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**German Technical Development Cooperation: Measures  
to Promote Implementation of Article 8(j) of the CBD**

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**German Technical Development Co-operation:  
Measures to Promote Implementation of Article 8(j) of the CBD**

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GERMANY

**GERMAN EFFORTS TO PROMOTE THE IMPLEMENTATION OF THE  
BIODIVERSITY CONVENTION**

The Convention on Biological Diversity — with its three elements of biodiversity conservation, sustainable use and the equitable distribution of benefits arising from the use of genetic resources — has now been joined by 177 states. By signing the Convention, Germany has committed itself not only to conserving biodiversity at home, but also to helping developing countries implement the steps called for by the Convention. One of the schemes through which Germany is assisting developing countries to preserve their natural environment is the project entitled 'Implementing the Biodiversity Convention' (the 'BIODIV Project'). This is conducted by GTZ on behalf of the German Federal Ministry for Economic Co-operation and Development (BMZ) and was started in 1994.

As well as developing ideas and policy and participating in the international debate on biodiversity, the BIODIV Project supports developing countries directly in their efforts to implement the CBD at the national level. Bilateral measures focus on projects that have an innovative (pilot) character. Measures may also be of a kind that enables partners to meet the institutional requirements for major projects, and also to plan for these. There are four focal points: traditional knowledge; access to genetic resources and benefit-sharing; the implementation of the Biosafety Protocol; and schemes for the sustainable use of biodiversity.

At present, eighteen individual bilateral projects are in the process of being implemented and a number of others are at the planning stage. Joint projects function on the basis of bilateral agreements with governmental and non-governmental institutions in partner countries.

Increasingly, co-operation is sought with a variety of groups within society, including indigenous organisations. As a result, the majority of biodiversity projects co-operate in one way or another with national and local NGOs. This co-operation extends from involving the organisations in the planning of a project to supporting them in their rights to dispose freely of their resources, knowledge, benefits and land. The participation of civil society is seen as an important factor in helping to ensure the success of a project.

In the following section, we focus on support to developing countries as it relates to the efforts of indigenous and local communities to protect, maintain and strengthen their traditional knowledge.

## STRENGTHENING TRADITIONAL KNOWLEDGE

Article 8(j) of the Biodiversity Convention stipulates that, as far as possible and appropriate, and subject to their national legislation, parties shall '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 utilisation of such knowledge, innovations and practices'. The Convention thus highlights the importance of local and indigenous knowledge for the conservation of biodiversity and affirms the rights of indigenous and local communities. Attempts are now being made to protect the cultural identity of indigenous peoples and to strengthen their potential for self-help. It is recognised that, by developing plant and animal species for various purposes over the centuries, indigenous and local communities have contributed to the world's stock of genetic resources and to knowledge about biological resources and ecological processes. The traditional knowledge of these peoples provides scientists with information useful to them in developing various products, notably of an agricultural or medicinal kind; it also plays an important part in ensuring the conservation of genetic resources. In line with this, the Convention stresses that indigenous and local communities should share in the benefits arising from the use of their knowledge, and that they should be given incentives to conserve both this knowledge and the respective biological resources. However, this whole subject gives rise to a great many questions: how to define traditional knowledge, how to accommodate collective rights, how benefits should be distributed between different communities, between men and women, between old and young, and so on. The BIODIV Project participates actively in the international debate about these issues. In January 1999, for example, it co-organised with the university URRACAN and the project BOSAWAS a meeting on biodiversity, intellectual property rights, and the rights of indigenous communities held in Siuna, Nicaragua. At the CBD Intersessional Working Group on traditional knowledge held in Seville in March 2000, and two months later during the Conference of the Parties to the CBD in Nairobi, it participated in seminars helping indigenous women's organisations to draft recommendations for a first programme of work on traditional knowledge.

Many of the questions outlined above were addressed during the negotiations on this first programme of work on Article 8(j). The programme was endorsed at the Fifth Conference of the Parties and is now in the process of being implemented.

## **BIODIV-SUPPORTED ACTIVITIES PROMOTING IMPLEMENTATION OF THE WORK PROGRAMME ON TRADITIONAL KNOWLEDGE (SELECTION OF CASES)**

Individual projects dealing with traditional knowledge all involve work with indigenous and local organisations. The following are examples from the Philippines, Guinea, China and Peru.

### **Bioprospecting Programme in the Philippines**

Over the last few years, the regional non-governmental organisation SEARICE (South East Asia Regional Institute for Community Education), working in conjunction with academics of various disciplines, has campaigned hard for a fair and balanced regulatory framework to control access to genetic resources and related traditional knowledge, actively monitoring and supporting the national implementation of legal provisions. In the Philippines, the main instrument in this connection is Presidential Executive Order No. 247. SEARICE and its partners have been supported by BIODIV since 1998. Together with local and indigenous NGO partners, the Bioprospecting Programme co-ordinates various educational schemes and capacity-building activities, with a view to developing workable procedures that enjoy the acceptance of all sections of society. Communities are given the necessary skills to recognise and document bioprospecting activities, and to preserve the integrity of their traditional systems of knowledge.

### **Medicinal Plant Workshop in Guinea**

In Guinea in spring 1999, the GTZ BIODIV project, working with the UNCTAD Biotrade Initiative and various governmental and non-governmental institutions in Guinea, co-organised a national workshop on medicinal plants. The workshop brought together people from different sectors who were working on issues relating to medicinal plants. They included: traditional healers from local communities, scientists, government representatives, and Guinean representatives from NGOs, development projects, and international organisations. The aim of the workshop was to draw up an action-plan in support of a national strategy for the conservation, sustainable use, and commercialisation of medicinal plants. The workshop also raised the issue of knowledge of traditional healers. The participants discussed intellectual property rights and existing regulations on access, and traditional healers described cases of unmonitored bioprospecting by foreign companies and researchers. The resulting action-plan aims to enhance understanding of this issue and to bring about the creation, or improved enforcement, of relevant regulations.

### **Harnessing Traditional Knowledge in south-west China**

South-west China is one of the richest regions of the world in terms of cultural and biological diversity. Over many generations, the ethnic minorities of south-west China have built up a fund of knowledge and developed a set of technologies that have resulted in the creation of unique modes of living and cultural landscapes in close interaction with biodiversity resources. Project-activities, currently still at the planning stage, will include a participatory research and capacity-building programme designed to enhance biodiversity and validate

traditional knowledge, innovations, and practices in natural-resource management. The project will be carried out in conjunction with the non-governmental Centre for Biodiversity and Indigenous Knowledge (CBIK), as a follow up to a congress on the links between cultural and biological diversity held in Yunnan, China, in July 2000. The findings of the conference, which was co-sponsored by BIODIV, are reflected in the present paper. Further details of the conference may be found at the CBIK web site: <http://cbik.org>.

### **Traditional Knowledge, Gender and Biodiversity in Peru**

This project, aimed at ensuring sustainable food-security and the conservation and sustainable use of biodiversity, seeks to mobilise and strengthen local knowledge in these fields. Support for the project began in July 2000. Participative research will be followed by the drafting of action-plans that will take special account of gender aspects, as women do the main work in terms of agrobiodiversity conservation. Traditional knowledge will be acknowledged, documented, protected and disseminated. There will also be lobby work at national level, as a contribution to conserving biological diversity. A further objective will be to secure the inclusion of traditional knowledge, innovations and practices in the design of national development strategies and programmes. Traditional knowledge will only be disseminated with the prior informed consent of the communities concerned. The implementing organisation will be the 'Centro de la Mujer Peruana Flora Tristán', a Peruvian NGO specialised in gender issues.

## **GTZ WORK ON FRAMEWORK CONDITIONS AFFECTING THE IMPLEMENTATION OF ARTICLE 8(J) (SELECTION OF CASES)**

### **Capacity-Building for COICA**

The umbrella-organisation COICA (Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica) represents nine national indigenous organisations — in other words, the majority of indigenous organisations in the tropical lowlands of South America. COICA activities supported by GTZ are aimed at: enhancing interaction and communication between the constituent organisations and local indigenous groups; defending rights over land and resources; securing the right to self-determination and also human rights — including intellectual property rights relating to traditional knowledge. BIODIV is also supplying support to draft a proposal for a GEF medium sized project.

Current discussions envisage the provision of support in a number of areas: creation of a co-ordination structure; training of grass-roots disseminators, as a way of improving COICA's services to indigenous organisations; education of young leaders who will be able to represent indigenous peoples and defend their rights; development of sustainable financing-mechanisms for maintaining indigenous umbrella-organisations. The CBD programme of work on the implementation of Article 8(j) plays a mayor role in these activities.

### **E-mail Conference on Indigenous Land-Rights**

In summer 2000, a GTZ initiative was launched which aimed to discover how systems of land tenure influence resource management in indigenous territories. Twenty-six development projects working with indigenous peoples in Central and Latin America were involved in the survey, which was carried out by questionnaire using e-mail as a medium. Amongst the issues examined was the extent to which the system of land tenure and the operation of customary law influenced development projects. As well as providing a comprehensive survey of the situation in regard to land rights and land tenure, the e-mail conference revealed a close correlation between these factors and traditional knowledge and intellectual property rights. Within indigenous and local communities, strong links exist between the system of land tenure, resource use, and traditional knowledge. Land is inseparable from traditional knowledge, innovations, and practices. Clarity in regard to indigenous land-rights helps ensure the preservation of traditional knowledge and biodiversity.

A number of parallels exist between land tenure and traditional knowledge: neither are the preserve of individuals, as they are in Western societies, they are collective. Land-tenure arrangements and intellectual-property regimes must therefore allow for this. When it comes to sorting out intellectual property rights relating to traditional knowledge, for example, the fact that the same indigenous institutions manage land tenure and administer customary law has to be taken into account. These institutions often have a strong need for institutional support and exchange with other indigenous communities.

### **TRIPS, CBD and the Seed Sector**

BIODIV supports two supra-regional projects relating to the framework conditions affecting indigenous and local peoples in their management of agrobiodiversity. These are: 'Managing

Agrobiodiversity in the Rural Areas' and 'Development of Framework Conditions for the Utilisation of Biotechnology and Genetic Engineering'. Activities addressing the relationship between the CBD and the TRIPS agreement and their implementation in developing countries play a major role in these projects.

## LESSONS LEARNED

Cultural and biological diversity depend on respect for the integrity of indigenous cultures and on the right of indigenous and traditional peoples to retain control over their cultural institutions, territories, language and systems of knowledge.

### **Lessons Learned from the Talaandig People in the Philippines: A Case Study**

Experiences in the pilot region of Mount Kitanglad, North Mindanao, in the province of Bukidnon, Philippines, showed that the mechanism of prior informed consent did not guarantee the backing of the whole community, because it was based on the approval of a single individual. The Talaandig community favours 'free prior informed consent' (FPIC), meaning that any proposed enquiries into the community's resources and knowledge have to be discussed and agreed by all the members of the community. This is provided for in the Indigenous Peoples Rights Act, which has been in force in the Philippines since 1997.

Although the Talaandig community's ancestral domains are recognised by the government, access to community territory is still managed by the state, without reference to traditional authorities. In order to improve this situation, the community has opened an office in the nearest town, manned by an official to whom enquiries must be made about access to community territory, resources and knowledge. The official decides whether permission can be given immediately (as in the case of climbing tours) or whether the community must be consulted and FPIC obtained (as in the case of bioprospecting activities by international companies — including prospecting for TK).

Inside the Talaandig people's ancestral territory, sites of special cultural significance have been established which serve as markers of the territory and as checkpoints at which members of the clan (cultural guards) ensure that individuals and organisations have approved access. This system, which is strongly spiritual, safeguards the sovereignty of the Talaandig people over its own territory.

Commercial interest in traditional knowledge about medicinal plants in the area is increasing, both within the Philippines and amongst international companies and research institutions.

This has lent urgency to the question of intellectual property rights and, as sites of special cultural significance are established, the Talaandig people are now keeping records of medicinal plants and related knowledge, in order to protect them from unauthorized exploitation. This process has, however, only just started.

Because governmental power-constellations do not have a balanced relationship to indigenous peoples, appropriate policies and legislation are required in order to establish legal systems. These will protect traditional resources and at the same time enhance the ability of local communities to maximise control over their cultural and biological resources. Furthermore, direct participation of indigenous peoples should be secured in every sector policy affecting their rights.

Based on GTZ-Experiences any attempt to safeguard and harness traditional knowledge should take the following points into account:

- Indigenous and local cultures should be viewed holistically. Their resources and knowledge are inseparable from their culture.
- Indigenous cultures are complex: they are characterized by internal, gender and inter-generational differences and specialisation's. This means that access to knowledge and resources must be negotiated with a given interest group; generalisation is not possible. This should be especially recognized when it comes to benefit-sharing-arrangements.

- Because indigenous peoples often have oral traditions, loss of traditional knowledge and biodiversity is closely related to cultural and linguistic loss. This fact needs to be recognised in relation to documentation activities in development projects.
- Indigenous organisations, whether local or of an umbrella kind, need to have their capacities built up and their institutions strengthened. This also applies in the area of interlinkage (contact with donor organisations, information management, etc.).

## RECOMMENDATIONS

Through work on the projects described above and through meetings, workshops and individual discussion with representatives of traditional and indigenous communities, a considerable fund of experience has now been built up. This section sets out recommendations in line with the three topics to be examined at the Expert Meeting on Systems and National Experiences for Protecting Traditional Knowledge, Innovations and Practices:

### **Systems for Protecting Traditional Knowledge and Ensuring Benefit-Sharing**

Measures designed to secure recognition of indigenous and local people's rights over resources and intellectual property must include:

- steps to strengthen partnerships between local government and local peoples
- establishment of wider networks and linkages among indigenous peoples, NGOs, universities and local governments, with a view to broader-based management of the ecosystem (on this, see also the section on capacity building below)
- steps to enhance local control over traditional resources, including mechanisms to ensure adequate benefit-sharing from the wider use and application of indigenous and local knowledge, innovations and practices.

As regards creating *sui generis* systems for managing indigenous intellectual property rights: more suitable legal frameworks for the protection of the knowledge, innovations and practices of indigenous and local communities must be established, acknowledging the socio-cultural diversity between and within communities. Such systems must be established in consultation with the communities in question.

As experience shows, land tenure is another important factor. Local groups need to have secure access to the lands on which their knowledge and spiritual world are based. Forced movement of native communities should be discouraged as being profoundly destructive to indigenous and other traditional societies, as well as to biological and cultural diversity. As a matter of course the issue has to be seen in a larger context, taking in to account all the different factors influencing land tenure.

In activities, projects, and policies relating to natural-resource management, more extensive research and documentation of indigenous knowledge is required. Research results have to be returned and reflected by the local communities. Research must be tied in to decision-making and action. Priorities for research and documentation include:

- assessing changes in indigenous knowledge, innovations and practices
- instituting effective participatory schemes of cultural and environmental impact assessment
- developing criteria and indicators based on local knowledge and perceptions

### **Harnessing Traditional Knowledge for Development and Trade**

There should be policies, legislation and ethical guidelines ensuring that local and indigenous communities are able to protect their traditional resources (this includes land, knowledge and genetic resources) but at the same time benefit equitably from the wider use and application

of their knowledge, innovations and practices. In order to bring about these changes, programmes and actions should be guided by a holistic approach. This will involve finding common ground between scientific, local and political worldviews, and carefully considering the important linkages between culture, nature and external socio-political environment. It will also require a shift in scientific perspective, towards recognition of different modes of knowing and of the validity of all systems of knowledge.

Global and regional markets can have both positive and negative impacts on biodiversity and local cultures. Generation of income for members of the local community is, of course, one potential positive impact. However, the commoditisation of locally available products (including intangible products such as culture and knowledge) does not of itself ensure that local communities benefit in an equitable and sustainable manner. Positive action is needed to ensure that local communities have access to markets — for example by providing information on prices, purchasers and technologies, and by introducing institutional arrangements that shorten trade links.

Measures to develop ecological and cultural capital should be on a par with those designed to raise levels of economic consumption.

Unless the relevant values are built into measures promoting economic progress, unrestricted pursuit of increased levels of economic consumption will inevitably conflict with the conservation of valuable ecological and cultural resources.

Rather than seeking to maximise consumption, business should focus on cutting down the use of resources to the level required to meet the needs in question. There are many models and mechanisms for fostering business cultures that aim to minimise resource-use. They include: sustainable harvesting-techniques; more efficient processing of biodiversity products, and improved storage-techniques. Traditional knowledge can make a major contribution to these kinds of innovations. Again: volatile prices can have dramatic effects on producer behaviour, resulting, for example, in over-collection of biological resources. Mechanisms to ensure sustainable harvesting could also include the creation of indigenous marketing-organisations. This would also allow greater benefits because of direct marketing.

### **Capacity-Building Needs**

All efforts to promote conservation of traditional knowledge must include capacity-building, ensuring that members of the community and the staff of NGOs and government bodies have the right skills at the right level. New technologies and strategies create a need for effective training, impact assessment and follow-up support. External agencies may have to develop these skills first in order to be able to assist regional and community groups.

### **Institutional Consolidation of Indigenous Organizations**

Case studies and workshops have shown that both traditional and newly created indigenous organisations have a strong need for institutional support in a large number of areas such as management skills, financial administration and legal affairs. Processes of self-determination should be fostered and support given to grassroots and umbrella organisations and to networks. The linkages between the different levels of these organisations are often weak and in need of special attention. Information management should therefore be included in capacity-building activities. Institutions should also be given training in fund-raising and in how to approach donor organisations.

Other institutions that should be considered for capacity-building are: bodies that grant access to knowledge and biodiversity (see the Philippines case study); bodies dealing with

traditional knowledge, in their role as alternative scientific institutions, and indigenous educational institutions such as schools and universities.

### **Promoting Intercultural Exchange of Experiences**

Actions to promote dialogue, mutual understanding and respect include: supporting indigenous groups in creating mechanisms through which communities can exchange experiences of conserving biological and cultural diversity; immersion programmes for outsiders, designed to bring about changes in attitude towards indigenous cultures and to improve communication skills; the inclusion of both indigenous and scientific knowledge in local educational curricula.

Exchanges (e.g. mutual visits) between indigenous communities can serve as a powerful means of ‘bottom-up’ capacity-building. In particular, cross-border visits between members of the same ethnic groups should be fostered, in order to promote learning processes. Such a step has been recommended by several regional meetings and workshops on traditional knowledge and indigenous communities in South East Asia and Latin America.

### **Enablement for Policy Dialogue**

Local people should be supported in their efforts to conduct policy dialogues and should be provided with appropriate training for such activities. Education and training should focus on young leaders within indigenous and local communities and young men and women should be helped to gain access to universities and other educational institutions through the provision of financial support.

Capacity-building should not just concentrate on local communities; it should extend to representatives of local government and NGOs, with a view to improving communication and collaboration with local communities. This can lead to the creation of partnerships aimed at developing effective mechanisms for the protection of traditional knowledge. Capacity-building activities should expose policy-makers, officials and NGO staff to the daily life of communities, so that their own experiences are fed back into the policy-making process. This would also involve establishing mechanisms for multi-stakeholder dialogue, co-operation and conflict management.

### **Awareness-Raising and Cultural-Impact Assessment**

Education and awareness-raising, both within the countries of origin and industrial countries, help to increase public understanding of the importance of traditional knowledge in effectively conserving biological and cultural diversity. Awareness-raising campaigns help communities to develop an understanding of the problems associated with bioprospection and of the latter’s potential in terms of community development. Such activities can mobilise self-help forces and can prompt communities to find their own solutions to problems and also to develop regimes, instruments and institutions for regulating access to their territories, resources and traditional knowledge.

Activities and seminars involving young people have been particularly successful: these are the group whose future depends on their resources and the corresponding knowledge being conserved.

So that efforts to conserve biological diversity — and the environment in general — will enhance development without endangering the survival of indigenous cultures, the impact of the new instruments of *sui generis* systems and prior informed consent on the cultural identity

of the respective communities needs to be assessed. The communities should be assisted in formulating and implementing their own systems of cultural-impact assessment.

### **Documentation of Traditional Knowledge**

Documenting traditional knowledge — indeed any kind of knowledge — is clearly a vital factor in ensuring its preservation and protection. And yet the problem of guaranteeing rights over and regulating access to, registers of knowledge is one that has still not been properly elucidated. Hence, when it comes to co-operation with research institutions and other stakeholders in the documentation process, the position of local-community representatives and indigenous institutions with responsibility for regulating access to knowledge must be strengthened through capacity-building.

Any methods or tools for documenting or preserving the knowledge or biological diversity belonging to local or indigenous peoples should be developed in culturally appropriate and gender-specific ways. They should take account of the linguistic diversity and largely oral traditions of indigenous cultures.