

1.50 Indigenous Peoples, Intellectual Property Rights and Biological Diversity

RECOGNIZING that each member country should implement at the national level the terms of the Convention on Biological Diversity through appropriate national policies and instruments;

CONSIDERING that indigenous knowledge and cultural practices are important elements of biological diversity;

CONSCIOUS that knowledge and innovation of indigenous peoples and local communities through collective practices of conservation, selection and improvement of biodiversity elements should be valued, respected and protected;

CONCERNED that traditional knowledge of indigenous peoples is often being used without fair compensation;

ACKNOWLEDGING the terms specified by ILO Convention No 169 and the provisions of the Convention on Biological Diversity about the role of indigenous peoples in the management, use and conservation of biodiversity;

TAKING INTO ACCOUNT that the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) recognizes the possibility to establish *sui generis* systems of intellectual property rights;

CONSIDERING the recommendations and guidelines established in Chapter 26 of Agenda 21;

CONSIDERING the principles established in the draft UN Declaration on the Rights of Indigenous Peoples;

CONSIDERING that *Caring for the Earth* recognizes the role of indigenous peoples in sustainable development and their rights to manage their natural resources;

TAKING INTO ACCOUNT Recommendation 18.16 of the 18th Session of the IUCN General Assembly and Resolutions and Recommendations 19.20, 19.21, 19.22, 19.23 and others of the 19th Session that refer to indigenous peoples;

The World Conservation Congress at its 1st Session in Montreal, Canada, 14–23 October 1996;

REQUESTS the Director General, Commissions, members and Councillors of IUCN, within available resources, to participate actively in and support the development of appropriate mechanisms at the national and international level, so as to ensure:

- a) effective participation of indigenous peoples in planning and decision-making processes, particularly in relation to the Convention on Biological Diversity concerning their role and collective interests;
- b) recognition of the rights of indigenous peoples over their lands or territories and natural resources, as well as their role in management, use and conservation, as a requirement for the effective implementation of the Convention on Biological Diversity and the achievement of its objectives;
- c) respect for cultural diversity, including linguistic diversity, as a basic condition to maintain and protect indigenous knowledge and comply with the provisions of the Convention on Biological Diversity;
- d) establishment of a process which facilitates the recognition of indigenous peoples knowledge as the intellectual property of its holder;
- e) the recognition of the rights of indigenous peoples over their lands or territories and natural resources, as a basis to ensure the maintenance and development of indigenous knowledge;
- f) the recognition of the principle that use of the knowledge, innovations and practices of indigenous peoples and local communities be made with their approval and consultation, and that indigenous peoples and local communities share equitably in the benefits deriving from such use;

- g) the establishment of national policies to ensure the promotion, recovery, systematization and strengthening of indigenous knowledge related to biodiversity with the prior informed consent of the peoples concerned;
- h) the strengthening of the capacity of indigenous peoples to protect and effectively exercise their rights over their lands and natural resources as fundamental for the conservation of biodiversity and the achievement of sustainable development;
- i) the protection of the genetic resources of indigenous peoples not only on biological diversity but also on human genes.

Note. This Resolution was adopted by consensus. The delegations of the State members Australia, Germany, New Zealand, Norway, Switzerland and United States indicated that had there been a vote they would have abstained, in the case of New Zealand and the United States for the reasons given under Resolution 1.49. The delegation of the State member India dissociated itself from this Resolution for the reasons given under Resolution 1.49. The delegation of the State member United Kingdom indicated that had there been a vote the delegation would have voted against.

The use of the term "indigenous peoples" in this Resolution shall not be construed as having any implications as regards the rights which may attach to that term in international law.