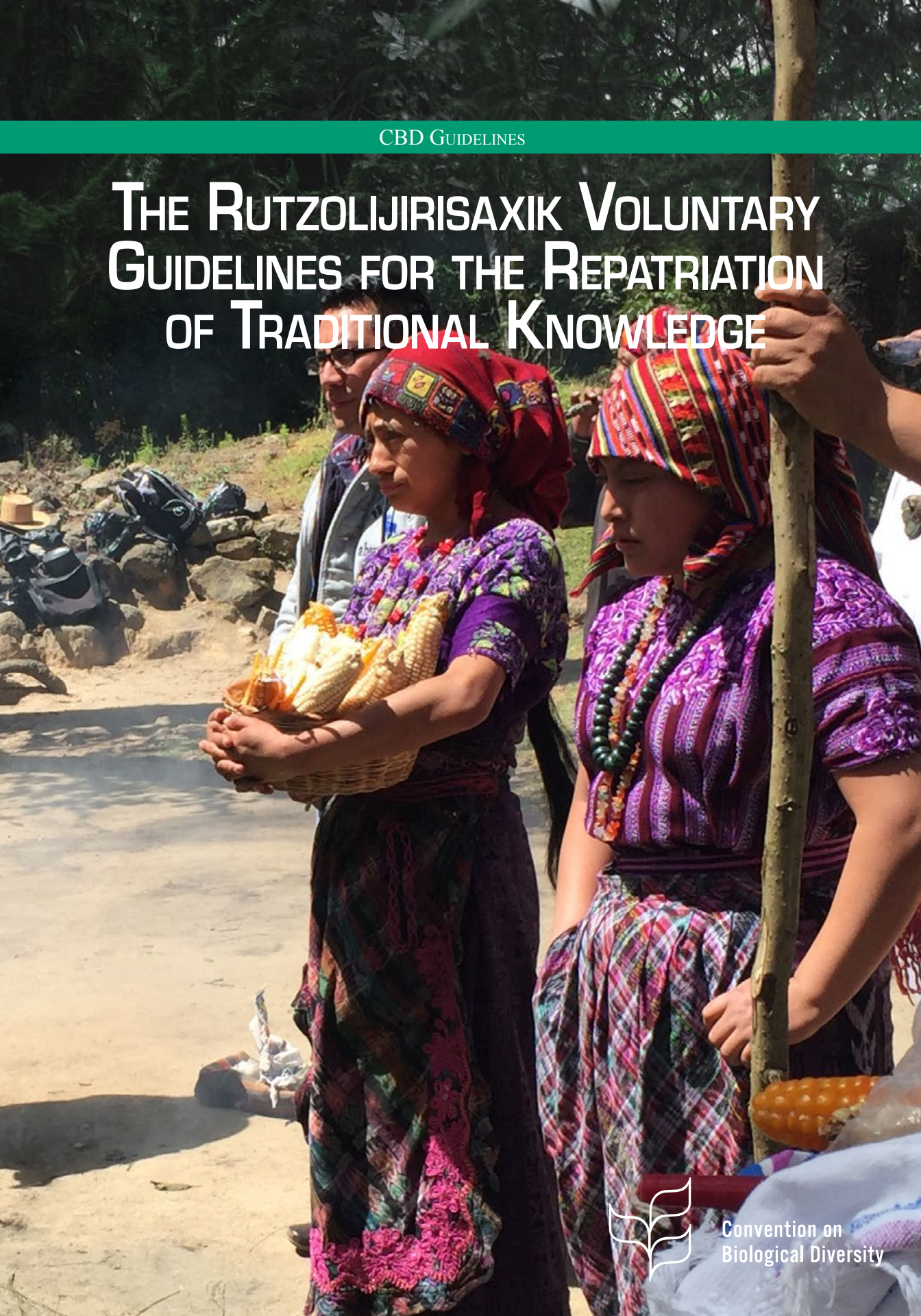


CBD GUIDELINES

THE RUTZOLIJIRISAXIK VOLUNTARY GUIDELINES FOR THE REPATRIATION OF TRADITIONAL KNOWLEDGE



Convention on
Biological Diversity

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**



**Convention on
Biological Diversity**

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Image: The cover image depicts Guatemalan Kaqchikel Mayan women participating in the Mayan ceremony of blessing the seed, where they ask Ajaw (the Creator) to return the knowledge, practices and technology to their villages so that their harvests abound during the year. They ask for the fertility of the seed and of the Mother Earth, which guarantees food security and well-being of their families.

Image credit: The photo on the cover, was taken and donated by Mr. Ramiro Batzin. Special thanks to the Sotz'il Association.

Foreword

There is today a growing appreciation of the value of traditional knowledge and its contribution to addressing global problems, such as poverty, climate change, sustainable use, and conservation. Thus, recovering traditional knowledge is a global priority.

Many government departments, universities, museums, herbaria, botanical and zoological gardens and other entities hold, store or house collections containing recorded or documented traditional knowledge, innovations and practices of indigenous peoples and local communities, which remains relevant to conservation and sustainable use, and important for cultural and knowledge restoration.

The Convention on Biological Diversity, in its Article 17 (Exchange of information), requires Parties to facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, including exchange of results of technical, scientific and socioeconomic research as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge, and, where feasible, the repatriation of information.

Furthermore, Article 18 of the Convention requires Parties, among other things, to promote technical and scientific cooperation as well as, in accordance with national legislation and policies, to encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies.

The programme of work on Article 8(j) and related provisions, adopted in 2000, includes task 15, which requests the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions to develop guidelines that would facilitate the recovery of traditional knowledge relevant for the conservation and sustainable use of biological diversity. This work resulted in the adoption by the Conference of the Parties to the Convention, at its fourteenth meeting, in November 2018, of 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.

I would like to express my gratitude to the Government of Guatemala, the Sotz'il Association and other partners for the organization of the Expert Meeting on the Repatriation of Traditional Knowledge Relevant to the Conservation and Sustainable Use of Biological Diversity, which was held in Panajachel, Guatemala, on 14 and 15 June 2015, and which provided the essential elements for the finalization of these Guidelines.

The Rutzolijirisaxik Voluntary Guidelines were named by representatives of indigenous peoples of Guatemala, as is the practice, under the Convention, of naming guidelines developed on traditional territory in the indigenous language

of those peoples, in this case, the Kaqchikel Mayan word “Rutzolijirisaxik”, which means “returning to one’s place of origin”.

“Repatriation” in the context of these guidelines refers to the return of knowledge, innovations and practices of indigenous peoples and local communities to where it originated or was obtained for the recovery, revitalization, and protection of knowledge on biological diversity.

The objective of the Rutzolijirisaxik Voluntary Guidelines is to facilitate the recovery of traditional knowledge that is relevant for the conservation and sustainable use of biological diversity.

I am pleased to invite Parties and other Governments, relevant organizations, and entities holding, storing or housing collections of traditional knowledge and related or complementary information, as well as indigenous peoples and local communities, to use and promote the Rutzolijirisaxik Voluntary Guidelines at the regional, national and local levels, to support efforts to repatriate and restore traditional knowledge relevant for conservation and sustainable use of biological diversity to the original knowledge holders.

I would be pleased if you would also share with us your experiences in using the Voluntary Guidelines, including any best practices and practical examples linked to their implementation.

Cristiana Paşca Palmer
Executive Secretary

Introduction

The international community has recognized the close and traditional dependence of many indigenous peoples and local communities on biological resources, notably in the preamble to the Convention on Biological Diversity. There is also a broad recognition of the contribution that traditional knowledge can make to both the conservation and the sustainable use of biological diversity — two fundamental objectives of the Convention — and of the need to ensure the fair and equitable sharing of benefits arising from the utilization of traditional knowledge. For this reason, Parties to the Convention have undertaken in Article 8(j), subject to their national legislation, to 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.

To address the effective implementation of Article 8(j) and related provisions, in decision V/16, the Conference of the Parties to the Convention on Biological Diversity adopted the programme of work on Article 8(j) and related provisions, including task 15, in which it requested the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions to develop guidelines that would facilitate repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity in order to facilitate the recovery of traditional knowledge of biological diversity.

The Conference of the Parties further considered the task at hand in its decision X/43,¹ paragraph 6, and in its decision XI/14 D, annex, adopted terms of reference to advance the task clarifying that the purpose of task 15 was to develop best-practice guidelines for “the repatriation of indigenous and traditional knowledge relevant to the conservation and sustainable use of biological diversity, including of indigenous and traditional knowledge associated with cultural property, in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge of biological diversity.”

All tools and guidelines developed under the Working Group on Article 8(j) and related provisions are interrelated and mutually supporting, in particular the Mo’ otz Kuxtal Voluntary Guidelines for Traditional knowledge.² The guidelines

1 See decision X/43, annex, paragraph 1

2 The Mo’ otz Kuxtal Voluntary Guidelines for Traditional knowledge were adopted by the Conference of the Parties in decision XIII/18. “Mo’ otz Kuxtal” means “roots of life” in the Maya language.

for the repatriation of traditional knowledge build on relevant decisions of the Conference of the Parties, including paragraph 23 of the Tkarihiwaié: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,³ as well as decision VII/16 with regard to registries and databases, and is complementary to other tools developed by the Working Group on Article 8(j) and Related Provisions and adopted by the Conference of the Parties to the Convention on Biological Diversity.

The Rutzolijirisaxik Voluntary Guidelines take into account the various international bodies, instruments, programmes, strategies, standards, guidelines, reports and processes of relevance and the importance of their harmonization and complementarity and effective implementation, including the United Nations Declaration on the Rights of Indigenous Peoples,⁴ as appropriate, and in particular the mandate of United Nations Educational, Scientific and Cultural Organization concerning cultural property, as well as the World Intellectual Property Organization, which has the mandate to deal with intellectual property issues.

As such, they highlight the importance of international cooperation for the repatriation of traditional knowledge, including by providing access to traditional knowledge and related or complementary information for indigenous peoples and local communities, in order to facilitate the repatriation of traditional knowledge relevant to conservation and sustainable use of biological diversity, to assist these communities in knowledge and cultural restoration.

3 Decision X/42, annex, Tkarihiwaié:ri Code of Ethical Conduct, paragraph 23.

4 General Assembly resolution 61/295, annex.

Rutzolijirisaxik⁵

Voluntary Guidelines for the Repatriation of Traditional Knowledge of Indigenous Peoples and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity

I. OBJECTIVES

1. The objective of the Rutzolijirisaxik Voluntary Guidelines is to facilitate the repatriation of the traditional knowledge of indigenous peoples and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, including related or complementary information, in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge relevant for the conservation and sustainable use of biological diversity,⁶ and without limiting or restricting its ongoing use and access,⁷ unless under mutually agreed terms.
2. The guidelines may also assist in the effective implementation of the global Plan of Action on Customary Sustainable Use of Biological Diversity, endorsed by the Conference of the Parties in decision XII/12 B.

II. PURPOSE

3. For the purposes of the Rutzolijirisaxik Voluntary Guidelines, “repatriation” in the context of traditional knowledge relevant for conservation and sustainable use of biological diversity, means “the return of knowledge, innovations and practices of indigenous peoples and local communities⁸ to where it originated or was obtained for the recovery, revitalization, and protection of knowledge on biological diversity”.⁹

5 “Rutzolijirisaxik“ means “Returning to one’s place of origin” in the local traditional language, Maya Kaqchikel.

6 Decision XI/14 D, annex, terms of reference for repatriation guidelines.

7 This paragraph does not preclude the application of any provision of the Nagoya Protocol, as appropriate.

8 The traditional knowledge in question may include related or complementary information.

9 See the note by the Executive Secretary on development of best-practice guidelines for the repatriation of traditional knowledge relevant to the conservation and sustainable use of biological diversity (UNEP/CBD/WG8J/8/5), para. 13.

4. The guidelines are intended to be practical guidance to Parties, Governments,¹⁰ international and regional organizations, museums, universities, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, libraries, archives and information services, private collections, private sector and other entities holding, storing or housing traditional knowledge and related or complementary information, and indigenous peoples and local communities, in efforts to repatriate traditional knowledge.
5. The guidelines are a guide to good practice which will need to be interpreted taking into account the political, legal, economic, environmental and cultural diversity, as appropriate, of each Party, Government, institution, entity and indigenous peoples and local communities, and applied in the context of each organization's mission, collections and the relevant communities, taking into account community protocols and other relevant procedures.
6. The guidelines are not prescriptive or definitive.
7. Given the political, legal, economic, environmental and cultural diversity of States, institutions and entities, and indigenous peoples and local communities that may be involved in repatriation, it is unlikely that these guidelines will cover all the issues that may arise in professional practice. However, they should provide practical guidance for those wishing to pursue repatriation.
8. The guidelines should enable those working on repatriation, including information professionals,¹¹ to make sound judgments regarding appropriate responses to any relevant issues, or to provide some ideas about where to go for assistance if more expertise is required.
9. The guidelines should assist indigenous peoples and local communities in the recovery, revitalization and protection of their traditional knowledge related to conservation and sustainable use of biological diversity.

10 Including subnational governments and government departments, which may hold indigenous and/or local community traditional knowledge and related or complementary information relevant to the conservation and sustainable use of biological diversity.

11 An information professional is someone who collects, records, organizes, stores, preserves, retrieves, and disseminates printed or digital information. The term is most frequently used interchangeably with the term "librarian" (see *U.S. Occupational Outlook Handbook* (2008-2009 edition), p. 266), or as a progression of it. Librarians traditionally managed information contained in books or other paper records. Nowadays, however, libraries make extensive use of modern media and technology; hence, the role of librarians has been enhanced. The versatile term "information professional" is also used to describe other, similar, professions, such as archivists, information managers, information systems specialists, and records managers (see *Introduction to the Library and Information Professions*, by Roger C. Greer, Robert J. Grover, Susan G. Fowler, pp. 12-15). Information professionals work in a variety of private, public and academic institutions.

III. SCOPE

10. The Rutzolijirisaxik Voluntary Guidelines apply to the knowledge, innovations and practices of indigenous peoples and local communities, relevant for the conservation and sustainable use of biological diversity.

IV. GUIDING PRINCIPLES FOR REPATRIATION

11. 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;¹²

(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;¹³

12 Article 8(j) calls on Parties, subject to their national legislation, to 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.

13 See paragraph 32 on the principle of reciprocity in the Tkarihwaïé:ri Code of Ethical Conduct on Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, adopted in decision X/42 and available at <https://www.cbd.int/doc/publications/ethicalconduct-brochure-en.pdf>

(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 knowledge¹⁴ 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 *Tkarihwaïé: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*,¹⁵

(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 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.

¹⁴ And related or complementary information.

¹⁵ See decision X/42.

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

12. The following good practices and actions to repatriate traditional knowledge aim to provide advice to institutions and entities where traditional knowledge and related information may be held, stored or housed and which serve indigenous peoples and local communities and/or hold materials with indigenous peoples and local community content or perspectives. These may include but are not limited to: government departments, international organizations, private sector, museums, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, libraries, archives, private collections and information services. These good practices and actions cover such areas as governance, management and cooperation.

13. The following elements are arranged in sequential order; however, Parties and others using the Rutzolijirisaxik Voluntary Guidelines may wish to consider these, as they see fit, taking into account the unique circumstances of each Party, institution or entity.

A. Procedural considerations

1. Establish a team

14. Depending on the repatriating institution, consider the establishment of a team with technical expertise, guided by a multi-stakeholder committee, in order to build relationships between the relevant indigenous peoples and local communities and institutions and other entities holding traditional knowledge. Indigenous peoples and local communities should effectively participate in such arrangements.

15. Indigenous peoples and local communities participating in multi-stakeholder committees for repatriation may be best placed to identify whether there are community protocols and/or customary processes in place for the return of traditional knowledge.

2. Training the actors in the repatriation process

16. The various actors involved in repatriation, including staff of repatriating institutions and entities, representatives of relevant indigenous peoples or local

communities may require training on repatriation. Training can equip indigenous peoples and local communities with the knowledge and skills needed to effectively participate in a repatriation process, while, at the same time, indigenous peoples and local communities could also play a role in training various other actors to ensure cultural sensitivities and requirements involved in repatriation processes are taken into account. Training may also assist the various actors involved in agreeing on common understandings of terms used in the repatriation process.

17. Training can also assist staff of repatriating institutions and entities to be aware of issues such as indigenous peoples' and local communities' rights and issues related to their traditional knowledge, as well as assist in the development of agreements for a repatriation process. Cross-cultural training for staff of institutions holding, storing or housing traditional knowledge and for indigenous peoples and local communities may assist in increasing mutual understanding and in establishing successful repatriation processes. Staff from repatriating institutions or entities should be encouraged to also, where appropriate, and available, undertake training on the customs, worldviews and/or priorities of the indigenous peoples and local communities relevant to their institution or collections prior to repatriation and in an ongoing manner building enduring relationships. Indigenous peoples and local communities who have written about libraries and other resource centres have invariably mentioned how important it is to feel comfortable in them. Friendly, culturally aware/sensitive staff will mean that indigenous peoples and local communities do not feel intimidated by an alien cultural system or inadvertently made to feel inferior, if they do not know how to find information. These suggestions imply that the institutions or entities interested in repatriation of traditional knowledge should be prepared.¹⁶

18. Training could take into account experiences gained and lessons learned in other repatriation processes, as appropriate.¹⁷

3. *Identification of collections that hold, store or house traditional knowledge and related or complementary information for possible repatriation*

19. After creating a multi stakeholder team and training the participants, the initial concrete step in a repatriation process is to identify collections and content¹⁸ for possible repatriation.

16 Which is complementary to Procedural consideration 7 on “preparedness to receive”

17 Note that tangible cultural heritage, such as artefacts, as well as human remains, fall under the mandate of UNESCO.

18 Traditional knowledge and related or complementary information

20. It is for each institution or entity holding, storing or housing traditional knowledge and related information to identify content in collections for possible repatriation and to make decisions regarding repatriation. At the same time indigenous peoples and local communities may wish to assist such institutions or entities holding, storing or housing traditional knowledge in identifying content for possible repatriation, and initiate requests to examine collections of information or knowledge in order to identify content, possibly leading to requests to repatriate.

21. The identification of elements of traditional knowledge for possible repatriation may require regional or international cooperation as per the Convention's Article 17 on exchange of information. Article 17 requires contracting Parties to facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, including specialized knowledge, indigenous and traditional knowledge, including, where feasible, repatriation of related or complementary information.

22. *Related or complementary information* to be taken into account when repatriating traditional knowledge could include, but is not limited to, information about when, where, how and from whom the knowledge in question was first accessed or collected, the arrival of the knowledge in institutions and entities holding traditional knowledge (such as place and date) and initial contacts in those places, and/or indigenous and traditional knowledge associated with cultural property.¹⁹ Such information may assist in identifying the original knowledge holders.

23. Related or complementary information could also include information, such as geo-referenced species level data and related information, and other types of information held in collections or databases that may be useful to supplement repatriated traditional knowledge for the conservation and sustainable use of biological diversity.

4. *Identification of the origin of the traditional knowledge and related or complementary information for possible repatriation*

24. Identification of the origin of the traditional knowledge in question may depend upon access to "related or complementary information", such as when the

19 The terms of reference adopted in decision XI/14 D states: The purpose of task 15 is to develop best-practice guidelines that would facilitate enhancement of the repatriation of indigenous and traditional knowledge relevant to the conservation and sustainable use of biological diversity, including of indigenous and traditional knowledge associated with cultural property, in accordance with Article 8(j) and Article 17, paragraph 2, of the Convention, in order to facilitate the recovery of traditional knowledge of biological diversity.

traditional knowledge in question was acquired, where, how, from whom and in what form as well as geo-referenced species level data and related information, and other types of information held in collections or databases that may be useful to supplement repatriated traditional knowledge for the conservation and sustainable use of biological diversity.

25. Indigenous peoples and local communities should effectively participate in identifying origins of the traditional knowledge in question and in some case may be guided by oral histories and other forms of information.

26. Parties and Governments should consider proactive arrangements to facilitate the identification the origins of traditional knowledge and of the original knowledge holders. Such arrangements could include requirements in national law for authors to state the origin of access to traditional knowledge in all publications, uses, developments and other disseminations.

5. Identification of the original traditional knowledge holders

27. Paramount to successful repatriation of traditional knowledge is the identification of the original traditional knowledge holders.

28. In order to identify the original traditional knowledge holders, firstly the origin of the traditional knowledge in question, including when it was acquired, where, how, from whom and in what form, should be established.²⁰ In such cases, above-mentioned related or complementary information may be of assistance.

29. The processes of indigenous peoples and local communities for the repatriation of traditional knowledge may include drawing on their oral histories and traditions to identify: where traditional knowledge may be held, stored or housed; when, where and from whom the knowledge in question was collected and in what form; and information about the arrival of the knowledge in those places, including dates and initial staff contacts in those places storing or using traditional knowledge.

30. Oral histories combined with efforts by institutions to make their collections publicly available may assist in identifying the original holders for potential repatriation.

31. Government departments, institutions and entities holding, storing or housing traditional knowledge should work in partnership with the relevant indigenous peoples and local communities and ensure their full and effective participation in identifying the original knowledge holders.²¹

20 May include traditional knowledge held in other countries (such as loans or collections), or in transboundary situations.

21 This can be achieved through step one, “Establish a team, inclusive of representatives of the relevant indigenous peoples and local communities”.

6. Agreements for repatriation

32. In order to clarify a repatriation process, indigenous peoples and local communities may wish to identify their customary procedures or develop community protocols that address repatriation of traditional knowledge.²²

33. In general, agreements to repatriate should recognize any rights that the original traditional knowledge holders may have, including the right to prior and informed consent, free, prior and informed consent or approval and involvement, to the repatriation process for the traditional knowledge concerned, and aim to develop mutually agreed terms for a repatriation process.

34. Institutions and entities²³ interested in repatriating traditional knowledge may be able to adapt standard framework agreements, such as memorandums of understanding or cooperation to include repatriation of traditional knowledge. These framework agreements may be useful mechanisms for guiding repatriation, especially from the institution's perspective.

35. If the repatriation process builds on framework agreements combined with community protocols or customary procedures, the process is more likely to meet the needs of the different actors involved in a repatriation process.

36. Additionally, in order to facilitate repatriation processes, it is advisable to keep administrative measures and costs to a minimum.

37. Any agreement may consider the inclusion, where appropriate, of provisions for the use of dispute resolution processes in cases of disputes concerning repatriation.

7. Preparedness to receive

38. From an indigenous peoples and local community perspective "preparedness to receive" includes the ability of the relevant indigenous peoples and local communities to receive, store and restore traditional knowledge and the development of local mechanisms for the protection and promotion (including intergenerational transfer) of traditional knowledge and safeguard strategy. This may involve the reintroduction, re-establishment or restoration of related biological resources, such as traditional crops and animal breeds, in accordance with national legislation.

39. Thus, indigenous peoples and local communities seeking the repatriation of traditional knowledge and/or related or complementary information should

22 The traditional knowledge being repatriated may include "related or complementary information".

23 These may include Parties, other Governments and other entities, including international organizations, museums, herbaria, botanical, and zoological gardens, databases, registers, gene-banks, etc.

be prepared to receive returned traditional knowledge and consider appropriate infrastructure,²⁴ as needed, for holding and safe-keeping of returned traditional knowledge.

40. Those Parties, Governments, institutions and entities interested or engaged in repatriation are encouraged to support indigenous peoples and local communities to be prepared and to provide assistance, including through technology transfer, as appropriate, in building their capacities, to receive traditional knowledge and related or complementary information that is returned to them.

8. *Recording, documenting and digitization²⁵ of traditional knowledge – consideration of formats that enable repatriation*

41. While digitization may be useful, a number of issues have been raised under the Convention²⁶ with regard to the documentation of traditional knowledge, including its potential challenges and opportunities. Taking this into account, institutions and entities considering the digitization of collections, as an aid to repatriation, should do so with the full and effective participation of indigenous peoples and local communities, fully cognizant of both the challenges and benefits of documenting traditional knowledge, including digitization and of making it publicly available.

42. Some institutions working with traditional knowledge and related or complementary information recommend the digitization of collections, in order to facilitate repatriation while also allowing for retention of the information by the repatriating institution, as a back-up for safe keeping.²⁷ Good practices for repatriation may also include making collections and data freely available online, as well as facilitating access to collections not in digital format. Many entities holding, storing or housing traditional knowledge, such as museums, routinely provide for the free access to publicly available traditional knowledge related to biodiversity.

43. Additionally, the publication of the World Intellectual Property Organization (WIPO), *Documenting Traditional Knowledge – A Toolkit*²⁸ may also be relevant

24 Such as secure databases.

25 Digitization is the process of converting information into digital or electronic format. Please note that documentation and digitization are distinct acts. Documentation is a form of recording, usually writing down of information, whereas digitization is converting the documented information into an electronic format.

26 See decision VIII/5 B, which recommends that Parties and Governments bear in mind that registers are only one approach to the protection of traditional knowledge, innovations and practices, and as such their establishment should be voluntary, not a prerequisite for protection. Registers should only be established with the prior informed consent of indigenous and local communities.

27 For example, see: <http://aiatsis.gov.au/about-us>

28 Available at: http://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf.

in this context as it provides essential information, including possible benefits and challenges, for indigenous peoples and local communities to consider when deciding whether or not they wish to pursue documentation of their knowledge.

44. Those making collections and data on traditional knowledge relevant to the conservation and sustainable use of biological diversity freely available online should consider the need to do so with the effective participation of indigenous peoples and local communities, according to prior and informed consent, free, prior and informed consent or approval and involvement, as appropriate, and mutually agreed terms when appropriate, fully cognizant of both the challenges and benefits of making traditional knowledge freely available.

45. Also relevant to the recording, documenting and digitization and repatriation of traditional knowledge and as an action to promote the principles of relationship building and reciprocity, where possible, traditional knowledge and related information obtained from activities/interactions with indigenous peoples and local communities should be shared with them, where possible, in indigenous and local languages and understandable and culturally appropriate formats, with a view to promoting intercultural exchanges, knowledge and technology transfer, synergies and complementarity.²⁹

B. Special considerations

1. Publicly available traditional knowledge relevant for the conservation and sustainable use of biological diversity and ongoing use and benefit-sharing

46. Where there is ongoing use of traditional knowledge, the user should consider special measures to address benefit-sharing, when appropriate. These measures may include: (a) compensation or fair and equitable benefitsharing for ongoing use; (b) encouragement for ongoing users to seek prior and informed consent, free, prior and informed consent or approval and involvement, and enter into mutually agreed terms for the equitable sharing on benefits; (c) the return of rights to the original knowledge holders, where feasible and in accordance with applicable laws; or (d) the development of mechanisms for fair and equitable sharing of benefits from traditional knowledge that was collected and used for a specific or ongoing period. In such instances, benefits should, to the largest extent possible,

²⁹ This principle is also embedded in the principle of Reciprocity in the Tkarihwaï:ri1 Code of Ethical Conduct on Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities Relevant for the Conservation and Sustainable Use of Biological Diversity, adopted in decision X/42 and available at <https://www.cbd.int/doc/publications/ethicalconduct-brochure-en.pdf>

be appropriate to the cultural and social context and the needs and aspirations of the indigenous peoples and local communities concerned. Fair and equitable benefit-sharing should also be encouraged whenever traditional knowledge has been accessed and is used for either commercial or non-commercial purposes unless waived under mutually agreed terms.³⁰

47. Further to the issue of benefit-sharing, the Conference of the Parties, in its decision XIII/18, adopted the Mo'otz Kuxtal Voluntary Guidelines for Traditional Knowledge, which contain advice regarding benefit-sharing that may be applicable also in the context of repatriation and continuing use.

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

49. Recalling that the nature of the Rutzolijirisaxik Voluntary Guidelines is to enhance repatriation of traditional knowledge with the ultimate goal of repatriating and restoring traditional knowledge relevant for conservation and sustainable use to the original knowledge holders, it is important that any discussions concerning fair and equitable benefit-sharing in the context of these guidelines does not detract from the overall benefit of repatriating and restoring knowledge, relevant for the conservation and sustainable use of biological diversity.

2. Secret or sacred or gender specific knowledge

50. Special considerations are needed for secret or sacred or gender specific knowledge by both repatriating institutions and entities and receiving communities, as some secret or sacred knowledge may only be seen or accessed by particular individuals. Therefore, the full and effective participation of indigenous peoples and local communities in the identification of the original holders of this information is important. For instance, some materials in libraries, archives and information services are confidential or sensitive which may require certain restrictions on access for regulatory, commercial, conservation, security or community reasons.³¹ Suitable management practices will depend on both the materials and the communities served by the organizations. Gender specific traditional knowledge and

³⁰ See UNEP/CBD/WG8J/8/5, para. 72.

³¹ Secret or sacred or sensitive indigenous peoples' and local communities' information should not be confused with material that may be considered offensive to indigenous peoples and local communities.

related information should be accessed by culturally appropriate persons and advice can be provided about this from the receiving communities.³²

C. Mechanisms that may aid in the repatriation of traditional knowledge

1. Community-to-community exchanges

51. Commonly, *community-to-community exchanges* allow for communities who have retained their traditional knowledge to share it with other communities who have lost their traditional knowledge, and to do so in culturally appropriate ways.

52. Community-to-community exchanges for knowledge restoration are growing in popularity and success and can cover such issues as fire management, water management, community conservation areas, in situ conservation (for traditional diets, human health and well-being), community resource mapping and monitoring, sustainable biodiversity management systems, including sustainable hunting and gathering systems, cultural heritage activities, monitoring the health of species and habitats, compliance patrols and training and advising land and sea managers on strategies to strengthen the protection and management of protected areas.

53. Through community-to-community exchanges, communities with their traditional knowledge intact are encouraged to share and assist other communities in restoring their traditional knowledge, including in transboundary situations, and to do so in culturally appropriate ways. Supporting community-to-community exchanges and learning to repatriate and restore traditional knowledge should be encouraged.

54. Community-to-community exchanges to repatriate receive and restore traditional knowledge relevant to the conservation and sustainable use of biological diversity, are regarded as a best practice for repatriation and knowledge restoration. Those interested or engaged in repatriation are encouraged take this into consideration and where possible and appropriate, support such community-driven initiatives.

55. Complimentary to community-to-community exchanges, are *traditional use agreements* between communities sharing common resources or ecosystems. Traditional use agreements can assist in ensuring a common understanding of customary laws, including related traditional knowledge, rights and obligations across different groups occupying a common area or ecosystem and/or sharing common natural or biological resources and by doing so assist in restoring traditional knowledge

32 For instance, it may be culturally appropriate that women's knowledge is only accessible to women.

about sustainable use of common natural or biological resources and shared ecosystems. These agreements describe how each group will manage their natural resources, as well as their roles in compliance activities and in the monitoring of environmental conditions. Thus, traditional use agreements can contribute to the repatriation of traditional knowledge by communities themselves, with the goal of restoring knowledge systems across common ecosystems.

2. Knowledge-sharing platforms

56. Parties, institutions and entities interested in repatriating knowledge and indigenous peoples and local communities may wish to consider the establishment of national or local knowledge-sharing platforms at relevant levels and scales, taking into account customary laws, including community-based observation programmes aimed at improving the sustainable management of natural resources. These can assist communities that share ecosystems and natural and biological resources in having a common understanding of the relevant customary laws and traditional knowledge in order to ensure sustainable use.

57. Traditional knowledge along with community observations can inform management actions, such as changes to hunting and fishing seasons for certain species, changes to quotas for taking plants and animals to ensure sustainable use and amendments to local laws and by-laws, such as imposing restrictions on fishing methods and allowable equipment.

58. Similarly, international knowledge-sharing platforms can contribute to the sharing of traditional knowledge, innovations, practices and observations, allowing communities that may have lost the relevant knowledge to restore and use it in practical ways, contributing to the effective management and sustainable use of biological resources.

59. Knowledge-sharing platforms at relevant scales developed with the effective participation of indigenous peoples and local communities can assist communities in exchanging knowledge and information aimed at restoring traditional knowledge across shared ecosystems for the conservation and sustainable use of biological resources.

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