concerned shall be safeguarded against the abuse of their rights and shall be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights. Measures shall be taken to ensure that members of these peoples can understand and be understood in legal proceedings, where necessary through the provision of interpretation or by other effective means.<sup>564\*</sup>

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<sup>558</sup> UNDRIP Article 8(2).

<sup>559</sup> UNDRIP Article 11(2).

<sup>560</sup> UNDRIP Article 20(2).

<sup>561</sup> UNDRIP Article 28(1).

<sup>562</sup> UNDRIP Article 40.

<sup>563</sup> ILO Convention No. 169 Article 10(1).

<sup>564</sup> ILO Convention No. 169 Article 12.

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law ...<sup>565</sup>

Every effort should be made to avoid any adverse consequences to indigenous and local communities and lands and waters traditionally occupied or used by them, their sacred sites and sacred species, and their traditional resources from all activities/interactions affecting or impacting on them related to biological diversity, conservation and sustainable use. Should any such adverse consequences occur, appropriate restitution or compensation should be provided, in accordance with domestic legislation, and relevant international obligations, as applicable, and through mutually agreed terms between indigenous and local communities and those undertaking such activities/interactions.<sup>566</sup>

Each State Party to the present *Covenant on Civil and Political Rights* undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted.<sup>567</sup>

... States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (a) The right to equal treatment before the tribunals and all other organs administering justice ...<sup>568</sup>

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this *Convention on the Elimination of All Forms of Racial Discrimination*, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.<sup>569</sup>

Each Party shall, within the framework of its national legislation, ensure that members of the public concerned (a) Having a sufficient interest or, alternatively, (b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition, have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge

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<sup>565</sup> ICCPR Article 14(1).

<sup>566</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(22).

<sup>567</sup> ICCPR Article 2(3).

<sup>568</sup> CERD Article 5.

<sup>569</sup> CERD Article 6.

the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this *Aarhus Convention*.<sup>570</sup>

In addition and without prejudice to the review procedures referred to in [Articles 9(1) and 9(2) of the *Aarhus Convention*], each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.<sup>571</sup>

States should ensure, in accordance with their international human rights obligations, that all individuals, including human rights defenders of the progressive realization of the right to adequate food, are accorded equal protection under the law and that due process is guaranteed in all legal proceedings.<sup>572</sup>

States should pursue inclusive, non-discriminatory and sound economic, agriculture, fisheries, forestry, land-use, and, as appropriate, land-reform policies, all of which will permit farmers, fishers, foresters and other food producers, particularly women, to earn a fair return from their labour, capital and management, and encourage conservation and sustainable management of natural resources, including in marginal areas.<sup>573</sup>

States shall respect, protect and fulfil the rights of peasants and other people working in rural areas. They shall promptly take legislative, administrative and other appropriate steps to achieve progressively the full realization of the rights of the present Declaration that cannot be immediately guaranteed.<sup>574</sup>

Particular attention shall be paid in the implementation of the present Declaration to the rights and special needs of peasants and other people working in rural areas, including older persons, women, youth, children and persons with disabilities, taking into account the need to address multiple forms of discrimination.<sup>575</sup>

States shall take all necessary measures to ensure that non-State actors that they are in a position to regulate, such as private individuals and organizations, and transnational corporations and other business enterprises, respect and strengthen the rights of peasants and other people working in rural areas.<sup>576</sup>

States, recognizing the importance of international cooperation in support of national efforts for the realization of the purposes and objectives of the present Declaration,

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<sup>570</sup> Aarhus Convention Article 9(2). Article 6 deals with public participation in decisions on specific activities. The phrase “paragraph 3 below” refers to Article 9(3), which requires Parties, when certain criteria are met, to provide members of the public access to procedures to challenge violations of national law related to the environment.

<sup>571</sup> Aarhus Convention Article 9(3).

<sup>572</sup> FAO Food Security Guidelines No. 1.4.

<sup>573</sup> FAO Food Security Guidelines No. 2.5.

<sup>574</sup> UNDROP Article 2 (1).

<sup>575</sup> UNDROP Article 2 (2).

<sup>576</sup> UNDROP Article 2 (5).



shall take appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of peasants and other people working in rural areas, among others. Such measures could include: (a) Ensuring that relevant international cooperation, including international development programmes, is inclusive, accessible and pertinent to peasants and other people working in rural areas.<sup>577</sup>

Peasants and other people working in rural areas have the right to the full enjoyment of all human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and all other international human rights instruments, free from any kind of discrimination in the exercise of their rights based on any grounds such as origin, nationality, race, colour, descent, sex, language, culture, marital status, property, disability, age, political or other opinion, religion, birth or economic, social or other status.<sup>578</sup>

Peasants and other people working in rural areas have the right to determine and develop priorities and strategies to exercise their right to development.<sup>579</sup>

States shall take appropriate measures to eliminate conditions that cause or help to perpetuate discrimination, including multiple and intersecting forms of discrimination, against peasants and people working in rural areas.<sup>580</sup>

States shall take appropriate measures to promote the access of peasants and other people working in rural areas to a fair, impartial and appropriate system of evaluation and certification of the quality of their products at the local, national and international levels, and to promote their participation in its formulation.<sup>581</sup>

Peasants and other people working in rural areas have the right to effective and non-discriminatory access to justice, including access to fair procedures for the resolution of disputes and to effective remedies for all infringements of their human rights. Such decisions shall give due consideration to their customs, traditions, rules and legal systems in conformity with relevant obligations under international human rights law.<sup>582</sup>

States shall provide for non-discriminatory access, through impartial and competent judicial and administrative bodies, to timely, affordable and effective means of resolving disputes in the language of the persons concerned, and shall provide effective and prompt remedies, which may include a right of appeal, restitution, indemnity, compensation and reparation.<sup>583</sup>

Peasants and other people working in rural areas have the right to legal assistance. States shall consider additional measures, including legal aid, to support peasants and

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<sup>577</sup> UNDROP Article 2 (6).

<sup>578</sup> UNDROP Article 3 (1).

<sup>579</sup> UNDROP Article 3 (2).

<sup>580</sup> UNDROP Article 3 (3).

<sup>581</sup> UNDROP Article 11 (3).

<sup>582</sup> UNDROP Article 12 (1).

<sup>583</sup> UNDROP Article 12 (2).

other people working in rural areas who would otherwise not have access to administrative and judicial services.<sup>584</sup>

States shall provide peasants and other people working in rural areas with effective mechanisms for the prevention of and redress for any action that has the aim or effect of violating their human rights, arbitrarily dispossessing them of their land and natural resources or of depriving them of their means of subsistence and integrity, and for any form of forced sedentarization or population displacement.<sup>585</sup>

States, taking into account the specific characteristics of peasant agriculture and small-scale fisheries, shall monitor compliance with labour legislation by allocating, where required, appropriate resources to ensuring the effective operation of labour inspectorates in rural areas.<sup>586</sup>

States shall formulate, in partnership with peasants and other people working in rural areas, public policies at the local, national, regional and international levels to advance and protect the right to adequate food, food security and food sovereignty and sustainable and equitable food systems that promote and protect the rights contained in the present Declaration. States shall establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural and development policies with the realization of the rights contained in the present Declaration.<sup>587</sup>

States shall protect peasants and other people working in rural areas against abuses by non-State actors, including by enforcing environmental laws that contribute, directly or indirectly, to the protection of the rights of peasants or other people working in rural areas.<sup>588</sup>

States should provide small-scale fishing communities and individuals, including vulnerable and marginalized people, access through impartial and competent judicial and administrative bodies to timely, affordable and effective means of resolving disputes over tenure rights in accordance with national legislation, including alternative means of resolving such disputes, and should provide effective remedies, which may include an entitlement to appeal, as appropriate. Such remedies should be promptly enforced in accordance with national legislation and may include restitution, indemnity, just compensation and reparation.<sup>589</sup>

States should strive to restore access to traditional fishing grounds and coastal lands to small-scale fishing communities that have been displaced by natural disasters and/or armed conflict taking into consideration the sustainability of fisheries resources. States should establish mechanisms to support fishing communities affected by grave human rights violations to rebuild their lives and livelihoods. Such

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<sup>584</sup> UNDROP Article 12 (3).

<sup>585</sup> UNDROP Article 12 (5).

<sup>586</sup> UNDROP Article 13 (5).

<sup>587</sup> UNDROP, Article 15 (5).

<sup>588</sup> UNDROP Article 18 (2).

<sup>589</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.11).

steps should include the elimination of any form of discrimination against women in tenure practices in case of natural disasters and/or armed conflict.<sup>590</sup>

All parties should create conditions for men and women of small-scale fishing communities to fish and to carry out fisheries-related activities in an environment free from crime, violence, organized crime activities, piracy, theft, sexual abuse, corruption and abuse of authority. All parties should take steps to institute measures that aim to eliminate violence and to protect women exposed to such violence in small-scale fishing communities. States should ensure access to justice for victims of inter alia violence and abuse, including within the household or community.<sup>591</sup>

States and small-scale fisheries actors, including traditional and customary authorities, should understand, recognize and respect the role of migrant fishers and fish workers in small-scale fisheries, given that migration is a common livelihood strategy in small-scale fisheries. States and small-scale fisheries actors should cooperate to create the appropriate frameworks to allow for fair and adequate integration of migrants who engage in sustainable use of fisheries resources and who do not undermine local community-based fisheries governance and development in small-scale fisheries in accordance with national law. States should recognize the importance of coordinating among their respective national governments in regard to migration of fishers and fish workers in small-scale fisheries across national borders. Policies and management measures should be determined in consultation with small-scale fisheries organizations and institutions.<sup>592</sup>

In case of disasters caused by humans, impacting small-scale fisheries, the responsible party should be held accountable.<sup>593</sup>

## **CAPACITY BUILDING AND AWARENESS**

Indigenous and local communities should have the opportunity to actively participate in research that affects them or which makes use of their traditional knowledge related to the objectives of the *Convention on Biological Diversity*, and decide on their own research initiatives and priorities, conduct their own research, including building their own research institutions and promoting the building of cooperation, capacity and competence.<sup>594</sup>

Parties shall: (a) encourage and promote understanding of the importance of the protection and promotion of the diversity of cultural expressions, inter alia, through educational and greater public awareness programmes; (b) cooperate with other Parties and international and regional organizations in achieving the purpose of this article; (c) endeavour to encourage creativity and strengthen production capacities by

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<sup>590</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.12).

<sup>591</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.9).

<sup>592</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.10).

<sup>593</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.5).

<sup>594</sup> Tkarihwaí:ri Code of Ethical Conduct Section 2(25).

setting up educational, training and exchange programmes in the field of cultural industries. These measures should be implemented in a manner which does not have a negative impact on traditional forms of production.<sup>595</sup>

Each Party shall take measures to raise awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, and related access and benefit-sharing issues. Such measures may include, inter alia: ... (b) Organization of meetings of indigenous and local communities and relevant stakeholders; ... (e) Promotion of voluntary codes of conduct, guidelines and best practices and/or standards in consultation with indigenous and local communities and relevant stakeholders; ... (g) Education and training of users and providers of genetic resources and traditional knowledge associated with genetic resources about their access and benefit-sharing obligations; (h) Involvement of indigenous and local communities and relevant stakeholders in the implementation of this Protocol; and (i) Awareness-raising of community protocols and procedures of indigenous and local communities.<sup>596</sup>

The Parties shall cooperate in the capacity-building, capacity development and strengthening of human resources and institutional capacities to effectively implement this *Nagoya Protocol* in developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations. In this context, Parties should facilitate the involvement of indigenous and local communities and relevant stakeholders, including non-governmental organizations and the private sector.<sup>597</sup>

In addition to their obligations pursuant to article 4, affected country Parties undertake to: ... (d) promote awareness and facilitate the participation of local populations, particularly women and youth, with the support of non- governmental organizations, in efforts to combat desertification and mitigate the effects of drought.<sup>598</sup>

The Parties recognize the significance of capacity building – that is to say, institution building, training and development of relevant local and national capacities – in efforts to combat desertification and mitigate the effects of drought. They shall promote, as appropriate, capacity-building: (a) through the full participation at all levels of local people, particularly at the local level, especially women and youth, with the cooperation of non-governmental and local organizations.<sup>599</sup>

The Parties shall cooperate with each other and through competent intergovernmental organizations, as well as with non-governmental organizations, in undertaking and supporting public awareness and educational programmes in both affected and, where relevant, unaffected country Parties to promote understanding

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<sup>595</sup> Convention on Cultural Expressions Article 10.

<sup>596</sup> Nagoya Protocol Article 21.

<sup>597</sup> Nagoya Protocol Article 22.

<sup>598</sup> Convention on Desertification Article 5(d).

<sup>599</sup> Convention on Desertification Article 19(1)(a).

of the causes and effects of desertification and drought and of the importance of meeting the objective of this *Convention on Desertification*.<sup>600</sup>

1. The States Parties to the present *Covenant on Economic, Social and Cultural Rights* recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. 2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.<sup>601</sup>

Encourages Parties and indigenous and local communities to consider how indigenous and local communities might effectively participate in the development, collection and analysis of data, including through Community-Based Monitoring, and further explore how indigenous and local communities' Community-Based Monitoring and Information Systems can contribute to monitoring of Aichi Target indicators, and how a Multiple Evidence Base approach be applied for validation of such data generated from diverse knowledge systems on equal terms. These efforts might contribute to future national reports and the review of the implementation of the Strategic Plan for Biodiversity 2011-2020 and the achievement of the Aichi Biodiversity Targets, in particular Target 18.<sup>602</sup>

Invites members of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services to consider the inclusion of indigenous and local community representatives, when making nominations to the Multidisciplinary Expert Panel and other processes under the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.<sup>603</sup>

Invites Parties to include in requests to donors, support for indigenous and local communities to organize themselves to develop community plans and protocols to document, map, and register their community conservation areas, as well as to prepare, implement and monitor their community conservation plans and for support to countries to strengthen recognition of indigenous and local community conservation areas;<sup>604</sup>

Invites Parties, other Governments, international organizations, programmes and funds to provide funds and technical support to developing country Parties and

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<sup>600</sup> Convention on Desertification Article 19(3).

<sup>601</sup> ICESCR Article 6.

<sup>602</sup> UNEP/CBD/COP/DEC/XII/12, Progress report on the implementation of the programme of work on Article 8(j) and related provisions and mechanisms to promote the effective participation of indigenous and local communities in the work of the Convention (A.9).

<sup>603</sup> UNEP/CBD/COP/DEC/XII/12, Progress report on the implementation of the programme of work on Article 8(j) and related provisions and mechanisms to promote the effective participation of indigenous and local communities in the work of the Convention (A.12).

<sup>604</sup> UNEP/CBD/COP/DEC/XII/12, Article 10, with a focus on Article 10(c), as major component of the programme of work on Article 8(j) and related provisions of the Convention (B.5).

indigenous and local communities for implementation of programmes and projects that promote customary sustainable use of biological diversity.<sup>605</sup>

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, elaborate modalities and procedures with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities.<sup>606</sup>

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that a share of the proceeds from certified project activities is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.<sup>607</sup>

Parties should strengthen their cooperation on enhancing action on adaptation, taking into account the Cancun Adaptation Framework, including with regard to: (a) Sharing information, good practices, experiences and lessons learned, including, as appropriate, as these relate to science, planning, policies and implementation in relation to adaptation actions; (b) Strengthening institutional arrangements, including those under the Convention that serve this Agreement, to support the synthesis of relevant information and knowledge, and the provision of technical support and guidance to Parties; (c) Strengthening scientific knowledge on climate, including research, systematic observation of the climate system and early warning systems, in a manner that informs climate services and supports decision-making; (d) Assisting developing country Parties in identifying effective adaptation practices, adaptation needs, priorities, support provided and received for adaptation actions and efforts, and challenges and gaps, in a manner consistent with encouraging good practices; and (e) Improving the effectiveness and durability of adaptation actions.<sup>608</sup>

States, recognizing the importance of international cooperation in support of national efforts for the realization of the purposes and objectives of the present Declaration, shall take appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of peasants and other people working in rural areas, among others. Such measures could include: ... (b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices; (c) Facilitating cooperation in research and in access to scientific and technical knowledge; (d) Providing, as appropriate, technical and economic assistance, facilitating access to and sharing of accessible technologies, and through the transfer of technologies, particularly to developing countries, on mutually agreed terms; (e) Improving the functioning of markets at the global level and facilitating timely access

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<sup>605</sup> UNEP/CBD/COP/DEC/XII/12, Article 10, with a focus on Article 10(c), as major component of the programme of work on Article 8(j) and related provisions of the Convention (B.6).

<sup>606</sup> Kyoto Protocol to the UNFCCC Article 12 (7).

<sup>607</sup> Kyoto Protocol to the UNFCCC Article 12 (8).

<sup>608</sup> Paris Agreement Article 7 (7).

to market information, including on food reserves, in order to help to limit extreme food price volatility and the attractiveness of speculation.<sup>609</sup>

Peasants and other people working in rural areas have the right to an adequate standard of living for themselves and their families, and to facilitated access to the means of production necessary to achieve them, including production tools, technical assistance, credit, insurance and other financial services. They also have the right to engage freely, individually and/or collectively, in association with others or as a community, in traditional ways of farming, fishing, livestock rearing and forestry and to develop community-based commercialization systems.<sup>610</sup>

States shall take appropriate measures to favour the access of peasants and other people working in rural areas to the means of transportation, and processing, drying and storage facilities necessary for selling their products on local, national and regional markets at prices that guarantee them a decent income and livelihood.<sup>611</sup>

States shall take appropriate measures to strengthen and support local, national and regional markets in ways that facilitate, and ensure that peasants and other people working in rural areas have, full and equitable access and participation in these markets to sell their products at prices that allow them and their families to attain an adequate standard of living.<sup>612</sup>

States shall take all appropriate measures to ensure that their rural development, agricultural, environmental, trade and investment policies and programmes contribute effectively to protecting and strengthening local livelihood options and to the transition to sustainable modes of agricultural production. States shall stimulate sustainable production, including agroecological and organic production, whenever possible, and facilitate direct farmer-to-consumer sales.<sup>613</sup>

States shall take appropriate measures to strengthen the resilience of peasants and other people working in rural areas against natural disasters and other severe disruptions, such as market failures.<sup>614</sup>

States shall take appropriate measures to ensure that agricultural research and development integrates the needs of peasants and other people working in rural areas, and to ensure their active participation in the definition of priorities and the undertaking of research and development, taking into account their experience, and increase investment in research and the development of orphan crops and seeds that respond to the needs of peasants and other people working in rural areas.<sup>615</sup>

Peasants and other people working in rural areas have the right to adequate training suited to the specific agroecological, sociocultural and economic environments in which they find themselves. Issues covered by training programmes should include, but not be limited to, improving productivity, marketing, and the ability to cope with

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<sup>609</sup> UNDROP Article 2 (6).

<sup>610</sup> UNDROP Article 16 (1).

<sup>611</sup> UNDROP Article 16 (2).

<sup>612</sup> UNDROP Article 16 (3).

<sup>613</sup> UNDROP Article 16 (4).

<sup>614</sup> UNDROP Article 16 (5).

<sup>615</sup> UNDROP Article 19 (7).

pests, pathogens, system shocks, the effects of chemicals, climate change and weather-related events.<sup>616</sup>

States shall encourage equitable and participatory farmer-scientist partnerships, such as farmer field schools, participatory plant breeding, and plant and animal health clinics to respond more appropriately to the immediate and emerging challenges that peasants and other people working in rural areas face.<sup>617</sup>

States shall invest in providing training, market information and advisory services at the farm level.<sup>618</sup>

States should facilitate, train and support small-scale fishing communities to participate in and take responsibility for, taking into consideration their legitimate tenure rights and systems, the management of the resources on which they depend for their well-being and that are traditionally used for their livelihoods. Accordingly, States should involve small-scale fishing communities – with special attention to equitable participation of women, vulnerable and marginalized groups – in the design, planning and, as appropriate, implementation of management measures, including protected areas, affecting their livelihood options. Participatory management systems, such as co-management, should be promoted in accordance with national law.<sup>619</sup>

States should ensure the establishment of monitoring, control and surveillance (MCS) systems or promote the application of existing ones applicable to and suitable for small-scale fisheries. They should provide support to such systems, involving small-scale fisheries actors as appropriate and promoting participatory arrangements within the context of co-management. States should ensure effective monitoring and enforcement mechanisms to deter, prevent and eliminate all forms of illegal and/or destructive fishing practices having a negative effect on marine and inland ecosystems. States should endeavour to improve registration of the fishing activity. Small-scale fishers should support the MCS systems and provide to the State fisheries authorities the information required for the management of the activity.<sup>620</sup>

States should promote investment in human resource development such as health, education, literacy, digital inclusion and other skills of a technical nature that generate added value to the fisheries resources as well as awareness raising. States should take steps with a view to progressively ensure that members of small-scale fishing communities have affordable access to these and other essential services through national and subnational actions, including adequate housing, basic sanitation that is safe and hygienic, safe drinking-water for personal and domestic uses, and sources of energy. Preferential treatment of women, indigenous peoples, and vulnerable and marginalized groups – in providing services and giving effect to non-discrimination and

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<sup>616</sup> UNDROP Article 25 (1).

<sup>617</sup> UNDROP Article 25 (3).

<sup>618</sup> UNDROP Article 25 (4).

<sup>619</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.15).

<sup>620</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (5.16).



other human rights – should be accepted and promoted where it is required to ensure equitable benefits.<sup>621</sup>

States should foster, provide and enable investments in appropriate infrastructures, organizational structures and capacity development to support the small-scale fisheries post-harvest subsector in producing good quality and safe fish and fishery products, for both export and domestic markets, in a responsible and sustainable manner.<sup>622</sup>

States and development partners should recognize the traditional forms of associations of fishers and fish workers and promote their adequate organizational and capacity development in all stages of the value chain in order to enhance their income and livelihood security in accordance with national legislation. Accordingly, there should be support for the setting up and the development of cooperatives, professional organizations of the small-scale fisheries sector and other organizational structures, as well as marketing mechanisms, e.g. auctions, as appropriate.<sup>623</sup>

All parties should avoid post-harvest losses and waste and seek ways to create value addition, building also on existing traditional and local cost-efficient technologies, local innovations and culturally appropriate technology transfers. Environmentally sustainable practices within an ecosystem approach should be promoted, deterring, for example, waste of inputs (water, fuelwood, etc.) in small-scale fish handling and processing.<sup>624</sup>

States should enable access to all relevant market and trade information for stakeholders in the small-scale fisheries value chain. Small-scale fisheries stakeholders must be able to access timely and accurate market information to help them adjust to changing market conditions. Capacity development is also required so that all small-scale fisheries stakeholders and especially women and vulnerable and marginalized groups can adapt to, and benefit equitably from, opportunities of global market trends and local situations while minimizing any potential negative impacts.<sup>625</sup>

States should consider assisting and supporting small-scale fishing communities affected by climate change or natural and human-induced disasters, including through adaptation, mitigation and aid plans, where appropriate.<sup>626</sup>

All parties should take into account the impact that climate change and disasters may have on the post-harvest and trade subsector in the form of changes in fish species and quantities, fish quality and shelf- life, and implications with regard to market

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<sup>621</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (6.2).

<sup>622</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.3).

<sup>623</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.4).

<sup>624</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.5).

<sup>625</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (7.10).

<sup>626</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.4).

outlets. States should provide support to small-scale fisheries stakeholders with regard to adjustment measures in order to reduce negative impacts. When new technologies are introduced, they need to be flexible and adaptive to future changes in species, products and markets, and climatic variability.<sup>627</sup>

All parties should promote the role of small-scale fisheries in efforts related to climate change and should encourage and support energy efficiency in the subsector, including the whole value chain – fishing, post-harvest, marketing and distribution.<sup>628</sup>

States should consider making available to small-scale fishing communities transparent access to adaptation funds, facilities and/or culturally appropriate technologies for climate change adaptation, as appropriate.<sup>629</sup>

States and other relevant parties should provide support to small-scale fishing communities, in particular to indigenous peoples, women and those that rely on fishing for subsistence, including, as appropriate, the technical and financial assistance to organize, maintain, exchange and improve traditional knowledge of aquatic living resources and fishing techniques, and upgrade knowledge on aquatic ecosystems.<sup>630</sup>

States and other parties should enhance the capacity of small-scale fishing communities in order to enable them to participate in decision-making processes. To this effect, it should be ensured that the range and diversity of the small-scale fisheries subsector along the entire value chain is appropriately represented through the creation of legitimate, democratic and representative structures. Specific attention should be paid to the need to work towards the equitable participation of women in such structures. Where appropriate and necessary, separate spaces and mechanisms should be provided to enable women to organize autonomously at various levels on issues of particular relevance to them.<sup>631</sup>

States and other stakeholders should provide capacity building, for example through development programmes, to allow small-scale fisheries to benefit from market opportunities.<sup>632</sup>

All parties should recognize that capacity development should build on existing knowledge and skills and be a two-way process of knowledge transfer, providing for flexible and suitable learning pathways to meet the needs of individuals, including

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<sup>627</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.6).

<sup>628</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.8).

<sup>629</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 2: Responsible Fisheries and Sustainable (9.9).

<sup>630</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.7).

<sup>631</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (12.1).

<sup>632</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (12.2).

both men and women and vulnerable and marginalized groups. Moreover, capacity development should include building the resilience and adaptive capacity of small-scale fishing communities in relation to DRM [disaster risk management] and CCA [climate change action].<sup>633</sup>

States and all other parties should work together to create awareness of the Guidelines, also by disseminating simplified and translated versions for the benefit of those working in small-scale fisheries. States and all other parties should develop a specific set of materials on gender to secure the effective dissemination of information on gender and women's role in small-scale fisheries and to highlight steps that need to be taken to improve women's status and their work.<sup>634</sup>

FAO should promote and support the development of a Global Assistance Programme, with regional plans of action to support the implementation of these Guidelines.<sup>635</sup>

3. Capacity-building, enabling environment and funding support A. Enhancing capacity-building: (a) Support the development of curricula that are gender sensitive and intercultural, on the importance, linkages and interaction of biodiversity, ecosystems and poverty eradication for sustainable development, in particular sustainable production and consumption patterns, for primary, secondary, and tertiary education, taking into account traditional knowledge; ... (c) Encourage coordination of activities and creation of synergies among the providers of capacity-building by: (i) Ensuring capacity-building programmes that include both scientific and traditional knowledge and involve participatory processes, community-based management, and the use of the ecosystem approach, and the management of systems of life, and take into consideration the needs of relevant stakeholders, and particularly indigenous and local communities, women, the youth, vulnerable and marginalized.<sup>636</sup>

Both opportunities and risks need to be taken into account in selecting, designing and implementing mechanisms for financing biodiversity. The potential impacts of biodiversity financing mechanisms on different elements of biodiversity, as well as their potential effects on indigenous and local communities' rights and livelihoods, need to be effectively addressed, in accordance with national legislation.<sup>17</sup> Particular attention needs to be given to the impacts on, and contribution of, indigenous and

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<sup>633</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (12.3).

<sup>634</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (13.3).

<sup>635</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (13.6).

<sup>636</sup> UNEP/CBD/COP/DEC/XII/5, Annex: Chennai Guidance for the Integration of Biodiversity and Poverty Eradication.

local communities as well as women, and to their effective participation in the selection, design, and implementation of biodiversity financing mechanisms.<sup>637</sup>

Restoration activities should be planned on the basis of priorities identified in Step A and implementation facilitated by actions in step B. Actions would benefit from consultation with stakeholders and experts from various disciplines to assist with all phases of project work (assessment, planning, implementation, monitoring and reporting). Capacity-building for stakeholders, including legal and legislative support for the rights of women and indigenous peoples and local communities, may be required. The following actions may be considered, and undertaken as appropriate: 1. Identify the most appropriate measures for conducting ecosystem restoration, based on the best available evidence and taking into account ecological appropriateness, the use of native species, scale of measures linked to the processes to be restored cost-effectiveness, and support to indigenous peoples' and community conserved territories and areas, and respect for their traditional customary knowledge and practices. Emphasis should be given to restoration approaches and activities that allow people to maintain and/or establish sustainable livelihoods.<sup>638</sup>

Methodological pluralism and complementarity. Different methodologies may generate different data which can be used as complementary sources of information. Bridging methodologies could bring together data on larger scales with bottom-up assessments that transmit significant aspects of the local cultural contexts and world views. Pilot projects could be established to test multiple methodologies.<sup>639</sup>

Encourage intergenerational interactions in the assessment processes, through the involvement of youth, elders and other groups, in order to stimulate learning and to contribute to protecting and promoting the intergenerational transfer of traditional knowledge, innovations and practices.<sup>640</sup>

Consider, as appropriate, capacity-building and technology transfer to ensure that new information, including science and technology, contributes to the empowerment, resilience and self-sufficiency of indigenous peoples and local communities.<sup>641</sup>

## RESEARCH AND DEVELOPMENT

States and other parties should, to the extent possible, ensure that funds are available for small-scale fisheries research, and collaborative and participatory data collection, analyses and research should be encouraged. States and other parties should endeavor to integrate this research knowledge into their decision-making processes. Research organizations and institutions should support capacity development to allow small-scale fishing communities to participate in research and in the utilization of

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<sup>637</sup> UNEP/CBD/COP/DEC/XII/3, Annex III: Voluntary Guidelines on Safeguards in Biodiversity Financing Mechanisms (1).

<sup>638</sup> CBD/COP/DEC/XIII/5, Annex: Short-term Action Plan on Ecosystem Restoration (C.15).

<sup>639</sup> CDB/COP/DEC/XIII/20, Guiding principles on assessing the contribution of collective action by indigenous peoples and local communities (4).

<sup>640</sup> CBD/COP/DEC/14/16, Methodological guidance concerning the contributions of indigenous peoples and local communities, (h).

<sup>641</sup> CBD/COP/DEC/14/16, Methodological guidance concerning the contributions of indigenous peoples and local communities, (u).

research findings. Research priorities should be agreed upon through a consultative process focusing on the role of small-scale fisheries in sustainable resource utilization, food security and nutrition, poverty eradication, and equitable development, including also DRM and CCA considerations.<sup>642</sup>

States and other relevant parties should promote research into the conditions of work, including those of migrant fishers and fish workers, and inter alia health, education, decision-making, in the context of gender relations, in order to inform strategies for ensuring equitable benefits for men and women in fisheries. Efforts to mainstream gender should include the use of gender analysis in the design phase of policies, programmes and projects for small-scale fisheries in order to design gender-sensitive interventions. Gender-sensitive indicators should be used to monitor and address gender inequalities and to capture how interventions have contributed towards social change.<sup>643</sup>

Government authorities and agencies at all levels should work to develop knowledge and skills to support sustainable small-scale fisheries development and successful co-management arrangements, as appropriate. Particular attention should be given to decentralized and local government structures directly involved in governance and development processes together with small-scale fishing communities, including the area of research.<sup>644</sup>

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<sup>642</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.9).

<sup>643</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (11.10).

<sup>644</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, Part 3: Ensuring an Enabling Environment and Supporting Implementation (12.4).



## ANNEX I TABLE SETTING OUT THE INSTRUMENTS AND GUIDELINES THAT WERE REVIEWED, IDENTIFYING WHICH ARE INCLUDED IN THE COMPENDIUM

INCLUDED OR NOT	NAME OF INSTRUMENT, GUIDELINES etc.	YEAR
<b>HUMAN RIGHTS</b>		
✓	Universal Declaration of Human Rights	1948
✓	International Convention of the Elimination of All Forms of Racial Discrimination	1965, 1969
✓	International Covenant on Civil and Political Rights	1966, 1976
✓	International Covenant on Economic, Social and Cultural Rights	1966, 1976
✓	Convention on the Elimination of All Forms of Discrimination against Women	1979, 1981
✗	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1984, 1987
✓	Convention on the Rights of the Child	1989, 1990
✓	ILO Convention No. 169	1989, 1991 <sup>645</sup>

<sup>645</sup> Unless otherwise indicated, when two years are provided, the first indicates the year adopted and the second indicates the year of entry into force. Where there is only one year provided that is the year of adoption.

✓	Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities	1992
✓	United Nations Declaration of the Rights of Indigenous Peoples	2007
✓	Declaration on the Rights of Indigenous Peoples	2007
✓	Declaration on the Rights of Peasants and Other People Working in Rural Areas	2018
✓	Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development	2019
	<b>Regional Charters and Conventions on Human Rights</b>	
✗	European Convention on Human Rights	1950, 1953
✗	American Convention on Human Rights	1969, 1978
✗	African Charter on Human and Peoples' Rights	1981, 1986
✗	Arab Charter on Human Rights	1994, new version adopted 2004
✗	Asian Human Rights Charter	Declared 1998
	<b>United Nations General Assembly and Subsidiary Bodies</b>	



X	Reports of the United Nations Permanent Forum on Indigenous Issues	Established 2000
X	United Nations Human Rights Council Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework	2011
X	Reports of the Expert Mechanism on the Rights of Indigenous Peoples	Established 2007
X	<p>Selection of United Nations General Assembly Resolutions<sup>646</sup> and General Comments that are not listed above, including:</p> <ul style="list-style-type: none"> <li>- A/RES/67/153 on Indigenous Peoples Rights</li> <li>- A/RES/208 on Culture and Development</li> <li>- A/RES/66/142 on Rights of Indigenous Peoples</li> <li>- A/RES/66/154 on Human Rights and Cultural Diversity</li> <li>- A/RES/66/204 on Harmony with Nature</li> <li>- A/RES/66/296 on Organization of the High-level Plenary Meeting of the General Assembly, to be known as the World Conference on Indigenous Peoples</li> <li>- A/RES/65/198 on Indigenous Issues</li> <li>- A/RES/65/166 on Culture and Development</li> <li>- A/RES/65/164 on Harmony with Nature</li> </ul>	(Listing here a selection between 2010-2013)

<sup>646</sup> It is important to note that “[w]hile the decisions of the General Assembly have no legally binding force for Governments, they carry the weight of world opinion on major international issues, as well as the moral authority of the world community.” Available via: <http://www.un.org/ga/57/about.htm>.

	<ul style="list-style-type: none"> <li>- A/RES/65/161 on Convention on Biological Diversity</li> <li>- A/RES/65/120 on the role of the United Nations in promoting a new global human order<sup>647</sup></li> </ul>	
	<b>United Nations Special Rapporteurs and Independent Experts</b>	
X	Reports of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the right to Non-discrimination in this Context	Established 2000
X	Reports of the Special Rapporteur on the Right to Food	Established 2000
X	Reports of the Special Rapporteur on the Situation of Human Rights Defenders	Established 2000
X	Reports of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples	Established 2001
X	Reports of the Independent Expert on Minority Issues	Established 2005
X	Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation	Established 2008
X	Reports of the Special Rapporteur in the Field of Cultural Rights	Established 2009

<sup>647</sup> For a full list please consult <http://www.un.org/documents/resga.htm>.

X	Reports of the Special Rapporteur of Internally Displaced Persons	Established 2010 (Representative operating since 1994)
<b>BIODIVERSITY</b>		
<b>Convention on Biological Diversity</b>		
✓	Convention on Biological Diversity	1992, 1993
✓	Cartagena Protocol on Biosafety	2000, 2003
✓	Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity	2004
✓	Akwé: Kon Guidelines	2004
✓	Programme of Work on Protected Areas	2004
✓	Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization	2010
✓	Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol	2010
✓	Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities	2010
✓	Aichi Biodiversity Targets (Decision X/2)	2010

✓	Plan of Action on Customary Sustainable Use of Biological Diversity (Decision Xii/12)	2014
✓	Chennai Guidance for the Integration of Biodiversity And Poverty Eradication (Decision XII/15)	2014
✓	Voluntary Guidelines On Safeguards In Biodiversity Financing Mechanisms (Decision XII/3)	2014
✓	Short-term Action Plan on Ecosystem Restoration (Decision XIII/5)	2016
✓	Mo'otz Kuxtal Voluntary Guidelines - Voluntary guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure the "prior and informed consent", "free, prior and informed consent" or "approval and involvement", depending on national circumstances, of indigenous peoples and local communities for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge	2016
✓	Guiding Principles on Assessing the Contribution of Collective Action by Indigenous Peoples and Local Communities (Decision XIII/20)	2016
✓	Protected areas and other effective area-based conservation measures (Decision XIV/8), including: - Voluntary guidance on the integration of protected areas and other effective area-based conservation measures into wider land- and seascapes and mainstreaming across sectors to contribute, inter alia, to the sustainable development goals	2018

	<ul style="list-style-type: none"> <li>- Voluntary guidance on effective governance models for management of protected areas, including equity, taking into account work being undertaken under article 8(j) and related provisions</li> <li>- Scientific and technical advice on other effective area-based conservation measures</li> </ul>	
✓	The Rutzolijirisaxik Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity (Decision XIV/12)	2018
✓	Methodological guidance concerning the contributions of indigenous peoples and local communities (Decision 14/16)	2018
✓	<p>Select CBD COP Decisions that are not listed above, including:</p> <ul style="list-style-type: none"> <li>• Article 8(j) and Related Provisions (Decision V/16)</li> <li>• Article 8(j) and Related Provisions (Decision VI/10)</li> <li>• Protected Areas (Articles 8(a) to (e)) (Decision VII/28)</li> <li>• Protected Areas (Decision VIII/24)</li> <li>• Article 8(j) and Related Provisions (Decision IX/13)</li> <li>• Protected Areas (Decision IX/18)</li> <li>• Access and Benefit Sharing (Decision X/1)</li> <li>• Strategic Plan 2011-2012 (Decision X/2)</li> <li>• Protected Areas (Decision X/31)</li> <li>• Sustainable use of biodiversity (Decision X/32)</li> <li>• Biodiversity and climate change (Decision X/33)</li> <li>• Article 8(j) and Related Provisions (Decisions X/40-43)</li> </ul>	

	<ul style="list-style-type: none"> <li>Article 8(j) and Related Provisions (Decision XI/14)</li> <li>Protected Areas (Decision XI/24)</li> <li>Sustainable Use of Biodiversity (Decision XI/25)</li> </ul>	
<b>Forests</b>		
✓	United Nations Conference on Environment and Development Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests	1992
X	FAO Responsible Management of Planted Forests: Voluntary Guidelines	2006
X	FAO Fire Management: Voluntary Guidelines. Principles and Strategic Actions	2006
✓	United Nations Forum on Forests Non-legally Binding Instrument on All Types of Forests	2007
	<b>Other Agreements</b>	
X	International Plant Protection Convention	1951
✓	Convention on Wetlands of International Importance	1971, 1975
X	Convention on the International Trade in Endangered Species of Wild Fauna and Flora	1973, 1975 (Amended 1979)
X	Convention on the Conservation of Migratory Species of Wild Animals	1979, 1983

<b>IUCN Resolutions and Recommendations from World Conservation Congresses and the Fifth World Parks Congress</b>		
X	First World Conservation Congress	1996
X	Second World Conservation Congress	2000
X	Fifth World Parks Congress	2003
X	Third World Conservation Congress	2004
X	Fourth World Conservation Congress	2008
X	Fifth World Conservation Congress	2012
X	Third World Parks Congress	2014
X	Sixth World Conservation Congress	2016
	<b>POLLUTION</b>	
X	The Montreal Protocol on Substances that Deplete the Ozone Layer	1987, 1989
X	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	1989, 1992
X	Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	1998, 2004
<b>CLIMATE CHANGE</b>		

✓	United Nations Framework Convention on Climate Change	1992, 1994
✓	Kyoto Protocol to the United Nations Framework Convention on Climate Change	1997, 2005
✓	UNFCCC Cancun Agreements	2010
✓	Paris Agreement	2016
<b>DESERTIFICATION</b>		
✓	United Nations Convention to Combat Desertification	1994, 1996
<b>FOOD AND AGRICULTURE</b>		
✗	United Nations Fish Stocks Agreement	1995
✗	FAO Code of Conduct on Responsible Fisheries	1995
✓	The International Treaty on Plant Genetic Resources for Food and Agriculture	2001, 2004
✗	ILO's Work in Fishing Convention	2007
✓	Global Plan of Action for Animal Genetic Resources and the Interlaken Declaration on Animal Genetic Resources	2007
	<b>Food and Agriculture Organization</b>	
✗	FAO Code of Conduct on Responsible Fisheries	1995



✓	FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security	2004
✓	FAO Voluntary Guidelines on the Tenure of Land Fisheries and Forests in the Context of National Food Security	2012
✓	FAO International Guidelines for Securing Sustainable Small-scale Fisheries	2015
<b>WATER</b>		
✓	Convention on the Law of the Non-navigational Uses of International Watercourses	1997
<b>INTELLECTUAL PROPERTY</b>		
✓	The Agreement on Trade-Related Aspects of Intellectual Property Rights <sup>648</sup>	1995
X	Reports of WIPO negotiations on Effective Protection of Traditional Knowledge, Traditional Cultural Expressions/Folklore and Genetic Resources	-
<b>CULTURAL HERITAGE</b>		
✓	UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage	1972

<sup>648</sup> Many developing countries have been required to go beyond the requirements of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) when signing trade agreements with the United States and European Union. These have been called “TRIPS-Plus Provisions.”

✓	UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	2003, 2006
✓	UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions	2005, 2007
<b>BIOLOGICAL AND CULTURAL DIVERSITY</b>		
X	Declaration on Biocultural Diversity	2010
X	UNESCO-CBD Joint Programme of work on the Links between Biological and Cultural Diversity (referenced in Decision X/20)	2010
<b>SUSTAINABLE DEVELOPMENT</b>		
X	Declaration of the United Nations Conference on the Human Environment	1972
X	United Nations Declaration on the Right to Development	1986
X	Rio Declaration on Environment and Development	1992
X	Agenda 21	1992
X	United Nations Programme of Action on the Sustainable Development of Small Island Developing States	1994
X	Programme for the Further Implementation of Agenda 21	1997
X	Plan of Implementation of the World Summit on Sustainable Development (Johannesburg	2002

	Declaration on Sustainable Development and the Plan of Implementation) of the World Summit on Sustainable Development	
X	Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of SIDS (2005)	2005
X	The Future We Want	2012
<b>INFORMATION, PUBLIC PARTICIPATION AND ACCESS TO JUSTICE</b>		
✓	Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters	1998

## ANNEX II DIAGRAMS OF INTERNATIONAL LAW

### INTERNATIONAL LAW

#### INSTRUMENTS WITH A FOCUS ON HUMAN RIGHTS

##### General Conventions

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Convention on the Rights of the Child

ILO Convention No. 189

Convention on the Elimination of All Forms of Discrimination against Women

International Convention of the Elimination of All Forms of Racial Discrimination

##### Declarations

United Nations Declaration of the Rights of Indigenous Peoples

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

##### International Bill of Human Rights\*

Universal Declaration of Human Rights

International Covenant on Civil and Political Rights

International Covenant on Economic, Social and Cultural Rights

Optional Protocol to the International Covenant on Civil and Political Rights

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

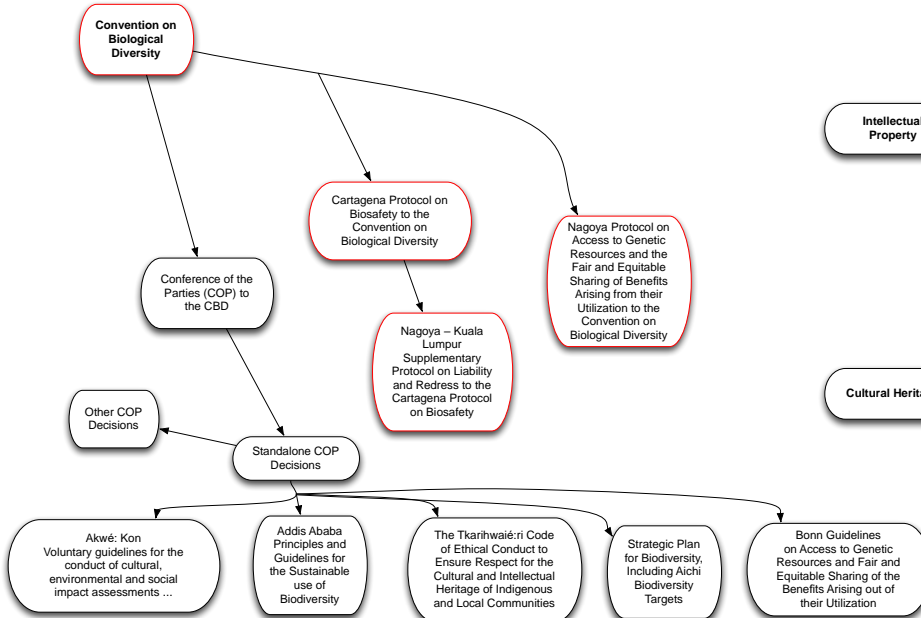
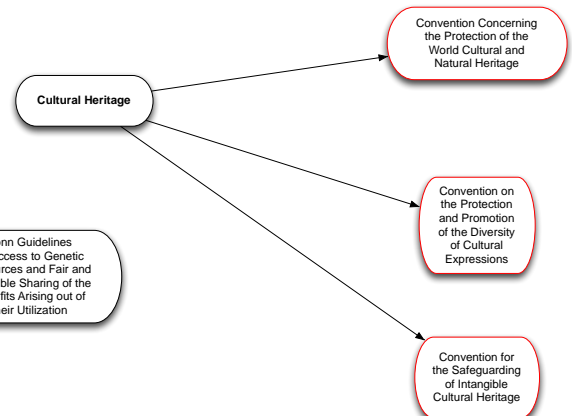
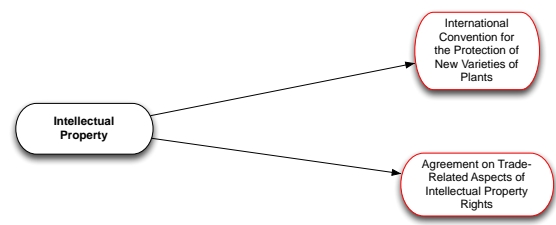
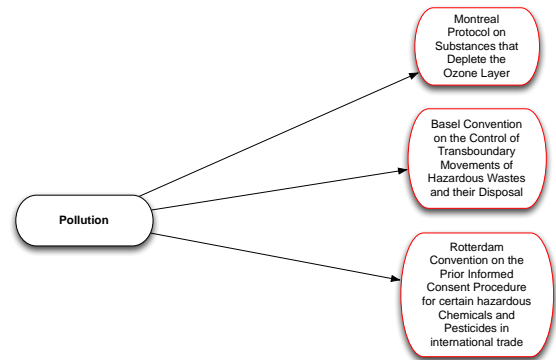
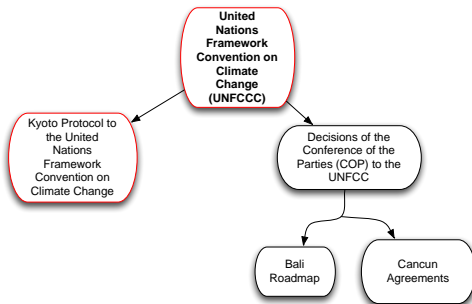
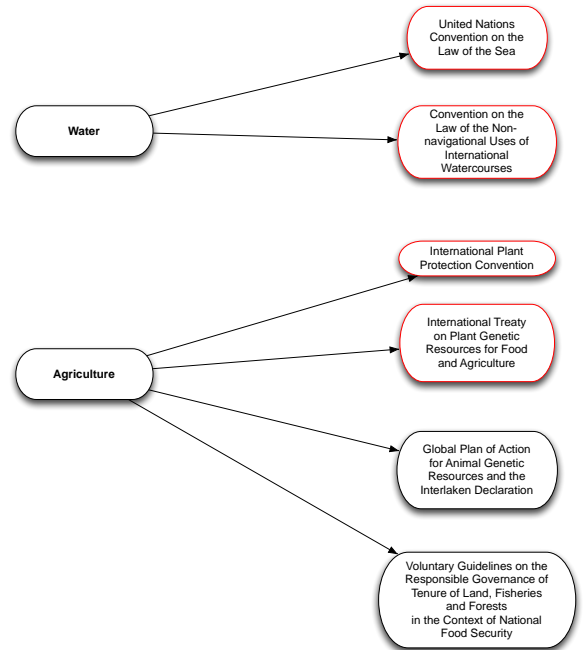
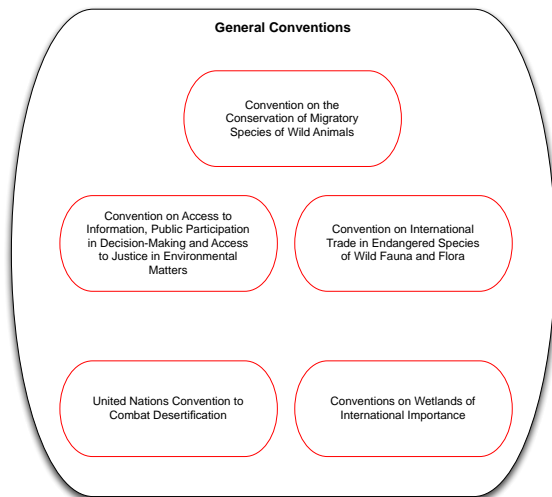
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights\*\*



\*It is widely accepted that Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights are part of the International Bill of Human Rights. Sources differ on which sub-instruments to include.

\*\*The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights will enter into force on 5 May 2013.

INSTRUMENTS WITH A FOCUS ON THE ENVIRONMENT,  
CULTURE, AND INTELLECTUAL PROPERTY



## ANNEX III RATIFICATIONS TABLE

COUNTRY	The International Treaty on Plant Genetic Resources for Food and Agriculture	The Agreement on Trade-Related Aspects of Intellectual Property Rights	Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters	UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage	UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions	UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage	Convention on the Law of the Non-navigational Uses of International Watercourses	United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification
Afghanistan	September 11, 2006			March 30, 2009	March 30, 2009	March 20, 1979		November 1, 1995
Albania	December 5, 2010	September 8, 2000	June 27, 2001	April 4, 2006	November 17, 2006	July 10, 1989		April 27, 2000
Algeria	December 13, 2002			March 15, 2004		June 24, 1974		May 22, 1996
Andorra					February 6, 2007	January 3, 1997		July 15, 2002
Angola	March 14, 2006	November 23, 1996			February 7, 2012	November 7, 1991		June 30, 1997
Antigua and Barbuda		January 1, 1995				November 1, 1983		June 6, 1997
Argentina		January 1, 1995		August 9, 2006	May 7, 2008	August 23, 1978		January 6, 1997
Armenia	March 20, 2007	February 5, 2003	August 1, 2001	May 18, 2006	February 27, 2007	September 5, 1993		July 2, 1997
Australia	December 12, 2005	January 1, 1995			September 18, 2009	August 22, 1974		May 15, 2000
Austria	November 4, 2005	January 1, 1995	January 17, 2005	April 9, 2009	December 18, 2006	December 18, 1992		June 2, 1997
Azerbaijan			March 23, 2000	January 18, 2007	February 15, 2010	December 16, 1993		August 10, 1998
Bahamas								November 10, 2000
Bahrain		January 1, 1995				May 28, 1991		July 14, 1997
Bangladesh	November 14, 2003	January 1, 1995		June 11, 2009	May 31, 2007	August 3, 1983		January 26, 1996
Barbados		January 1, 1995		October 2, 2008	October 2, 2008	April 9, 2002		May 14, 1997
Belarus			March 9, 2000	February 3, 2005	September 6, 2006	October 12, 1988		August 29, 2001
Belgium	October 2, 2007	January 1, 1995	January 21, 2003	March 24, 2006		July 24, 1996		June 30, 1997
Belize		January 1, 1995		December 4, 2007		November 6, 1990		July 23, 1998
Benin	February 24, 2006	February 22, 1996		April 17, 2012	December 20, 2007	June 14, 1982	July 5, 2012	August 29, 1996
Bhutan	September 2, 2003			October 12, 2005		October 17, 2001		August 20, 2003
Bolivia (Plurinational State of)		September 12, 1995		February 28, 2006	August 4, 2006	October 4, 1976		August 1, 1996
Bosnia and Herzegovina			October 1, 2008	February 23, 2009	January 27, 2009	July 12, 1993		August 26, 2002
Botswana		May 31, 1995		April 1, 2010		November 23, 1998		September 11, 1996
Brazil	May 22, 2006	January 1, 1995		March 1, 2006	January 16, 2007	September 1, 1977		June 25, 1997
Brunei Darussalam		January 1, 1995		August 12, 2011		August 12, 2011		December 4, 2002
Bulgaria	December 29, 2004	December 1, 1996	December 17, 2003	March 10, 2006	December 18, 2006	March 7, 1974		February 21, 2001
Burkina Faso	December 5, 2006	June 3, 1995		July 21, 2006	September 15, 2006	April 2, 1987	March 22, 2011	January 26, 1996
Burundi	April 28, 2006	July 23, 1995		August 25, 2006	October 14, 2008	May 19, 1982		January 6, 1997
Cambodia	June 11, 2002	October 13, 2004		June 13, 2006	September 19, 2007	November 28, 1991		August 18, 1997
Cameroon	December 12, 2005	December 13, 1995		October 9, 2012	November 22, 2006	December 7, 1982		May 29, 1997
Canada	June 10, 2002	January 1, 1995			November 28, 2005	July 23, 1976		December 1, 1995
Cape Verde		July 23, 2008				April 28, 1988		May 8, 1995
Central African Republic	August 4, 2003	May 31, 1995		December 7, 2004	May 11, 2012	December 22, 1980		September 5, 1996
Chad	March 14, 2006	October 19, 1996		June 17, 2008	June 17, 2008	June 23, 1999	September 26, 2012	September 27, 1996
Chile		January 1, 1995		December 10, 2008	March 13, 2007	February 20, 1980		November 11, 1997
China		December 11, 2001		December 2, 2004	January 30, 2007	December 12, 1985		February 18, 1997
Colombia		April 30, 1995		March 19, 2008	March 19, 2013	May 24, 1983		June 8, 1999
Comoros						September 27, 2000		March 3, 1998
Congo	September 14, 2004	March 27, 1997		July 16, 2012	October 22, 2008	December 10, 1987		July 12, 1999
Congo (Democratic Republic of)	June 5, 2003	January 1, 1997		September 28, 2010	September 28, 2010	September 23, 1974		September 12, 1997
Cook Islands	December 2, 2004					January 16, 2009		August 21, 1998
Costa Rica	November 14, 2006	January 1, 1995		February 23, 2007	March 15, 2011	August 23, 1977		January 5, 1998
Cote d'Ivoire	June 25, 2003	January 1, 1995		July 13, 2006	April 16, 2007	January 9, 1981		March 4, 1997
Croatia	May 8, 2009	November 30, 2000	March 27, 2007	July 28, 2005	August 31, 2006	July 6, 1992		October 6, 2000
Cuba	September 16, 2004	April 20, 1995		May 29, 2007	May 29, 2007	March 24, 1981		March 13, 1997
Cyprus	September 15, 2003	July 30, 1995	September 19, 2003	February 24, 2006	December 19, 2006	August 14, 1975		March 29, 2000
Czech Republic	March 31, 2004	January 1, 1995	July 6, 2004	February 18, 2009	August 12, 2010	March 26, 1993		January 25, 2000
Denmark	March 31, 2004	January 1, 1995	September 29, 2000	October 30, 2009	December 18, 2006	July 25, 1979	April 30, 2012	December 22, 1995
Djibouti	May 8, 2006	May 31, 1995		August 30, 2007	August 9, 2006	August 30, 2007		June 12, 1997
Dominica		January 1, 1995		September 5, 2005		April 4, 1995		December 8, 1997
Dominican Republic		March 9, 1995		October 2, 2006	September 24, 2009	February 12, 1985		June 26, 1997
Ecuador	May 7, 2004	January 21, 1996		February 13, 2008	November 8, 2006	June 16, 1975		September 6, 1995
Egypt	March 31, 2004	June 30, 1995		August 3, 2005	August 23, 2007	February 7, 1974		July 7, 1995
El Salvador	July 9, 2003	May 7, 1995		September 13, 2012		October 8, 1991		June 27, 1997
Equatorial Guinea				June 17, 2010	June 17, 2010	March 10, 2010		June 27, 1997
Eritrea	June 10, 2002			October 7, 2010		October 24, 2001		August 14, 1996
Estonia	March 31, 2004	November 13, 1999	August 2, 2001	January 27, 2006	December 18, 2006	October 27, 1995		February 8, 2012
Ethiopia	June 18, 2003			February 24, 2006	September 2, 2008	July 6, 1977		June 27, 1997
Fiji	July 9, 2008	January 14, 1996		January 19, 2010		November 21, 1990		August 26, 1998
Finland	March 31, 2004	January 1, 1995	September 1, 2004	February 21, 2013	December 18, 2006	March 4, 1987	January 23, 1998	September 20, 1995
France	July 7, 2005	January 1, 1995	July 8, 2002	July 11, 2006	December 18, 2006	June 27, 1975	February 24, 2011	June 12, 1997
Gabon	November 13, 2006	January 1, 1995		June 18, 2004	May 15, 2007	December 30, 1986		September 6, 1996

Gambia		October 23, 1996		May 26, 2011	May 26, 2011	July 1, 1987		June 11, 1996
Georgia		June 14, 2000	April 11, 2000	March 18, 2008	July 1, 2008	November 4, 1992		July 23, 1999
Germany	March 31, 2004	January 1, 1995	January 15, 2007	April 10, 2013	March 12, 2007	August 23, 1976	January 15, 2007	July 10, 1996
Ghana	October 28, 2002	January 1, 1995				July 4, 1975		December 27, 1996
Greece	March 31, 2004	January 1, 1995	January 27, 2006	January 3, 2007	January 3, 2007	July 17, 1981	December 2, 2010	May 5, 1997
Grenada		February 22, 1996		January 15, 2009	January 15, 2009	August 13, 1998		May 28, 1997
Guatemala	February 2, 2006	July 21, 1995		October 25, 2006	October 25, 2006	January 16, 1979		September 10, 1998
Guinea	June 6, 2002	October 25, 1995		February 20, 2008	February 20, 2008	March 18, 1979		June 23, 1997
Guinea-Bissau	February 1, 2006	May 31, 1995				January 28, 2006	May 19, 2010	October 27, 1995
Guyana		January 1, 1995			December 14, 2009	June 20, 1977		June 26, 1997
Haiti		January 30, 1996		September 17, 2009	February 8, 2010	January 18, 1980		September 25, 1996
Honduras	January 1, 2004	January 1, 1995		July 24, 2006	August 31, 2010	June 8, 1979		June 25, 1997
Hungary	March 4, 2004	January 1, 1995	July 3, 2001	March 17, 2006	May 9, 2008	July 15, 1985	January 26, 2000	July 13, 1999
Iceland	August 7, 2007	January 1, 1995	October 20, 2011	November 23, 2005	February 1, 2007	December 19, 1995		June 3, 1997
India	June 10, 2002	January 1, 1995		September 9, 2005	December 15, 2006	November 14, 1977		December 17, 1996
Indonesia	March 10, 2006	January 1, 1995		October 15, 2007	January 12, 2012	July 6, 1989		August 31, 1998
Iran (Islamic Republic of)	April 28, 2006			March 23, 2006		February 26, 1975		April 29, 1997
Iraq				January 6, 2010		March 5, 1974	July 9, 2001	May 28, 2010
Ireland	March 31, 2004	January 1, 1995	June 20, 2012		December 22, 2006	September 16, 1991		July 31, 1997
Israel		April 21, 1995				October 6, 1999		March 26, 1996
Italy	May 18, 2004	January 1, 1995	June 13, 2001	October 30, 2007	February 19, 2007	June 23, 1978	November 30, 2012	June 23, 1997
Jamaica	March 14, 2006	March 9, 1995		September 27, 2010	May 4, 2007	June 14, 1983		November 12, 1997
Japan		January 1, 1995		June 15, 2004		June 30, 1992		September 11, 1998
Jordan	May 30, 2002	April 11, 2000		March 24, 2006	February 16, 2007	May 5, 1975	June 22, 1999	October 21, 1996
Kazakhstan			January 11, 2001	December 28, 2011		April 29, 1994		July 9, 1997
Kenya	May 27, 2003	January 1, 1995		October 24, 2007	October 24, 2007	June 5, 1991		June 24, 1997
Kiribati	December 13, 2005					May 12, 2000		September 8, 1998
Korea (Democratic People's Republic of)	July 16, 2003			November 21, 2008		July 21, 1998		December 29, 2003
Kuwait	September 2, 2003	January 1, 1995			August 3, 2007	June 6, 2002		June 27, 1997
Kyrgyzstan	June 1, 2009	December 20, 1998	May 1, 2001	November 6, 2006		July 3, 1995		September 19, 1997
Lao People's Democratic Republic	March 14, 2006	February 2, 2013		November 26, 2009	November 5, 2007	March 20, 1987		September 20, 1996
Latvia	May 27, 2004	February 10, 1999	June 14, 2002	January 14, 2005	July 6, 2007	January 10, 1995		October 21, 2002
Lebanon	May 6, 2004			January 8, 2007		February 3, 1983	May 25, 1999	May 16, 1996
Lesotho	November 21, 2005	May 31, 1995		July 29, 2008	February 18, 2010	November 25, 2003		September 12, 1995
Liberia	November 25, 2005					March 28, 2002		March 2, 1998
Libya	April 12, 2005					October 13, 1978	June 14, 2005	July 22, 1996
Liechtenstein		September 1, 1995						December 29, 1999
Lithuania	June 21, 2005	May 31, 2001	January 28, 2002	January 21, 2005	December 18, 2006	March 31, 1992		July 25, 2003
Luxembourg	March 31, 2004	January 1, 1995	October 25, 2005	January 31, 2006	December 18, 2006	September 28, 1983	June 8, 2012	February 4, 1997
Madagascar	March 13, 2006	November 17, 1995		March 31, 2006	September 11, 2006	July 19, 1983		June 25, 1997
Malawi	July 4, 2002	May 31, 1995		March 16, 2010	March 16, 2010	January 5, 1982		June 13, 1996
Malaysia	May 5, 2003	January 1, 1995				December 7, 1988		June 25, 1997
Maldives	March 2, 2006	May 31, 1995				May 22, 1986		September 3, 2002
Mali	May 5, 2005	May 31, 1995		June 3, 2005	November 9, 2006	April 5, 1977		October 31, 1995
Malta		January 1, 1995	April 23, 2002		December 18, 2006	November 14, 1978		January 30, 1998
Marshall Islands						April 24, 2002		June 2, 1998
Mauritania	February 11, 2003	May 31, 1995		November 15, 2006		March 2, 1981		August 7, 1996
Mauritius	March 27, 2003	January 1, 1995		June 4, 2004	March 29, 2006	September 19, 1995		January 23, 1996
Mexico		January 1, 1995		December 14, 2005	July 5, 2006	February 23, 1984		April 3, 1995
Micronesia				February 13, 2013		July 22, 2002		March 25, 1996
Monaco				June 4, 2007	July 31, 2006	November 7, 1978		March 5, 1999
Mongolia		January 29, 1997		June 29, 2005	October 15, 2007	February 2, 1990		September 3, 1996
Montenegro	July 21, 2010	April 29, 2012	November 2, 2009	September 14, 2009	June 24, 2008	April 26, 2007		June 4, 2007
Morocco	July 14, 2006	January 1, 1995		July 6, 2006		October 28, 1975	April 13, 2011	November 7, 1996
Mozambique		August 26, 1995		October 18, 2007	October 18, 2007	November 27, 1982		March 13, 1997
Myanmar	December 4, 2002	January 1, 1995				April 29, 1994		January 2, 1997
Namibia	October 7, 2004	January 1, 1995		September 19, 2007	November 29, 2006	April 6, 2000	August 29, 2001	May 16, 1997
Nauru								September 22, 1998
Nepal	October 19, 2009	April 23, 2004		June 15, 2010		June 20, 1978		October 15, 1996
Netherlands	November 18, 2005	January 1, 1995	December 29, 2004	May 15, 2012	October 9, 2009	August 26, 1992	January 9, 2001	June 27, 1995
New Zealand		January 1, 1995			October 5, 2007	November 22, 1984		September 7, 2000
Nicaragua	November 22, 2002	September 3, 1995		February 14, 2006	March 5, 2009	December 17, 1979		February 17, 1998
Niger	October 27, 2004	December 13, 1996		April 27, 2007	March 14, 2007	December 23, 1974	February 20, 2013	January 19, 1996
Nigeria		January 1, 1995		October 21, 2005	January 21, 2008	October 23, 1974	September 27, 2010	July 8, 1997
Niue						January 23, 2001		August 14, 1998
Norway	August 3, 2004	January 1, 1995	May 2, 2003	January 17, 2007	January 17, 2007	May 12, 1977	September 30, 1998	August 30, 1996
Occupied Palestinian Territory					December 8, 2011	December 8, 2011		
Oman	July 14, 2004	November 9, 2000		August 4, 2005	March 16, 2007	October 6, 1981		July 23, 1996
Pakistan	September 2, 2003	January 1, 1995		October 7, 2005		July 23, 1976		February 24, 1996
Palau	August 5, 2008			November 2, 2011		June 11, 2002		June 15, 1999
Panama	March 13, 2006	September 6, 1997		August 20, 2004	January 22, 2007	March 3, 1978		April 4, 1996
Papua New Guinea		June 9, 1996		September 12, 2008		July 28, 1997		December 6, 2000
Paraguay	January 3, 2003	January 1, 1995		September 14, 2006	October 30, 2007	April 27, 1988		January 15, 1997
Peru	June 5, 2003	January 1, 1995		September 23, 2005	October 16, 2006	February 24, 1982		November 9, 1995
Philippines	September 28, 2006	January 1, 1995		August 18, 2006		September 19, 1985		February 10, 2000
Poland	February 7, 2005	July 1, 1995	February 15, 2002	May 16, 2011	August 17, 2007	June 29, 1976		November 14, 2001
Portugal	November 7, 2005	January 1, 1995	June 9, 2003	May 21, 2008	March 16, 2007	September 30, 1980	June 22, 2005	April 1, 1996

Qatar	July 1, 2008	January 13, 1996		September 1, 2008	April 21, 2009	September 12, 1984	February 28, 2002	March 15, 1999
Republic of Korea	January 20, 2009	January 1, 1995		February 9, 2005	April 1, 2010	September 14, 1988		August 17, 1999
Republic of Moldova		July 26, 2001	August 9, 1999	March 24, 2006	October 5, 2006	September 23, 2002		March 10, 1999
Romania	May 31, 2005	January 1, 1995	July 11, 2000	January 20, 2006	July 20, 2006	May 16, 1990		August 19, 1998
Russian Federation		August 22, 2012				October 12, 1988		May 29, 2003
Rwanda	October 14, 2010	May 22, 1996		January 21, 2013	July 16, 2012	December 28, 2000		October 22, 1998
Saint Kitts and Nevis		February 21, 1996				July 10, 1986		June 30, 1997
Saint Lucia	July 16, 2003	January 1, 1995		February 1, 2007	February 1, 2007	October 14, 1991		July 2, 1997
Saint Vincent and the Grenadines		January 1, 1995		September 25, 2009	September 25, 2009	February 3, 2003		March 16, 1998
Samoa	March 9, 2006	May 10, 2012				August 28, 2001		August 21, 1998
San Marino						October 18, 1991		July 23, 1999
Sao Tome and Principe	April 7, 2006			July 25, 2006		July 25, 2006		July 8, 1998
Saudi Arabia	October 17, 2005	December 11, 2005		January 10, 2008		August 7, 1978		June 25, 1997
Senegal	October 25, 2006	January 1, 1995		January 5, 2006	November 7, 2006	February 13, 1976		July 26, 1995
Serbia			July 31, 2009	June 30, 2010	July 2, 2009	September 11, 2001		December 18, 2007
Seychelles	May 30, 2006			February 15, 2005	June 20, 2008	April 9, 1980		June 26, 1997
Sierra Leone	November 20, 2002	July 23, 1995				January 7, 2005		September 25, 1997
Singapore		January 1, 1995				June 19, 2012		April 26, 1999
Slovakia	June 8, 2010	January 1, 1995	December 5, 2005	March 24, 2006	December 18, 2006	March 31, 1993		January 7, 2002
Slovenia	January 11, 2006	July 30, 1995	July 29, 2004	September 18, 2008	December 18, 2006	November 5, 1992		June 28, 2001
Solomon Islands		July 26, 1995				June 10, 1992		April 16, 1999
Somalia								July 24, 2002
South Africa		January 1, 1995			December 21, 2006	July 10, 1997	October 26, 1998	September 30, 1997
South Sudan								
Spain	March 31, 2004	January 1, 1995	December 29, 2004	October 25, 2006	December 18, 2006	May 4, 1982	September 24, 2009	January 30, 1996
Sri Lanka		January 1, 1995		April 21, 2008		June 6, 1980		December 9, 1998
Sudan	June 10, 2002			June 19, 2008	June 19, 2008	June 6, 1974		November 24, 1995
Suriname		January 1, 1995				October 23, 1997		June 1, 2000
Swaziland	January 21, 2013	July 1, 1995		October 30, 2012	October 30, 2012	November 30, 2005		October 7, 1996
Sweden	March 31, 2004	January 1, 1995	May 20, 2005	January 26, 2011	December 18, 2006	January 22, 1985	June 15, 2000	December 12, 1995
Switzerland	November 22, 2004	January 1, 1995		July 16, 2008	July 16, 2008	September 17, 1975		January 19, 1996
Syrian Arab Republic	August 26, 2003			March 11, 2005	February 5, 2008	August 13, 1975	April 2, 1998	June 10, 1997
Tajikistan		March 2, 2013	July 17, 2001	August 17, 2010	October 24, 2007	August 28, 1992		July 16, 1997
Thailand		January 1, 1995				September 17, 1987		March 7, 2001
The former Yugoslav Republic of Macedonia		April 4, 2003	July 22, 1999	June13, 2006	May 22, 2007	April 30, 1997		March 6, 2002
Timor-Leste								August 20, 2003
Togo	October 23, 2007	May 31, 1995		February 5, 2009	September 5, 2006	April 15, 1998		October 4, 1995
Tonga		July 27, 2007		January 26, 2010		June 3, 2004		September 25, 1998
Trinidad and Tobago	October 27, 2004	March 1, 1995		July 22, 2010	July 26, 2010	February 16, 2005		June 8, 2000
Tunisia	June 8, 2004	March 29, 1995		July 24, 2006	February 15, 2007	March 10, 1975	April 22, 2009	October 11, 1995
Turkey	June 7, 2007	March 26, 1995		March 27, 2006		March 16, 1983		March 31, 1998
Turkmenistan			June 25, 1999	November 25, 2011		September 30, 1994		September 18, 1996
Tuvalu								September 14, 1998
Uganda	March 25, 2003	January 1, 1995		May 13, 2009		November 20, 1987		June 25, 1997
Ukraine		May 16, 2008	November 18, 1999	May 27, 2008	March 10, 2010	October 12, 1988		August 27, 2002
United Arab Emirates	February 16, 2004	April 10, 1996		May 2, 2005	June 6, 2012	May 11, 2001		October 21, 1998
United Kingdom of Great Britain and Northern Ireland	March 31, 2004	January 1, 1995	February 23, 2005		December 7, 2007	May 29, 1984		October 18, 1996
United Republic of Tanzania	April 30, 2004	January 1, 1995		October 18, 2011	October 18, 2011	August 2, 1977		June 19, 1997
United States of America		January 1, 1995				December 7, 1973		November 17, 2000
Uruguay	March 1, 2006	January 1, 1995		January 18, 2007	January 18, 2007	March 9, 1989		February 17, 1999
Uzbekistan				January 29, 2008		January 13, 1993	September 4, 2007	October 31, 1995
Vanuatu		August 24, 2012		September 22, 2010		June 13, 2002		August 10, 1999
Vatican City						October 7, 1982		
Venezuela (Bolivarian Republic of)	May 17, 2005	January 1, 1995		April 12, 2007		October 30, 1990		June 29, 1998
Viet Nam		January 11, 2007		September 20, 2005	August 7, 2007	October 19, 1987		August 25, 1998
Yemen	March 1, 2006			October 8, 2007		October 7, 1980		January 14, 1997
Zambia	March 13, 2006	January 1, 1995		May 10, 2006		June 4, 1984		September 19, 1996
Zimbabwe	July 5, 2005	March 5, 1995		May 30, 2006	May 15, 2008	August 16, 1982		September 23, 1997
COUNTRY	United Nations Framework Convention on Climate Change (Entry into Force)	Convention on Wetlands of International Importance	Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol	Convention on Biological Diversity	Cartagena Protocol on Biosafety (Entry into Force)	Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization	Convention on the Rights of the Child	International Convention on the Elimination of All Forms of Racial Discrimination
Afghanistan	December 18, 2002			September 19, 2002	May 21, 2013		March 28, 1994	July 6, 1983



Albania	January 1, 1995	February 29, 1996	January 29, 2013	January 5, 1994	May 9, 2005	January 29, 2013	February 27, 1992	May 11, 1994
Algeria	March 21, 1994	March 4, 1984		August 14, 1995	November 3, 2004		April 16, 1993	February 14, 1972
Andorra	May 31, 2011	November 23, 2012					January 2, 1996	September 22, 2006
Angola	August 15, 2000			April 1, 1998	May 28, 2009		December 5, 1990	
Antigua and Barbuda	March 21, 1994	October 2, 2005		March 9, 1993	December 9, 2003		October 5, 1993	October 25, 1988
Argentina	June 9, 1994	September 4, 1992		November 22, 1994			December 4, 1990	October 2, 1968
Armenia	March 21, 1994	November 6, 1993		May 14, 1993	July 29, 2004		June 23, 1993	June 23, 1993
Australia	March 21, 1994	December 21, 1975		June 18, 1993			December 17, 1990	September 30, 1975
Austria	May 29, 1994	April 16, 1983		August 18, 1994	September 11, 2003		August 6, 1992	May 9, 1972
Azerbaijan	August 14, 1995	May 21, 2001		August 3, 2000	June 30, 2005		August 13, 1992	August 16, 1996
Bahamas	June 27, 1994	June 7, 1997		September 2, 1993	April 14, 2004		February 20, 1991	August 5, 1975
Bahrain	March 28, 1995	February 27, 1998		August 30, 1996	May 7, 2012		February 13, 1992	March 27, 1990
Bangladesh	July 14, 1994	September 21, 1992		May 3, 1994	May 5, 2004		August 3, 1990	June 11, 1979
Barbados	June 21, 1994	April 12, 2006		December 10, 1993	September 11, 2003		October 9, 1990	November 8, 1972
Belarus	August 9, 2000	August 25, 1991		September 8, 1993	September 11, 2003		October 1, 1990	April 8, 1969
Belgium	April 15, 1996	July 4, 1986		November 22, 1996	July 14, 2004		December 16, 1991	August 7, 1975
Belize	January 29, 1995	August 22, 1998		December 30, 1993	May 12, 2004		May 2, 1990	November 14, 2001
Benin	September 28, 1994	May 24, 2000		June 30, 1994	May 31, 2005		August 3, 1990	November 30, 2001
Bhutan	November 23, 1995	September 7, 2012		August 25, 1995	September 11, 2003		August 1, 1990	
Bolivia (Plurinational State of)	January 1, 1995	October 27, 1990		October 3, 1994	September 11, 2003		June 26, 1990	September 22, 1970
Bosnia and Herzegovina	December 6, 2000	March 1, 1992		August 26, 2002	December 30, 2009		September 1, 1993	July 16, 1993
Botswana	April 27, 1994	April 9, 1997		October 12, 1995	September 11, 2003	February 21, 2013	March 14, 1995	February 20, 1974
Brazil	May 29, 1994	September 24, 1993		February 28, 1994	February 22, 2004		September 24, 1990	March 27, 1968
Brunei Darussalam	December 5, 2007			July 27, 2008			December 27, 1995	
Bulgaria	August 10, 1995	January 24, 1976	December 6, 2012	April 17, 1996	September 11, 2003		June 3, 1991	August 8, 1966
Burkina Faso	March 21, 1994	October 27, 1990		September 2, 1993	November 2, 2003		August 31, 1990	July 18, 1974
Burundi	April 7, 1997	October 5, 2002		April 15, 1997	December 31, 2008		October 19, 1990	October 27, 1977
Cambodia	March 17, 1996	October 23, 1999		February 9, 1995	December 16, 2003		October 15, 1992	November 28, 1983
Cameroon	January 17, 1995	July 20, 2006		October 19, 1994	September 11, 2003		January 11, 1993	June 24, 1971
Canada	March 21, 1994	May 15, 1981		December 4, 1992			December 13, 1991	October 14, 1970
Cape Verde	June 27, 1995	November 18, 2005		March 29, 1995	January 30, 2006		June 4, 1992	October 3, 1979
Central African Republic	June 8, 1996	April 5, 2006		March 15, 1995	February 16, 2009		April 23, 1992	March 16, 1971
Chad	September 5, 1994	October 13, 1990		June 7, 1994	January 30, 2007		October 2, 1990	August 7, 1977
Chile	March 22, 1995	November 27, 1981		September 9, 1994			August 13, 1990	October 20, 1971
China	March 21, 1994	July 31, 1992		January 5, 1993	September 6, 2005		March 2, 1992	December 29, 1981
Colombia	June 20, 1995	October 18, 1998		November 28, 1994	September 11, 2003		January 28, 1991	September 2, 1981
Comoros	January 29, 1995	June 9, 1995		September 29, 1994	June 23, 2009		June 22, 1993	September 27, 2004
Congo	January 12, 1997	October 18, 1998		August 1, 1996	October 11, 2006		October 14, 1993	July 11, 1988
Congo (Democratic Republic of)	April 9, 1995	May 18, 1996		December 3, 1994	June 21, 2005		September 27, 1990	April 21, 1976
Cook Islands	March 21, 1994			April 20, 1993			June 6, 1997	
Costa Rica	November 24, 1994	April 27, 1992		August 26, 1994	May 7, 2007		August 21, 1990	January 16, 1967
Cote d'Ivoire	February 27, 1995	June 27, 1996		November 29, 1994			February 4, 1991	January 4, 1973
Croatia	July 7, 1996	June 25, 1991		October 7, 1996	September 11, 2003		October 12, 1992	October 12, 1992
Cuba	April 5, 1994	August 12, 2001		March 8, 1994	September 11, 2003		August 21, 1991	February 15, 1972
Cyprus	January 13, 1998	November 11, 2001		July 10, 1996	March 4, 2004		February 7, 1991	April 21, 1967
Czech Republic	March 21, 1994	January 1, 1993	February 13, 2012	December 3, 1993	September 11, 2003		February 22, 1993	February 22, 1993
Denmark	March 21, 1994	January 2, 1978		December 21, 1993	September 11, 2003		July 19, 1991	December 9, 1971
Djibouti	November 25, 1995	March 22, 2003		September 1, 1994	September 11, 2003		December 6, 1990	September 30, 2011
Dominica	March 21, 1994			April 6, 1994	October 11, 2004		March 13, 1991	
Dominican Republic	January 5, 1999	September 15, 2002		November 25, 1996	September 18, 2006		June 11, 1991	May 25, 1983
Ecuador	March 21, 1994	January 7, 1991		February 23, 1993	September 11, 2003		March 23, 1990	September 22, 1966
Egypt	March 5, 1995	September 9, 1988		June 2, 1994	March 21, 2004		July 6, 1990	May 1, 1967
El Salvador	March 3, 1996	May 22, 1999		September 8, 1994	December 25, 2003		July 10, 1990	November 30, 1979
Equatorial Guinea	November 14, 2000	October 2, 2003		December 6, 1994			June 15, 1992	October 8, 2002
Eritrea	July 23, 1995			March 21, 1996	June 8, 2005		August 3, 1994	July 31, 2001
Estonia	October 25, 1994	July 29, 1994		July 27, 1994	June 22, 2004		October 21, 1991	October 21, 1991
Ethiopia	July 4, 1994			April 5, 1994	January 7, 2004	November 16, 2012	May 14, 1991	June 23, 1976
Fiji	March 21, 1994	August 11, 2006		February 25, 1993	September 11, 2003	October 24, 2012	August 13, 1993	January 11, 1973
Finland	August 1, 1994	December 21, 1975		July 27, 1994	October 7, 2004		June 20, 1991	July 14, 1970
France	June 23, 1994	December 1, 1986		July 1, 1994	September 11, 2003		August 7, 1990	July 28, 1971
Gabon	April 21, 1998	April 30, 1987		March 14, 1997	July 31, 2007	November 11, 2011	February 9, 1994	February 29, 1980
Gambia	September 8, 1994	January 16, 1997		June 10, 1994	September 7, 2004		August 8, 1990	December 29, 1978
Georgia	October 27, 1994	June 7, 1997		June 2, 1994	February 2, 2009		June 2, 1994	June 2, 1999
Germany	March 21, 1994	June 26, 1976		December 21, 1993	February 18, 2004		March 6, 1992	May 16, 1969
Ghana	December 5, 1995	June 22, 1988		August 29, 1994	September 11, 2003		February 5, 1990	September 8, 1966
Greece	November 2, 1994	December 21, 1975		August 4, 1994	August 19, 2004		May 11, 1993	June 18, 1970
Grenada	November 9, 1994	September 22, 2012		August 11, 1994	May 5, 2004		November 5, 1990	
Guatemala	March 14, 1996	October 26, 1990		July 10, 1995	January 26, 2005		June 6, 1990	January 18, 1983
Guinea	March 21, 1994	March 18, 1993		May 7, 1993	March 10, 2008		July 13, 1990	March 14, 1977
Guinea-Bissau	January 25, 1996	May 14, 1990		October 27, 1995	August 17, 2010		August 20, 1990	November 1, 2010
Guyana	November 27, 1994			August 29, 1994	June 16, 2008		January 14, 1991	February 15, 1977
Haiti	December 24, 1996			September 25, 1996			June 8, 1995	December 19, 1972
Honduras	January 17, 1996	October 23, 1993		July 31, 1995	February 16, 2009		August 10, 1990	October 10, 2002
Hungary	May 25, 1994	August 11, 1979		February 24, 1994	April 12, 2004		October 7, 1991	May 4, 1967
Iceland	March 21, 1994	April 2, 1978		September 12, 1994			October 28, 1992	March 13, 1967
India	March 21, 1994	February 1, 1982		February 18, 1994	Sep 11, 2003	October 9, 2012	December 11, 1992	December 3, 1968
Indonesia	November 21, 1994	August 8, 1992		August 23, 1994	March 3, 2005		September 5, 1990	June 25, 1999

Iran (Islamic Republic of)	October 16, 1996	December 21, 1975		August 6, 1996	February 18, 2004		July 13, 1994	August 29, 1968
Iraq	October 26, 2009	February 17, 2008		October 26, 2009			June 15, 1994	January 14, 1970
Ireland	July 19, 1994	March 15, 1985	January 14, 2013	March 22, 1996	February 12, 2004		September 28, 1992	December 29, 2000
Israel	September 2, 1996	March 12, 1997		August 7, 1995			October 3, 1991	January 3, 1979
Italy	July 14, 1994	April 14, 1977		April 15, 1994	June 22, 2004		September 5, 1991	January 5, 1976
Jamaica	April 6, 1995	February 7, 1998		January 6, 1995	December 24, 2012		May 14, 1991	June 4, 1971
Japan	March 21, 1994	October 17, 1980		May 28, 1993	February 19, 2004		April 22, 1994	December 15, 1995
Jordan	March 21, 1994	May 10, 1977		November 12, 1993	February 9, 2004	January 10, 2012	May 24, 1991	May 30, 1974
Kazakhstan	August 15, 1995	May 2, 2007		September 6, 1994	December 7, 2008		August 12, 1994	August 26, 1998
Kenya	November 28, 1994	October 5, 1990		July 26, 1994	September 11, 2003		July 30, 1990	September 13, 2001
Kiribati	May 8, 1995			August 16, 1994	July 19, 2004		December 11, 1995	
Korea (Democratic People's Republic of)	March 5, 1995			October 26, 1994	October 27, 2003		September 21, 1990	
Kuwait	March 28, 1995			August 2, 2002			October 21, 1991	October 15, 1968
Kyrgyzstan	August 23, 2000	March 12, 2003		August 6, 1996	January 3, 2006		October 7, 1994	September 5, 1997
Lao People's Democratic Republic	April 4, 1995	September 28, 2010		September 20, 1996	November 1, 2004	September 26, 2012	May 8, 1991	February 22, 1974
Latvia	June 21, 1995	November 25, 1995	November 30, 2011	December 14, 1995	May 13, 2004		April 14, 1992	April 14, 1992
Lebanon	March 15, 1995	August 16, 1999		December 15, 1994	May 7, 2013		May 14, 1991	November 12, 1971
Lesotho	May 8, 1995	November 1, 2004		January 10, 1995	September 11, 2003		March 10, 1992	November 4, 1971
Liberia	February 4, 2002	November 2, 2003		November 8, 2000	September 11, 2003		June 4, 1993	November 5, 1976
Libya	September 12, 1999	August 5, 2000		July 12, 2001	September 12, 2005		April 15, 1993	July 3, 1968
Liechtenstein	September 20, 1994	December 6, 1991		November 19, 1997			December 22, 1995	March 1, 2000
Lithuania	June 22, 1995	December 20, 1993	December 6, 2012	February 1, 1996	February 5, 2004		January 31, 1992	December 10, 1998
Luxembourg	August 7, 1994	August 15, 1998		May 9, 1994	September 11, 2003		March 7, 1994	May 1, 1978
Madagascar	August 31, 1999	January 25, 1999		March 4, 1996	February 22, 2004		March 19, 1991	February 7, 1969
Malawi	July 20, 1994	March 14, 1997		February 2, 1994	May 28, 2009		January 2, 1991	June 11, 1996
Malaysia	October 11, 1994	March 10, 1995		June 24, 1994	December 2, 2003		February 17, 1995	
Maldives	March 21, 1994			November 9, 1992	September 11, 2003		February 11, 1991	April 24, 1984
Mali	March 28, 1995	September 25, 1987		March 29, 1995	September 11, 2003		September 20, 1990	July 16, 1974
Malta	June 15, 1994	January 30, 1989		December 29, 2000	April 5, 2007		September 30, 1990	May 27, 1971
Marshall Islands	March 21, 1994	November 13, 2004		October 8, 1992	September 11, 2003		October 4, 1993	
Mauritania	April 20, 1994	February 22, 1983		August 16, 1996	October 20, 2005		May 16, 1991	December 13, 1988
Mauritius	March 21, 1994	September 30, 2001		September 4, 1992	September 11, 2003	December 17, 2012	July 26, 1990	May 30, 1972
Mexico	March 21, 1994	November 4, 1986	September 26, 2012	March 11, 1993	September 11, 2003	May 16, 2012	September 21, 1990	February 20, 1975
Micronesia	March 21, 1994			June 20, 1994		January 30, 2013	May 5, 1993	
Monaco	March 21, 1994	December 20, 1997		November 20, 1992			June 21, 1993	September 27, 1995
Mongolia	March 21, 1994	April 8, 1998		September 30, 1993	October 20, 2003		July 5, 1990	August 6, 1969
Montenegro	January 21, 2007	June 3, 2006		June 3, 2006	June 3, 2006		October 23, 2006	October 23, 2006
Morocco	March 27, 1996	October 20, 1980		August 21, 1995	July 24, 2011		June 21, 1993	December 18, 1970
Mozambique	November 23, 1995	December 3, 2004		August 25, 1995	September 11, 2003		April 26, 1994	April 18, 1983
Myanmar	February 23, 1995	March 17, 2005		November 25, 1994	May 13, 2008		July 15, 1991	
Namibia	August 14, 1995	December 23, 1995		May 16, 1997	May 11, 2005		September 30, 1990	November 11, 1982
Nauru	March 21, 1994			November 11, 1993	September 11, 2003		July 27, 1994	
Nepal	July 31, 1994	April 17, 1988		November 23, 1993			September 14, 1990	January 30, 1971
Netherlands	March 21, 1994	September 23, 1980		July 12, 1994	September 11, 2003		February 6, 1995	December 10, 1971
New Zealand	March 21, 1994	December 13, 1976		September 16, 1993	May 25, 2005		April 6, 1993	November 22, 1972
Nicaragua	January 29, 1996	November 30, 1997		November 20, 1995	September 11, 2003		October 5, 1990	February 15, 1978
Niger	October 23, 1995	August 30, 1987		July 25, 1995	December 29, 2004		September 30, 1990	April 27, 1967
Nigeria	November 27, 1994	February 2, 2001		August 29, 1994	October 13, 2003		April 19, 1991	October 16, 1967
Niue	May 28, 1996			February 28, 1996	September 11, 2003		December 20, 1995	
Norway	March 21, 1994	December 21, 1975	November 1, 2012	July 9, 1993	September 11, 2003		January 8, 1991	August 6, 1970
Occupied Palestinian Territory								
Oman	May 9, 1995			February 8, 1995	September 11, 2003		December 9, 1996	January 2, 2003
Pakistan	August 30, 1994	November 23, 1976		July 26, 1994	May 31, 2009		November 12, 1990	September 21, 1966
Palau	March 9, 2000	February 18, 2003		January 6, 1999	September 11, 2003		August 4, 1995	
Panama	August 21, 1995	November 26, 1990		January 17, 1995	September 11, 2003	December 12, 2012	December 12, 1990	August 16, 1967
Papua New Guinea	March 21, 1994	July 16, 1993		March 16, 1993	January 12, 2006		March 2, 1993	January 27, 1982
Paraguay	May 25, 1994	October 7, 1995		February 24, 1994	June 8, 2004		September 25, 1990	August 18, 2003
Peru	March 21, 1994	March 30, 1992		June 7, 1993	July 13, 2004		September 4, 1990	September 29, 1971
Philippines	October 31, 1994	November 8, 1994		October 8, 1993	January 3, 2007		August 21, 1990	September 15, 1967
Poland	October 26, 1994	March 22, 1978		January 18, 1996	March 9, 2004		June 7, 1991	December 5, 1968
Portugal	March 21, 1994	March 24, 1981		December 21, 1993	December 29, 2004		September 21, 1990	August 24, 1982
Qatar	July 17, 1996			August 21, 1996	June 12, 2007		April 3, 1995	July 22, 1976
Republic of Korea	March 21, 1994	July 28, 1997		October 3, 1994	January 1, 2008		November 20, 1991	December 5, 1978
Republic of Moldova	September 7, 1995	October 20, 2000		October 20, 1995	September 11, 2003		January 26, 1993	January 26, 1993
Romania	September 6, 1994	September 21, 1991		August 17, 1994	September 28, 2003		September 28, 1990	September 15, 1970
Russian Federation	March 28, 1995	February 11, 1977		April 5, 1995			August 16, 1990	February 4, 1969
Rwanda	November 16, 1998	April 1, 2006		May 29, 1996	October 20, 2004	March 20, 2012	January 24, 1991	April 16, 1975
Saint Kitts and Nevis	March 21, 1994			January 7, 1993	September 11, 2003		July 24, 1990	October 13, 2006
Saint Lucia	March 21, 1994	June 19, 2002		July 28, 1993	September 14, 2005		June 16, 1993	February 14, 1990
Saint Vincent and the Grenadines	March 2, 1997			June 3, 1996	November 25, 2003		October 26, 1993	November 9, 1981
Samoa	February 27, 1995	February 6, 2005		February 9, 1994	September 11, 2003		November 29, 1994	
San Marino	January 26, 1995			October 28, 1994			November 25, 1991	March 12, 2002
Sao Tome and Principe	December 28, 1999	December 21, 2006		September 29, 1999			May 14, 1991	
Saudi Arabia	March 28, 1995			October 3, 2001	November 7, 2007		January 26, 1996	September 23, 1997
Senegal	January 15, 1995	November 11, 1977		October 17, 1994	January 6, 2004		July 31, 1990	April 19, 1972

Serbia	June 10, 2001	April 27, 1992		March 1, 2002	May 9, 2006		March 12, 2001	March 12, 2001
Seychelles	March 21, 1994	March 22, 2005		September 22, 1992	August 11, 2004	April 20, 2012	September 7, 1990	March 7, 1978
Sierra Leone	September 20, 1995	April 13, 2000		December 12, 1994			June 18, 1990	August 2, 1967
Singapore	August 27, 1997			December 21, 1995			October 5, 1995	
Slovakia	November 23, 1994	January 1, 1993		August 25, 1994	February 22, 2004		May 28, 1993	May 28, 1993
Slovenia	February 29, 1996	June 25, 1991		July 9, 1996	September 11, 2003		July 6, 1992	July 6, 1992
Solomon Islands	March 28, 1995			October 3, 1995	October 26, 2004		April 10, 1995	March 17, 1982
Somalia	December 10, 2009			December 10, 2009	October 24, 2010			August 26, 1975
South Africa	November 27, 1997	December 21, 1975		November 2, 1995	November 12, 2003	January 10, 2013	June 16, 1995	December 10, 1998
South Sudan								
Spain	March 21, 1994	September 4, 1982	December 4, 2012	December 21, 1993	September 11, 2003		December 6, 1990	September 13, 1968
Sri Lanka	March 21, 1994	October 15, 1990		March 23, 1994	July 26, 2004		July 12, 1991	February 18, 1982
Sudan	March 21, 1994	May 7, 2005		October 30, 1995	September 11, 2005		August 3, 1990	March 21, 1977
Suriname	January 12, 1998	November 22, 1985		January 12, 1996	June 25, 2008		March 1, 1993	March 15, 1984
Swaziland	January 5, 1997	June 15, 2013		November 9, 1994	April 13, 2006		September 7, 1995	April 7, 1969
Sweden	March 21, 1994	December 21, 1975	October 12, 2012	December 16, 1993	September 11, 2003		June 29, 1990	December 6, 1971
Switzerland	March 21, 1994	May 16, 1976		November 21, 1994	September 11, 2003		February 24, 1997	November 29, 1994
Syrian Arab Republic	April 3, 1996	July 5, 1998	November 5, 2012	January 4, 1996	June 30, 2004	April 5, 2013	July 15, 1993	April 21, 1969
Tajikistan	April 7, 1998	November 18, 2001		September 29, 1997	May 12, 2004		October 26, 1993	January 11, 1995
Thailand	March 28, 1995	September 13, 1998		January 29, 2004	February 8, 2006		March 27, 1992	January 28, 2003
The former Yugoslav Republic of Macedonia	April 28, 1998	September 8, 1991		December 2, 1997	September 12, 2005		December 2, 1993	January 18, 1994
Timor-Leste	January 8, 2007			January 8, 2007			April 16, 2003	April 16, 2003
Togo	June 6, 1985	November 4, 1995		October 4, 1995	September 30, 2004		August 1, 1990	September 1, 1972
Tonga	October 18, 1998			May 19, 1998	December 17, 2003		November 6, 1995	February 16, 1972
Trinidad and Tobago	September 22, 1994	April 21, 1993		August 1, 1996	September 11, 2003		December 5, 1991	October 4, 1973
Tunisia	March 21, 1994	March 24, 1981		July 15, 1993	September 11, 2003		January 30, 1992	January 13, 1967
Turkey	May 24, 2004	November 13, 1994		February 14, 1997	January 24, 2004		April 4, 1995	September 16, 2002
Turkmenistan	September 3, 1995	July 3, 2009		September 18, 1996	November 19, 2008		September 20, 1993	September 29, 1994
Tuvalu	March 21, 1994			December 20, 2002			September 22, 1995	
Uganda	March 21, 1994	July 4, 1988		September 8, 1993	September 11, 2003		August 17, 1990	November 21, 1980
Ukraine	August 11, 1997	December 1, 1991		February 7, 1995	September 11, 2003		August 28, 1991	March 7, 1969
United Arab Emirates	March 28, 1996	December 29, 2007		February 10, 2000			January 3, 1997	June 20, 1974
United Kingdom of Great Britain and Northern Ireland	March 21, 1996	May 5, 1976		June 3, 1994	February 17, 2004		December 16, 1991	March 7, 1969
United Republic of Tanzania	July 16, 1997	August 13, 2000		March 8, 1996	September 11, 2003		June 10, 1991	October 27, 1972
United States of America	March 21, 1994	April 18, 1987						October 21, 1994
Uruguay	November 16, 1994	September 22, 1984		November 5, 1993	January 31, 2012		November 20, 1990	August 30, 1968
Uzbekistan	March 21, 1994	February 8, 2002		July 19, 1995			June 29, 1994	September 28, 1995
Vanuatu	March 21, 1994			March 25, 1993			July 7, 1993	
Vatican City							April 20, 1990	May 1, 1969
Venezuela (Bolivarian Republic of)	March 28, 1995	November 23, 1988		September 13, 1994	September 11, 2003		September 13, 1990	October 10, 1967
Viet Nam	February 14, 1995	January 20, 1989		November 16, 1994	April 20, 2004		February 28, 1990	June 9, 1982
Yemen	May 21, 1996	February 8, 2008		February 21, 1996	March 1, 2006		May 1, 1991	October 18, 1972
Zambia	March 21, 1994	December 28, 1991		May 28, 1993	July 25, 2004		December 6, 1991	February 4, 1972
Zimbabwe	March 21, 1994	May 3, 2013		November 11, 1994	May 26, 2005		September 11, 1990	May 13, 1991

COUNTRY	Convention on the Elimination of All Forms of Discrimination against Women	UNDRIP (Signatories)	Universal Declaration of Human Rights (Signatories)	Indigenous and Tribal Peoples Convention (International Labour Organization Convention #169)	International Covenant on Civil and Political Rights (Parties)	International Covenant on Economic, Social and Cultural Rights (Parties)
Afghanistan	March 5, 2003	September 13, 2007	December 10, 1948		January 24, 1983	January 24, 1983
Albania	May 11, 1994	September 13, 2007			October 4, 1991	October 4, 1991
Algeria	May 22, 1996	September 13, 2007			September 12, 1989	September 12, 1989
Andorra	January 15, 1997	September 13, 2007			September 22, 2006	
Angola	September 17, 1986	September 13, 2007			January 10, 1992	January 10, 1992
Antigua and Barbuda	August 1, 1989	September 13, 2007				
Argentina	July 15, 1985	September 13, 2007	December 10, 1948	July 3, 2000	August 8, 1986	August 8, 1986
Armenia	September 13, 1993	September 13, 2007			June 23, 1993	September 13, 1993
Australia	July 28, 1983	April 3, 2009	December 10, 1948		August 13, 1980	December 10, 1975
Austria	March 31, 1982	September 13, 2007			September 10, 1978	September 10, 1978
Azerbaijan	July 10, 1995				August 13, 1992	August 13, 1992
Bahamas	October 6, 1993	September 13, 2007			December 23, 2008	December 23, 2008

Bahrain	June 18, 2002	September 13, 2007			September 20, 2006	September 27, 2007
Bangladesh	November 6, 1984				September 6, 2000	October 5, 1998
Barbados	October 16, 1980	September 13, 2007			January 5, 1973	January 5, 1973
Belarus	February 4, 1981	September 13, 2007			November 12, 1973	November 12, 1973
Belgium	July 10, 1985	September 13, 2007	December 10, 1948		April 21, 1983	April 21, 1983
Belize	May 16, 1990	September 13, 2007			June 10, 1996	
Benin	March 12, 1992	September 13, 2007			March 12, 1992	March 12, 1992
Bhutan	August 31, 1981					
Bolivia (Plurinational State of)	June 8, 1990	September 13, 2007	December 10, 1948	December 11, 1991	August 12, 1982	August 12, 1982
Bosnia and Herzegovina	September 1, 1993	September 13, 2007			September 1, 1993	September 1, 1993
Botswana	August 13, 1996	September 13, 2007			September 8, 2000	
Brazil	February 1, 1984	September 13, 2007	December 10, 1948	July 25, 2002	January 24, 1992	January 24, 1992
Brunei Darussalam	May 24, 2006	September 13, 2007				
Bulgaria	February 8, 1982	September 13, 2007			September 21, 1970	September 21, 1970
Burkina Faso	October 14, 1987	September 13, 2007			January 4, 1999	January 4, 1999
Burundi	January 8, 1992				May 9, 1990	May 9, 1990
Cambodia	October 15, 1992	September 13, 2007			May 26, 1992	May 26, 1992
Cameroon	August 23, 1994	September 13, 2007			June 27, 1984	June 27, 1984
Canada	December 10, 1981	November 12, 2010	December 10, 1948		May 19, 1976	May 19, 1976
Cape Verde	December 5, 1980	September 13, 2007			August 6, 1993	August 6, 1993
Central African Republic	June 21, 1991	September 13, 2007		August 30, 2010	May 8, 1981	May 8, 1981
Chad	June 9, 1995				June 9, 1995	June 9, 1995
Chile	December 7, 1989	September 13, 2007	December 10, 1948	September 15, 2008	February 10, 1972	February 10, 1972
China	November 4, 1980	September 13, 2007	December 10, 1948			March 27, 2001
Colombia	January 19, 1982		December 10, 1948	August 7, 1991	October 29, 1969	October 29, 1969
Comoros	October 13, 1994	September 13, 2007				
Congo	July 26, 1982	September 13, 2007			October 5, 1983	October 5, 1983
Congo (Democratic Republic of)	October 17, 1986	September 13, 2007			November 1, 1976	November 1, 1976
Cook Islands	August 11, 2006					
Costa Rica	April 4, 1986	September 13, 2007	December 10, 1948	April 2, 1993	November 29, 1968	November 29, 1968
Cote d'Ivoire	December 18, 1995				March 26, 1992	March 26, 1992
Croatia	September 9, 1992	September 13, 2007			October 12, 1992	October 12, 1992
Cuba	July 17, 1980	September 13, 2007	December 10, 1948			
Cyprus	July 23, 1985	September 13, 2007			April 2, 1969	April 2, 1969
Czech Republic	February 22, 1993	September 13, 2007			February 22, 1993	February 22, 1993
Denmark	April 21, 1983	September 13, 2007	December 10, 1948	February 22, 1996	January 6, 1972	January 6, 1972
Djibouti	December 2, 1998	September 13, 2007			November 5, 2002	November 5, 2002
Dominica	September 15, 1980	September 13, 2007		June 25, 2002	June 17, 1993	June 17, 1993
Dominican Republic	September 2, 1982	September 13, 2007	December 10, 1948		January 4, 1978	January 4, 1978
Ecuador	November 9, 1981	September 13, 2007	December 10, 1948	May 15, 1998	March 6, 1969	March 6, 1969
Egypt	September 18, 1981	September 13, 2007	December 10, 1948		January 14, 1982	January 14, 1982
El Salvador	August 19, 1981	September 13, 2007	December 10, 1948		November 30, 1979	November 30, 1979
Equatorial Guinea	October 23, 1984				September 25, 1987	September 25, 1987
Eritrea	September 5, 1995				January 22, 2002	April 17, 2001
Estonia	October 21, 1991	September 13, 2007			October 21, 1991	October 21, 1991
Ethiopia	September 10, 1981		December 10, 1948		June 11, 1993	June 11, 1993
Fiji	August 28, 1995			March 3, 1998		
Finland	September 4, 1986	September 13, 2007			August 19, 1975	August 19, 1975
France	December 14, 1983	September 13, 2007	December 10, 1948		November 4, 1980	November 4, 1980
Gabon	January 21, 1983	September 13, 2007			January 21, 1983	January 21, 1983
Gambia	April 16, 1993				March 22, 1979	December 29, 1978
Georgia	October 26, 1994				May 3, 1994	May 3, 1994
Germany	July 10, 1985	September 13, 2007			December 17, 1973	December 17, 1973
Ghana	January 2, 1986	September 13, 2007			September 7, 2000	September 7, 2000
Greece	June 7, 1983	September 13, 2007	December 10, 1948		May 5, 1997	May 16, 1985
Grenada	August 30, 1990				September 6, 1991	September 6, 1991
Guatemala	August 12, 1982	September 13, 2007	December 10, 1948	June 5, 1996	May 5, 1992	May 19, 1988
Guinea	August 9, 1982	September 13, 2007			January 24, 1978	January 24, 1978
Guinea-Bissau	August 23, 1985				November 1, 2010	July 2, 1992
Guyana	July 17, 1980	September 13, 2007			February 15, 1977	February 15, 1977
Haiti	July 20, 1981	September 13, 2007	December 10, 1948		February 6, 1991	
Honduras	March 3, 1983	September 13, 2007		March 28, 1995	August 25, 1997	February 17, 1981
Hungary	December 22, 1983	September 13, 2007			January 17, 1974	January 17, 1974
Iceland	June 18, 1985	September 13, 2007	December 10, 1948		August 22, 1979	August 22, 1979
India	July 9, 1993	September 13, 2007	December 10, 1948		April 10, 1979	April 10, 1979
Indonesia	September 13, 1984	September 13, 2007			February 23, 2006	February 23, 2006
Iran (Islamic Republic of)		September 13, 2007	December 10, 1948		June 24, 1975	June 24, 1975
Iraq	August 13, 1986	September 13, 2007	December 10, 1948		January 25, 1971	January 25, 1971
Ireland	December 23, 1985	September 13, 2007			December 8, 1989	December 8, 1989
Israel	October 3, 1991				October 3, 1991	October 3, 1991
Italy	June 10, 1985	September 13, 2007			September 15, 1978	September 15, 1978
Jamaica	October 19, 1984	September 13, 2007			October 3, 1975	October 3, 1975
Japan	June 25, 1985	September 13, 2007			June 21, 1979	June 21, 1979
Jordan	July 1, 1992	September 13, 2007			May 28, 1975	May 28, 1975
Kazakhstan	August 26, 1998	September 13, 2007			January 24, 2006	January 24, 2006
Kenya	March 9, 1984				May 1, 1972	May 1, 1972
Kiribati	March 17, 2004					
Korea (Democratic People's Republic of)	February 27, 2001	September 13, 2007			September 14, 1981	September 14, 1981
Kuwait	September 2, 1994	September 13, 2007			May 21, 1996	May 21, 1996

Kyrgyzstan	February 10, 1997				October 7, 1994	October 7, 1994
Lao People's Democratic Republic	August 14, 1981	September 13, 2007			September 25, 2009	February 13, 2007
Latvia	April 14, 1992	September 13, 2007			April 14, 1992	April 14, 1992
Lebanon	April 16, 1997	September 13, 2007	December 10, 1948		November 3, 1972	November 3, 1972
Lesotho	August 22, 1995	September 13, 2007			September 9, 1992	September 9, 1992
Liberia	July 17, 1984	September 13, 2007	December 10, 1948		September 22, 2004	September 22, 2004
Libya	May 16, 1989	September 13, 2007			May 15, 1970	May 15, 1970
Liechtenstein	December 22, 1995	September 13, 2007			December 10, 1998	December 10, 1998
Lithuania	January 18, 1994	September 13, 2007			November 20, 1991	November 20, 1991
Luxembourg	February 2, 1989	September 13, 2007	December 10, 1948		August 18, 1983	August 18, 1983
Madagascar	March 17, 1989	September 13, 2007			June 21, 1971	September 22, 1971
Malawi	March 12, 1987	September 13, 2007			December 22, 1993	December 22, 1993
Malaysia	July 5, 1995	September 13, 2007				
Maldives	July 1, 1993	September 13, 2007			September 19, 2006	September 19, 2006
Mali	September 10, 1985	September 13, 2007			July 16, 1974	July 16, 1974
Malta	March 8, 1991	September 13, 2007			September 13, 1990	September 13, 1990
Marshall Islands	March 2, 2006					
Mauritania	May 10, 2001				November 17, 2004	November 17, 2004
Mauritius	July 9, 1984	September 13, 2007			December 12, 1973	December 12, 1973
Mexico	March 23, 1981	September 13, 2007	December 10, 1948	September 5, 1990	March 23, 1981	March 23, 1981
Micronesia	September 1, 2004	September 13, 2007				
Monaco	March 18, 2005	September 13, 2007			August 28, 1997	August 28, 1997
Mongolia	July 20, 1981	September 13, 2007			November 18, 1974	November 18, 1974
Montenegro	October 23, 2006				October 23, 2006	October 23, 2006
Morocco	June 21, 1993				May 3, 1979	May 3, 1979
Mozambique	April 21, 1997	September 13, 2007			July 21, 1993	
Myanmar	July 22, 1997	September 13, 2007	December 10, 1948			
Namibia	November 23, 1992	September 13, 2007			November 28, 1994	November 28, 1994
Nauru	June 23, 2011					
Nepal	April 22, 1991	September 13, 2007		September 14, 2007	May 14, 1991	May 14, 1991
Netherlands	July 23, 1991	September 13, 2007	December 10, 1948	February 2, 1998	December 11, 1978	December 11, 1978
New Zealand	January 10, 1985	April 19, 2010	December 10, 1948		December 28, 1978	December 28, 1978
Nicaragua	October 27, 1981	September 13, 2007	December 10, 1948	August 25, 2010	May 12, 1980	May 12, 1980
Niger	October 8, 1999	September 13, 2007			March 7, 1986	March 7, 1986
Nigeria	June 13, 1985				July 29, 1993	July 29, 1993
Niue						
Norway	May 21, 1981	September 13, 2007	December 10, 1948	June 19, 1990	September 13, 1972	September 13, 1972
Occupied Palestinian Territory						
Oman	February 7, 2006	September 13, 2007				
Pakistan	March 12, 1996	September 13, 2007	December 10, 1948		June 23, 2010	April 17, 2008
Palau						
Panama	October 29, 1981	September 13, 2007	December 10, 1948		March 8, 1977	March 8, 1977
Papua New Guinea	January 12, 1995				July 21, 2008	July 21, 2008
Paraguay	April 6, 1987	September 13, 2007	December 10, 1948	August 10, 1993	June 10, 1992	June 10, 1992
Peru	September 13, 1982	September 13, 2007	December 10, 1948	February 2, 1994	April 28, 1978	April 28, 1978
Philippines	August 5, 1981	September 13, 2007	December 10, 1948		October 23, 1986	June 7, 1974
Poland	July 30, 1980	September 13, 2007			March 18, 1977	March 18, 1977
Portugal	July 30, 1980	September 13, 2007			June 15, 1978	July 31, 1978
Qatar	April 29, 2009	September 13, 2007				
Republic of Korea	December 27, 1984	September 13, 2007			April 10, 1990	April 10, 1990
Republic of Moldova	July 1, 1994	September 13, 2007			January 26, 1993	January 26, 1993
Romania	January 7, 1982				December 9, 1974	December 9, 1974
Russian Federation	January 23, 1981				October 16, 1973	October 16, 1973
Rwanda	March 2, 1981				April 16, 1975	April 16, 1975
Saint Kitts and Nevis	April 25, 1985					
Saint Lucia	October 8, 1982	September 13, 2007				
Saint Vincent and the Grenadines	August 4, 1981	September 13, 2007			November 9, 1981	November 9, 1981
Samoa	September 25, 1992				February 15, 2008	
San Marino	December 10, 2003	September 13, 2007			October 18, 1985	October 18, 1985
Sao Tome and Principe	June 3, 2003					
Saudi Arabia	September 7, 2000	September 13, 2007				
Senegal	February 5, 1985	September 13, 2007			February 13, 1978	February 13, 1978
Serbia	March 12, 2001	September 13, 2007			March 12, 2001	March 12, 2001
Seychelles	May 5, 1992				May 5, 1992	May 5, 1992
Sierra Leone	November 11, 1988	September 13, 2007			August 23, 1996	August 23, 1996
Singapore	October 5, 1995	September 13, 2007				
Slovakia	May 28, 1993	September 13, 2007			May 28, 1993	May 28, 1993
Slovenia	July 6, 1992	September 13, 2007			July 6, 1992	July 6, 1992
Solomon Islands	May 6, 2002					March 17, 1982
Somalia					January 24, 1990	January 24, 1990
South Africa	December 15, 1995	September 13, 2007			December 10, 1998	
South Sudan						
Spain	January 5, 1984	September 13, 2007		February 15, 2007	April 27, 1977	April 27, 1977
Sri Lanka	October 5, 1981	September 13, 2007			June 11, 1980	June 11, 1980
Sudan		September 13, 2007			March 18, 1986	March 18, 1986
Suriname	March 1, 1993	September 13, 2007			December 28, 1976	December 28, 1976
Swaziland	March 26, 2004	September 13, 2007			March 26, 2004	March 26, 2004
Sweden	July 2, 1980	September 13, 2007	December 10, 1948		December 6, 1971	December 6, 1971
Switzerland	March 27, 1997	September 13, 2007	December 10, 1948		June 18, 1992	June 18, 1992

Syrian Arab Republic	March 28, 2003	September 13, 2007		April 21, 1969	April 21, 1969
Tajikistan	October 26, 1993			January 4, 1999	January 4, 1999
Thailand	August 9, 1985	September 13, 2007	December 10, 1948	October 29, 1996	September 5, 1999
The former Yugoslav Republic of Macedonia	January 18, 1994	September 13, 2007		January 18, 1994	January 18, 1994
Timor-Leste	April 16, 2003	September 13, 2007		September 18, 2003	April 16, 2003
Togo	September 26, 1983			May 24, 1984	May 24, 1984
Tonga					
Trinidad and Tobago	January 12, 1990	September 13, 2007		December 21, 1978	December 8, 1978
Tunisia	September 20, 1985	September 13, 2007		May 18, 1969	May 18, 1969
Turkey	December 20, 1985	September 13, 2007	December 10, 1948	September 23, 2003	September 23, 2003
Turkmenistan	May 1, 1997			May 1, 1997	May 1, 1997
Tuvalu	October 6, 1999				
Uganda	July 22, 1985			June 21, 1995	January 21, 1987
Ukraine	March 12, 1981			November 12, 1973	November 12, 1973
United Arab Emirates	October 6, 2004	September 13, 2007			
United Kingdom of Great Britain and Northern Ireland	April 7, 1986	September 13, 2007	December 10, 1948	May 20, 1976	May 20, 1976
United Republic of Tanzania	August 20, 1985	September 13, 2007		June 11, 1976	June 11, 1976
United States of America		December 16, 2010	December 10, 1948	June 8, 1992	
Uruguay	October 9, 1981	September 13, 2007	December 10, 1948	April 1, 1970	April 1, 1970
Uzbekistan	July 19, 1995			September 28, 1995	September 28, 1995
Vanuatu	September 8, 1995			November 21, 2008	
Vatican City					
Venezuela (Bolivarian Republic of)	May 2, 1983	September 13, 2007	December 10, 1948	May 22, 2002	May 10, 1978
Viet Nam	February 17, 1982	September 13, 2007		September 24, 1982	September 24, 1982
Yemen	May 30, 1984	September 13, 2007		February 9, 1987	February 9, 1987
Zambia	June 21, 1985	September 13, 2007		April 10, 1984	April 10, 1984
Zimbabwe	May 13, 1991	September 13, 2007		May 13, 1991	May 13, 1991

## ANNEX IV RATIFICATION BY REGION

REGION:	AFRICA				
Total Number of States = 193 + 4 Sovereign Territories	54				
	Northern (7)	Southern (5)	Western (16)	Eastern (17)	Middle (9)
International Treaty on Plant Genetic resources for plant food and agriculture	6	3	13	14	8
Agreement on Trade-Related Aspects of Intellectual Property Rights	3	5	15	12	7
Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters	0	0	0	0	0
UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	5	4	11	15	8
UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression	3	4	10	12	8
UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage	6	5	16	16	9
Convention on the Law of Non-navigational Uses of International Watercourses	3	2	5	0	1
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa	6	5	16	17	9
United Nations Framework Convention on Climate Change	6	5	16	17	9
Convention on Wetlands of International Importance	6	5	16	14	8
Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol	0	0	0	0	0
Convention on Biological Diversity	6	5	16	17	9
Cartagena Protocol on Biosafety	6	5	14	17	7
Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization	0	2	0	4	1
Convention on the Rights of the Child	6	5	16	16	9
International Convention on the Elimination of All Forms of Racial Discrimination	6	5	16	17	7
Convention on the Elimination of All Forms of Discrimination against Women	5	5	16	16	9
UNDRIP (sig)	5	5	10	9	6
UDHR (sig)	1	0	1	1	0
Indigenous and Tribal Peoples Convention (ILO 169)	0	0	0	0	1
ICCPR	6	5	16	16	8
ICESCR	6	3	16	15	8
	91	78	239	245	132
22 Instruments x # States	154	110	352	374	198
% of Sub-Regions who are Party to the International Instruments	59.09	70.91	67.90	65.51	66.67
Total % for Africa:	66.08				



REGION:	AMERICA			
Total Number of States = 193 + 4 Sovereign Territories	35			
	Northern (2)	Central (8)	Southern (12)	Caribbean (13)
International Treaty on Plant Genetic resources for plant food and agriculture	1	6	6	4
Agreement on Trade-Related Aspects of Intellectual Property Rights	2	8	12	12
Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters	0	0	0	0
UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	0	8	10	10
UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression	1	6	10	9
UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage	2	8	12	12
Convention on the Law of Non-navigational Uses of International Watercourses	0	0	0	0
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa	2	8	12	13
United Nations Framework Convention on Climate Change	2	8	12	13
Convention on Wetlands of International Importance	2	8	11	9
Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol	0	1	0	0
Convention on Biological Diversity	1	8	12	13
Cartagena Protocol on Biosafety	0	8	10	12
Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization	0	2	0	0
Convention on the Rights of the Child	1	8	12	13
International Convention on the Elimination of All Forms of Racial Discrimination	2	8	12	11
Convention on the Elimination of All Forms of Discrimination against Women	1	8	12	13
UNDRIP (sig)	2	8	11	11
UDHR (sig)	2	6	10	3
Indigenous and Tribal Peoples Convention (ILO 169)	0	5	9	1
ICCPR	2	8	12	9
ICESCR	1	7	12	8
	24	137	197	176
22 Instruments x # States	44	176	264	286
% of Sub-Regions who are Party to the International Instruments	54.55	77.84	74.62	61.54
Total % for America:		69.35		



REGION:	ASIA				
Total Number of States = 193 + 4 Sovereign Territories	48				
	Southern (9)	Eastern (5)	Central (5)	South-Eastern (11)	Western (18)
International Treaty on Plant Genetic resources for plant food and agriculture	8	2	1	6	12
Agreement on Trade-Related Aspects of Intellectual Property Rights	6	4	2	10	12
Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters	0	0	4	0	4
UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	8	5	5	6	14
UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression	3	3	1	4	11
UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage	9	5	5	10	18
Convention on the Law of Non-navigational Uses of International Watercourses	0	0	1	0	5
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa	9	5	5	11	17
United Nations Framework Convention on Climate Change	9	5	5	11	17
Convention on Wetlands of International Importance	7	4	5	8	13
Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol	0	0	0	0	1
Convention on Biological Diversity	9	5	5	11	17
Cartagena Protocol on Biosafety	8	5	4	8	13
Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization	1	0	0	1	2
Convention on the Rights of the Child	9	5	5	11	17
International Convention on the Elimination of All Forms of Racial Discrimination	8	4	5	7	17
Convention on the Elimination of All Forms of Discrimination against Women	8	5	5	11	17
UNDRIP (sig)	7	5	1	11	14
UDHR (sig)	4	1	0	3	3
Indigenous and Tribal Peoples Convention (ILO 169)	1	0	0	0	0
ICCPR	8	4	5	7	13
ICESCR	8	5	5	7	13
	130	72	69	143	250
22 Instruments x # States	198	110	110	242	396
% of Sub-Regions who are Party to the International Instruments	65.66	65.45	62.73	59.09	63.13
Total % for Asia:			62.88		

REGION:	EUROPE			
Total Number of States = 193 + 4 Sovereign Territories	44			
	Northern (10)	Southern (15)	Western (9)	Eastern (10)
International Treaty on Plant Genetic resources for plant food and agriculture	10	8	7	6
Agreement on Trade-Related Aspects of Intellectual Property Rights	10	10	8	9
Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters	10	12	6	9
UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	8	11	8	9
UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression	10	13	7	9
UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage	10	15	8	10
Convention on the Law of Non-navigational Uses of International Watercourses	4	4	4	1
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa	10	14	9	10
United Nations Framework Convention on Climate Change	10	14	9	10
Convention on Wetlands of International Importance	10	13	9	10
Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol	5	2	0	2
Convention on Biological Diversity	10	13	9	10
Cartagena Protocol on Biosafety	9	12	7	9
Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization	0	1	0	0
Convention on the Rights of the Child	10	15	9	10
International Convention on the Elimination of All Forms of Racial Discrimination	10	15	9	10
Convention on the Elimination of All Forms of Discrimination against Women	10	14	9	10
UNDRIP (sig)	10	13	9	7
UDHR (sig)	5	1	5	0
Indigenous and Tribal Peoples Convention (ILO 169)	2	1	1	0
ICCPR	10	14	9	10
ICESCR	10	13	9	10
	183	228	151	161
22 Instruments x # States	220	330	198	220
% of Sub-Regions who are Party to the International Instruments	83.18	69.09	76.26	73.18
Total % for Europe:		74.69		

REGION:	OCEANIA			
Total Number of States = 193 + 4 Sovereign Territories	16			
	Au & N.Z (2)	Micronesia (5)	Melanesia (4)	Polynesia (5)
International Treaty on Plant Genetic resources for plant food and agriculture	1	2	1	2
Agreement on Trade-Related Aspects of Intellectual Property Rights	2	0	4	2
Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters	0	0	0	0
UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	0	2	3	1
UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression	2	0	0	0
UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage	2	4	4	4
Convention on the Law of Non-navigational Uses of International Watercourses	0	0	0	0
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa	2	5	4	5
United Nations Framework Convention on Climate Change	2	5	4	5
Convention on Wetlands of International Importance	2	2	2	1
Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol	0	0	0	0
Convention on Biological Diversity	2	5	4	5
Cartagena Protocol on Biosafety	1	4	3	3
Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization	0	1	1	0
Convention on the Rights of the Child	2	5	4	5
International Convention on the Elimination of All Forms of Racial Discrimination	2	0	3	1
Convention on the Elimination of All Forms of Discrimination against Women	2	4	4	3
UNDRIP (sig)	2	1	0	0
UDHR (sig)	2	0	0	0
Indigenous and Tribal Peoples Convention (ILO 169)	0	0	1	0
ICCPR	2	0	2	1
ICESCR	2	0	2	0
	30	40	46	38
22 Instruments x # States	44	110	88	110
% of Sub-Regions who are Party to the International Instruments	68.18	36.36	52.27	34.55
Total % for Oceania:		43.75		

## ANNEX V A NON-EXHAUSTIVE LIST OF INDIGENOUS PEOPLES' AND LOCAL COMMUNITIES' DECLARATIONS

NAME	YEAR	INFORMATION
<b>General Environment and Development</b>		
The Iquitos Declaration	1990	Coordinating Body for Indigenous Peoples' Organizations of the Amazon Basin (COICA) and environmental and conservationist organizations to analyse the serious deterioration of the Amazon biosphere and look for joint alternatives.
Kari-Oca Declaration and Indigenous Peoples Earth Charter	1992	<a href="http://www.dialoguebetweennations.com/ir/english/kariocakimberley/KOCharter.html">http://www.dialoguebetweennations.com/ir/english/kariocakimberley/KOCharter.html</a>
International Alliance Charter	1992, Revised 2002	Regarding "indigenous and tribal peoples of the tropical-forests" <a href="http://www.international-alliance.org/charter_eng.htm">http://www.international-alliance.org/charter_eng.htm</a>
The Heart of the Peoples Declaration	1997	Prepared by participants in the North American Indigenous Peoples Summit on Biological Diversity and Biological Ethics <a href="http://www.ipcb.org/resolutions/htmls/dec_heartopeoples.html">http://www.ipcb.org/resolutions/htmls/dec_heartopeoples.html</a>
Redstone Statement	2010	Prepared at the 2010 International Summit on Indigenous Environmental Philosophy

Draft Universal Declaration on the Rights of Mother Earth	2010	Outcome of 2010 Cochabamba World Conference on Climate Change and the Rights of Mother Earth  <a href="http://www.celdf.org/rights-of-nature-universal-declaration-on-the-rights-of-mother-earth">http://www.celdf.org/rights-of-nature-universal-declaration-on-the-rights-of-mother-earth</a>
Rio+20: Indigenous Peoples International Declaration on Self-Determination and Sustainable Development	2012	<a href="http://www.iwgia.org/news/search-news?news_id=542">http://www.iwgia.org/news/search-news?news_id=542</a>
Declaration of Indigenous Peoples of Africa on Sustainable Development and Rio+20	2012	<a href="http://www.uncsd2012.org/index.php?page=view&amp;nr=1151&amp;type=230&amp;menu=38">http://www.uncsd2012.org/index.php?page=view&amp;nr=1151&amp;type=230&amp;menu=38</a>
Collective Statement of Khoe Tribal Groupings and Partners from South Africa on the International Day of the World's Indigenous Peoples	2012	
<b>Genetic Resources, Access and Benefit Sharing and Intellectual Property Rights</b>		
Mataatua Declaration on the Cultural and Intellectual Property Rights of Indigenous Peoples	1993	<a href="http://www.ankn.uaf.edu/IKS/mataatua.html">http://www.ankn.uaf.edu/IKS/mataatua.html</a>
Declaration of Indigenous Peoples of the Western Hemisphere Regarding the Human Genome Diversity Project.	1995	<a href="http://www.ipcb.org/resolutions/htmls/dec_phx.html">http://www.ipcb.org/resolutions/htmls/dec_phx.html</a>

Coordinating Body for Indigenous Peoples' Organizations of the Amazon Basin Regional Meeting on Intellectual Property Rights and Biodiversity	1994	Outcome of 1994 regional meeting hosted by COICA and the United Nations Development Programme  <a href="http://himaldoc.icimod.org/record/9889">http://himaldoc.icimod.org/record/9889</a>
Declaration on Indigenous Peoples' Rights to Genetic Resources and Indigenous Knowledge	2007	Prepared at UNFPII 2007  <a href="http://www.grain.org/article/entries/2222-unpfii-6-indigenous-peoples-rights-to-genetic-resources">http://www.grain.org/article/entries/2222-unpfii-6-indigenous-peoples-rights-to-genetic-resources</a>
Iskenisk Declaration on the Access, Use, and Fair and Equitable Sharing of Benefits Arising Out of the Utilization of Genetic Resources and Associated Traditional Knowledge in Canada	2011	Outcome of 2011 session convened by Maritime Aboriginal Peoples Council, a regional institution based in Canada
Nagoya Protocol - Joint Submission on Substantive and Procedural Injustices	2011	<a href="http://www.ubcic.bc.ca/News_Releases/UBCICNews05191102.html#axzz27bjZ9UWd">http://www.ubcic.bc.ca/News_Releases/UBCICNews05191102.html#axzz27bjZ9UWd</a>
<b>Climate Change and Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (REDD)</b>		
Indigenous Peoples Global Strategy on REDD	2008	Adopted at the Global Indigenous Peoples Consultation on Reducing Emissions from Deforestation and Forest Degradation (REDD)  <a href="http://www.unutki.org/default.php?doc_id=133">http://www.unutki.org/default.php?doc_id=133</a>
The Anchorage Declaration	2009	Regarding climate change, prepared by Indigenous representatives from

		<p>the Arctic, North America, Asia, Pacific, Latin America, Africa, Caribbean and Russia</p> <p><a href="http://worldpulse.com/node/10409">http://worldpulse.com/node/10409</a></p>
Position Paper of Nepal Federation of Indigenous Nationalities (NEFIN) on Climate Change and Reducing Emission from Forest Deforestation and Degradation (REDD)	2010	<p><a href="http://ccmin.aippnet.org/index.php?option=com_content&amp;view=article&amp;id=96:position-paper-of-nepal-federation-of-indigenous-nationalities-nefin-on-climate-change-and-reducing-emission-from-forest-deforestation-and-degradation-redd&amp;catid=17:national-statements&amp;Itemid=29">http://ccmin.aippnet.org/index.php?option=com_content&amp;view=article&amp;id=96:position-paper-of-nepal-federation-of-indigenous-nationalities-nefin-on-climate-change-and-reducing-emission-from-forest-deforestation-and-degradation-redd&amp;catid=17:national-statements&amp;Itemid=29</a></p>
Declaration of Solidarity – International Conference on Indigenous Peoples’ Rights, Alternatives and Solutions to the Climate Crisis	2010	<p>Prepared by 76 Indigenous peoples representatives and advocates from 15 countries in Asia, Pacific, Australia, Africa, North and South America, and Europe</p> <p><a href="http://www.redd-monitor.org/2010/11/18/international-indigenous-peoples-groups-reject-market-based-mechanisms/">http://www.redd-monitor.org/2010/11/18/international-indigenous-peoples-groups-reject-market-based-mechanisms/</a></p>
Declaration of Iquitos: There is No REDD+ without Territories, Rights and Autonomy for Indigenous People	2011	<p><a href="http://www.rightsandresources.org/blog.php?id=700">http://www.rightsandresources.org/blog.php?id=700</a></p>
Kari-Oca 2 Declaration, “Indigenous Peoples Global Conference on Rio+20 and Mother Earth	2012	<p><a href="http://indigenous4motherearthrioplus20.org/kari-oca-2-declaration/">http://indigenous4motherearthrioplus20.org/kari-oca-2-declaration/</a></p>
<b>Extractive Industries</b>		

The Manila Declaration of the International Conference on Extractive Industries and Indigenous Peoples	2009	Prepared by Indigenous Peoples and support organisations from 35 countries  <a href="http://www.escr-net.org/docs/i/871960">http://www.escr-net.org/docs/i/871960</a>
The Ka Nui Conference Declaration	2012	Regarding extractive industries, prepared by Indigenous peoples (tangata whenua) and community activists from Aotearoa  <a href="http://kanuiconference.wordpress.com/2012/08/26/conference-declaration/">http://kanuiconference.wordpress.com/2012/08/26/conference-declaration/</a>
<b>Indigenous Peoples' and Community Conserved Areas and Territories</b>		
The Manila Declaration on Indigenous Peoples' and Community Conserved Areas and Territories	2012	Approved and delivered at the 'First National Conference on ICCAs in the Philippines'
<b>Pastoralists and Livestock Keepers</b>		
Segovia Declaration of Nomadic and Transhumant Pastoralists	2007	<a href="http://data.iucn.org/wisp/WISP_events_gathering_2.htm">http://data.iucn.org/wisp/WISP_events_gathering_2.htm</a>
Declaration on Livestock Keepers' Rights	2009	<a href="http://www.new-ag.info/en/news/newsitem.php?a=1570">http://www.new-ag.info/en/news/newsitem.php?a=1570</a>
Mera Declaration of the Global Gathering of Women Pastoralists	2010	<a href="http://www.landcoalition.org/news/mera-declaration-global-gathering-women-pastoralists">http://www.landcoalition.org/news/mera-declaration-global-gathering-women-pastoralists</a>



Sacred Natural Sites and Territories		
Statement of Custodians of Sacred Natural Sites and Territories	2008	<a href="http://sacrednaturalsites.org/items/custodians-statement/">http://sacrednaturalsites.org/items/custodians-statement/</a>
The Aanaar/Inari Statement on Diversity of Sacred Natural Sites in Europe	2010	

## ANNEX VI ACRONYMS, ABBREVIATIONS AND TERMS

### A. Acronyms and Abbreviations

Abbreviation	Full Name
Aarhus Convention	Convention on Access to Information, Public Participation In Decision-Making, and Access to Justice In Environmental Matters
Addis Ababa Principles and Guidelines	Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity
Aichi Biodiversity Targets	The Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets
Akwé: Kon Guidelines	Akwé: Kon Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities
Bonn Guidelines	Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization
Cartagena Protocol on Biosafety	Cartagena Protocol on Biosafety and the Nagoya-Kuala Lumpur Supplementary Protocol on Biosafety
CBD	Convention on Biological Diversity
CBOs	Community-based organisations

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CIFOR	Centre for International Forestry Research
Tkarihwaí:ri Code of Ethical Conduct	Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities
Convention on Cultural Expressions	UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions
Convention on Desertification	United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa
Convention on Intangible Cultural Heritage	UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage
Convention on Non-navigational Watercourses	Convention on the Law of the Non-navigational Uses of International Watercourses
Convention on the Rights of the Child	Convention on the Rights of the Child
COP	Conference of the Parties
Declaration on the Right to Development	United Nations Declaration on the Right to Development

Declaration on the Rights of Minorities	Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
FAO	Food and Agriculture Organisation of the United Nations
FAO Food Security Guidelines	FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security
FAO Tenure Guidelines	FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
FPIC	Right to free, prior and informed consent
GEF	Global Environment Facility
GPA	Global Plan of Action for Animal Genetic Resources
ICJ	International Court of Justice
IACHR	Inter-American Court of Human Rights
ICCAs	Indigenous Peoples and Community Conserved Territories and Areas
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDA	International Development Association

IFC	International Finance Corporation
ILO	International Labour Organisation
ILO Convention No. 169	Indigenous and Tribal Peoples Convention No. 169
Interlaken Declaration	Interlaken Declaration on Animal Genetic Resources
ITPGRFA	The International Treaty on Plant Genetic Resources for Food and Agriculture
IUCN	International Union for Conservation of Nature
IUCN-CEESP	International Union for Conservation of Nature's Commission on Environmental, Economic and Social Policy
MDBs	Multilateral Development Banks
MEAs	Multilateral environmental agreements
MFIs	Multilateral Financial Institutions
N-KL Supplementary Protocol	Nagoya-Kuala Lumpur Supplementary Protocol On Liability and Redress to the Cartagena Protocol on Biosafety
Nagoya Protocol	Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization
NGO	Non-governmental Organisation
OPEC	Organisation of Petroleum Exporting Countries

PoWPA	Program of Work on Protected Areas
Ramsar Convention	Convention on Wetlands of International Importance Especially as Waterfowl Habitat
REDD	Reducing Emissions from Deforestation and Forest Degradation
The Compendium	A Compendium of Internationally Recognised Rights That Support The Integrity And Resilience Of Indigenous Peoples' And Local Communities' Territories And Other Social-Ecological Systems
TRIPS	Agreement on Trade Related Aspects of Intellectual Property Law
TRRs	Traditional resource rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCED Forest Principles	United Nations Conference on Environment and Development Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests
UNDRIP	United Nations Declaration of the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organisation

UNFCCC	United Nations Framework Convention on Climate Change
UNFCCC Cancun Agreements	UNFCCC COP, “Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention” (Cancun, 29 November – 10 December 2010) FCCC/CP/2010/7/Add.1
UNFCCC COP	United Nations Framework Convention on Climate Change Conferences of the Parties
UNFF Instrument on Forests	United Nations Forest Forum Non-legally Binding Instrument on All Types of Forests
Vienna Convention	Vienna Convention on the Law of Treaties 1969
WIPO	World Intellectual Property Organisation
World Heritage Convention	UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage

## B. Terms

List of Terms	Definition
Biocultural diversity	As defined in the International Conference on Biological and Cultural Diversity: Diversity for Development – Development for Diversity Working Document (8-10 June 2010): “[...] the total sum of the world’s differences, no matter what their origin. This concept encompasses biological diversity at all its levels and cultural diversity in all its manifestations. Biocultural diversity is derived from the myriad ways in which humans have interacted with their natural surroundings. Their co-evolution has generated local ecological knowledge and practices: a vital reservoir of experience, methods and skills that help different societies to manage their resources.

	Diverse worldviews and ethical approaches to life have emerged in tandem with this co-evolution of nature and culture. The biocultural concept is critical to making progress on building mutual understanding and support between these two diversities.”
Indigenous peoples	<p>There is no settled definition of the term ‘indigenous peoples.’ One of the most widely cited definitions is that set forth in Jose Martinez-Cobo’s study on the “Problem of Discrimination against Indigenous Population”, in which he noted that, “Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form, at present, non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.”<sup>649</sup></p> <p>As noted in the United Nations Declaration on the Rights of Indigenous Peoples, “the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration.”</p>
Local communities	<p>The term “local communities” also lacks an agreed definition. However, in 2011, an Expert Group Meeting of Local Community Representatives within the context of the Convention on Biological Diversity was convened with a view to identifying common characteristics of local communities.<sup>650</sup> The Expert Group identified several characteristics, including the following:</p> <p>(a) Self-identification as a local community;</p> <p>(b) Lifestyles linked to traditions associated with natural cycles (symbiotic relationships or dependence), the use of</p>

<sup>649</sup> UN Doc E/CN.4/Sub.2/1986/7.

<sup>650</sup> See Report of the Expert Group Meeting of Local Community Representatives Within the Context of Article 8(j) and Related Provisions of the Convention on Biological Diversity (UNEP/CBD/WG8J/7/8/Add.1\*), at 12.



	<p>and dependence on biological resources and linked to the sustainable use of nature and biodiversity;</p> <p>(c) The community occupies a definable territory traditionally occupied and/or used, permanently or periodically.</p>
Stewardship	Referring to the connection between Indigenous peoples and local communities in relation to their lands and waters, including their positive relationship to the health of the territory or landscape. <sup>651</sup>
Substantive rights	Rights and obligations that govern relationships between people or between people and the government.
Procedural rights	The way in which substantive rights are made operational.
Hard law	Law that is binding on all parties, generally created when treaties are adopted by States pursuant to the Vienna Convention on the Law of Treaties or from a general and consistent practice of states followed by them from a sense of legal obligation (customary international law).
Soft law	Non-binding legal norms, often created by instruments containing aspirational or moral goals. While generally considered non-binding, soft law has important legal significance, including its use as persuasive evidence that the law is moving in a particular direction.
Customary international law	Binding principles of law that are created by a common understanding that these principles constitute law, and State practice that supports the idea that these are legally binding principles. The main human rights included in this category are: the prohibition of torture, genocide and slavery, as well as the principle of non-discrimination. <sup>652</sup>
Ratify/Ratification	An act by which a State signifies an agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the State first signs it and then fulfils its own national legislative requirements. Once the appropriate national

<sup>651</sup> Case of *Moiwana Village v. Suriname*, Inter-Am. Ct. H.R. (ser. C) No. 124 (15 June 2005), para. 131.

<sup>652</sup> Shaw, M., page 275.

	organ of the country – Parliament, Senate, the Crown, Head of State or Government, or a combination of these – follows domestic constitutional procedures and makes a formal decision to be a party to the treaty. The instrument of ratification, a formal sealed letter referring to the decision and signed by the State’s responsible authority, is then prepared and deposited with the United Nations Secretary-General in New York. <sup>653</sup>
Prima facie	On face value, or at first sight.

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<sup>653</sup> UNICEF, Introduction to the Rights of the Child: Definition of Key Terms, available at <http://www.unicef.org/crc/files/Definitions.pdf>.