

**Twelfth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity
13 November 2023**

**Dario Mejia Montalvo, Presidente del Foro Permanente para las Cuestiones Indigenas
Agenda item 8**

Twentieth (2021), twenty-first (2022), and twenty-second (2023) sessions of the Permanent Forum on Indigenous Issues (CBD/WG8J/12/7)

Dear Co-Presidents,
Excellencies,
Dear All,

We thank the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity for considering the recommendations of the 20th (2021), 21st (2022) and 22nd (2023) sessions, which are contained in document CBD/WG8J/12/7.

The Permanent Forum on Indigenous Issues is a subsidiary body of ECOSOC with the mandate to examine Indigenous Peoples' issues relating to economic and social development, culture, the environment, education, health and human rights.

To carry out this task, the Permanent Forum (i) provides specialized advice and develops recommendations addressed to the UN system through ECOSOC; (ii) raises awareness and promotes the integration and coordination of activities within the UN system, as well as (iii) prepares and disseminates information on Indigenous Peoples' issues. Furthermore, in 2007, the Forum adopted the mandate to (iv) promote respect for and full implementation of the United Nations Declaration on the Rights of Indigenous Peoples (Art. 42).

The Permanent Forum is the meeting point and global dialogue of Indigenous Peoples with United Nations agencies, representatives of States, NGOs, academia, with whom the issues of the mandate for and for the rights of Indigenous Peoples are worked on.

Dear Friends,

It is always important to remember the processes, even if briefly.

In this case, I will mention two substantive issues on which States have reached consensus in the dialogue with Indigenous Peoples.

1. The adoption of the declaration of the United Nations declaration on the rights of Indigenous Peoples; and,
2. The establishment of special mechanisms to help them develop in the best possible

way their task of recognizing and putting into practice the Rights of Indigenous Peoples, namely: the Permanent Forum on Indigenous Issues, Special Rapporteur on rights of Indigenous Peoples and the Expert Mechanism on the rights of Indigenous Peoples.

Both consensuses were achieved by the States as a humble example of the need to advance progressively in this fundamental issue of life in society, in accordance with the current historical challenges.

It is also true that other platforms or working groups have been formed as the thematic challenges and impacts on the rights of Indigenous Peoples have required it. But in any case, it is about the joint work of the same States and the same Indigenous Peoples, even if the themes, scenarios and delegations are different, for obvious reasons.

Regarding the work of the Permanent Forum, several of its recommendations have been accepted, causing changes that, although insufficient, are favorable and important. For example, we recently achieved a Decade on Indigenous Languages, CEDAW adopted General Recommendation No. 39 on Indigenous Women and Girls; In some intergovernmental processes, summits and forums, it has been possible for the voices of Indigenous Peoples to be expressed by institutions or representatives freely selected by them.

It is also relevant to mention that, in accordance with the progressive development of international law, States are adjusting “working methods” in response to new and challenging moments. For example: In a political agreement of the States, adopted by consensus in the Third Committee of the 77th session of the General Assembly, through the resolution “Rights of Indigenous Peoples” the UN Editorial Manual¹ was updated, noting that: "Indigenous must be written with a capital letter when it refers to cultures, communities, lands, languages, etc., of Indigenous Peoples, Indigenous women, among others."

The Permanent Forum recognizes and thanks the States and international organizations that have positive policies related to Indigenous Peoples and the United Nations Declaration and hopes that this constructive way of implementing the rights of Indigenous Peoples continues to develop in those still missing, not only at the international level but at all levels.

In the case of the Convention on Biological Diversity, the Permanent Forum recognizes the efforts of Parties to promote the rights of Indigenous Peoples with the development of international guidelines², the Kunming-Montreal Global Biodiversity Framework³; and the Voluntary Financing Mechanism⁴, among others.

Excellencies,

¹ <https://www.un.org/dgacm/en/content/editorial-manual/updates>

² (such as the Akwé: Kon Voluntary Guidelines; the Tkarihwaié Code of Ethical Conduct; the Mo’otz Kuxtal Voluntary Guidelines; and the Rutzolijirisaxik Voluntary Guidelines).

³ (Goal C and Target 13 - fair and equitable sharing of benefits arising from the use of genetic resources, as well as traditional knowledge associated with genetic resources and Target 21 - access to traditional knowledge, innovations, practices and technologies of Indigenous Peoples)

⁴ (to facilitate the participation of Indigenous Peoples in meetings held within the framework of the Convention)

Allow me to refer to recommendation 85 of the 21st session of the Forum, this position has been endorsed by the other two UN mechanisms on Indigenous Peoples and consequently we issued a public communication in July 2023⁵ addressed to States and UN entities. The communication refers to the need “that Indigenous Peoples should not be grouped with an indefinite set of communities that may have different rights and interests.” Therefore, “we urge that the term “Indigenous Peoples and local communities” stop being used as a single entity or subject.”

Let me clarify some aspects. Our position can in no way be construed as discrimination or opposition to any other group, and more specifically to local communities; Nor is it a legal discussion about the existence or not of any subject or group according to its own name, nor about their respective status; It is not an exclusive recommendation with the work and approach of other entities and processes of the parties, as we have already said, we have sent a note to the different UN entities, which have responded favorably, this recommendation does not necessarily indicate that the text of the Convention must be modified/revised.

This recommendation is about “working methods”. In short, it is an approach that seeks to reinforce the relevance of the approach and implementation of the Rights of Indigenous Peoples in the work related to the convention. For example, the acronym IPLC on the nameplates in this meeting room would have to identify “Indigenous Peoples” and each group in society would also have their respective nameplate. Or when they are themes, commemorations or data that correspond exclusively to Indigenous Peoples, it is not necessary to add other entities or subjects that do not correspond. We must keep in mind that we are in international bodies, where everything matters. We need to prevent the injustices of procedure results in or deepens underlying injustices!

I take this opportunity to inform you that among the three mechanisms with a mandate on the rights of Indigenous Peoples, we will self-convene a workshop at the beginning of 2024 on this topic. In the next few days we will issue an invitation.

Excellencies,

The Permanent Forum recommends to the Conference of the Parties that:

Having considered the note by the Secretariat on the recommendations of the Permanent Forum on Indigenous Issues relating to the Convention on Biological Diversity⁶,

1. Requests the Secretariat to convene an ad hoc expert group meeting on the implications and consequences of the conflation of Indigenous Peoples with other groups of society within the Kunming-Montreal Global Biodiversity Framework of the Convention and to develop specific actions to avoid such conflation. Participants in the ad hoc expert group meeting will include Parties, Indigenous Peoples and the three UN mechanisms related to Indigenous Peoples (the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the Rights of Indigenous

⁵ <https://social.desa.un.org/issues/indigenous-peoples/news/joint-statement-by-the-un-mechanisms-of-indigenous-peoples>

⁶ CBD/WG8J/12/7.

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Peoples) and interested UN entities, and the outcomes of the meeting be reported at future sessions of the Permanent Forum.

2. *Further requests* the Secretariat to provide a report that facilitates the implementation of the Kunming-Montreal Global Biodiversity Framework in line with the UN Declaration on the Rights of Indigenous Peoples.

3. *Invites* Parties to consider the report of the ad-hoc expert group meeting by the Working Group at its next session.

Thank you