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OF WILD FAUNA AND FLORA



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INFORMATION DOCUMENT ON ENGAGING INDIGENOUS PEOPLES AND LOCAL COMMUNITIES IN
INTERNATIONAL POLICY- AND DECISION-MAKING: LESSONS FOR CITES FROM MULTILATERAL
ENVIRONMENTAL AND HUMAN RIGHTS PROCESSES

1. This document has been submitted by the Secretariat on behalf of IUCN SULi and WWF International in relation with agenda items 13 and 15.*

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Engaging Indigenous peoples and local communities in international policy- and decision-making: Lessons for CITES from multilateral environmental and human rights processes

Information Document prepared by
IUCN SULi and WWF-International¹

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Key Messages

It is increasingly recognised that Indigenous peoples and local communities (IPs and LCs) have valuable and unique knowledge about wildlife use, management and conservation – knowledge that can help improve the information base for national and international decision-making and policy-making. They also have rights, laid down in international environmental and human rights law, to participate in decision-making about issues that affect their livelihoods. While crucially important, engaging IPs and LCs meaningfully in inter-governmental treaties and other decision-making processes is not, however, straightforward. There is no silver bullet, and CITES is not alone in grappling with this challenge.

A variety of proposals are before the CoP which could enhance the engagement of IPs and LCs – not least a proposal for the Standing Committee to establish an advisory committee on rural community issues. There are also lessons from other processes which may be useful for CITES Parties, Committees and Secretariat to consider that could enhance the current level of IPLC participation. These include:

1. IP and LC *organisations* can participate in CITES processes in the same way as conservation and animal rights organisations – i.e. as Observers. Unlike some bigger organisations, however, they may find the registration fees and travel costs mitigate against their participation. By contrast, the Convention on Biological Diversity (CBD) provides a travel fund specifically to support IP and LC attendance. Similarly the UN Voluntary Fund has supported IP and LC participation in UNFCCC meetings. Making a similar fund available to enable IPs and LCs to attend CITES meetings could be considered.
2. As with other Observers, IP and LC organisations have to be pre-approved by their governments in order to participate in CITES. In the CBD, by contrast, Observers apply directly to the Secretariat and so are not reliant on government approval. Furthermore, the CBD Secretariat has a specific mandate to support the participation of IPs and LCs. CITES could consider amending the Rules of Procedure such that IP and LC organisations can apply directly to the Secretariat for accreditation as Observers.
3. A number of Conventions - including CBD and UNFCCC - have specific IP and LC platforms and/or caucuses which greatly facilitate the coordination of IP and LC organisations, the sharing of information and the enhance capacity to engage effectively in CoPs and subsidiary body meetings. CITES could consider establishing/encouraging a similar platform and/or a coordinating IP and LC caucus.
4. Where effective IP and LC and/or CSO platforms do exist, members tend to be nominated by their peers from each of the respective Convention's regions. This overcomes the issue of Parties worrying about who represents IPs and LCs and who decides who is or is not an IP or LC.
5. As well as participating via IP and LC organisations in an Observer capacity, IP and LC individuals can be part of national delegations. The ability to participate in the national delegation does, however, depend on the willingness of the national governments to support this.
6. The United Nations Permanent Forum on Indigenous Issues (UNPFII), the Special Rapporteur on Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples could be usefully engaged by the CITES Secretariat to provide expert insights and advice as to how best to engage IPs and LCs.

1. Introduction and purpose of this Information Document

1.1 Introduction

For a number of years, CITES Parties have considered the livelihoods impacts of CITES' trade regulations and implementation processes and, related to this, possible measures to strengthen the participation of Indigenous Peoples and local communities (IPs and LCs) or "rural communities" as often referred to by CITES (see Box) in CITES decision-making processes:

- At **CoP13** in 2004, Parties revised Resolution Conf 8.3 on Recognition of the Benefits of Trade in Wildlife specifically to note that "implementation of CITES-listing decisions should take into account potential impacts on the livelihoods of the poor" (Res Conf 8.3 (Rev. CoP13)).
- At **CoP16** in 2013, the Working Group on CITES and Livelihoods presented a toolkit for assessing the positive and negative impacts of implementing CITES-listing decisions on the livelihoods of the poor, as well as voluntary guidelines for Parties to address the negative impacts (Information document CoP16 Inf. 21).
- At **CoP17** in 2016, Decision 17.28 directed the CITES Standing Committee to form a working group "to consider how to effectively engage rural communities in the CITES processes". This followed a proposal submitted to the CoP - and subsequently rejected - calling for the establishment of a Permanent Committee for rural communities. Strong views were expressed both for and against the proposed Permanent Committee on rural communities.² CoP17 also amended Resolution Conf. 9.24 (Rev. CoP17) on criteria for amendments to the appendices so that decisions should not only "meet agreed biological and trade criteria" but also "take into account socio-economic factors".
- At **CoP18** in 2019, Parties amended Resolution Conf. 16.6 (Rev. CoP18) on CITES and Livelihoods to, *inter alia* note that "empowerment of rural communities should be encouraged" and highlighted a range of measures including:³
 - i) engaging rural communities in national processes when preparing proposals and other documents for CoP;
 - ii) including representatives of rural communities in official national delegations;
 - iii) promoting transparency and participation of rural communities in the development and implementation of national CITES-related policies;
 - iv) maximising the benefits for rural communities of CITES implementation and trade concerned, in particular to support poverty eradication.

Also at CoP18, Decision 18.31 called on the Standing Committee to re-establish the intersessional Rural Communities Working Group and for it to consider how to effectively engage rural

² In favour, a Permanent Committee representing community voices was viewed as the best way to give rural communities a direct and legitimate voice, to harness their knowledge and facilitate their buy-in to CITES decisions. Views against included potential cost implications, concerns that a committee could undermine national authority and finally concerns in how a committee could ensure legitimacy and representation, particularly given the specificity and diversity of local communities
<https://cites.org/sites/default/files/eng/com/sc/70/E-SC70-15.pdf>

³ These measures were adopted in response to (but ultimately in rejection of) various proposals for a) Parties to include representatives of rural communities in official national delegations (Doc 17.1); b) proponents of proposals to amend the CITES Appendices to secure comments on the proposals from rural communities living within the range of the species, and to provide details of how the potential impacts on the livelihoods of these same communities were considered (Doc 17.2); and c) creation of a new permanent body in CITES, a Rural Communities Committee (Doc 17.3).

communities in CITES processes and to develop guidance on how best to consult with rural communities on proposals to amend the Appendices.

Rural communities, Local communities, IPLCs – what’s in a name?

The term “IPLCs” has been commonly used in UN processes including the Convention on Biological Diversity (CBD) and the Intergovernmental Science – Policy Platform on Biodiversity and Ecosystem Services (IPBES). There is, however, currently some discussion about this term within the UN. Specifically Indigenous peoples are actively resisting the term in some forums, arguing that they possess a distinctive set of characteristics and rights that are not common to all local or rural communities. Indeed, the UN Declaration on the Rights of Indigenous People (UNDRIP) is very specifically only about Indigenous people and not about “IPLCs” more broadly. In practice, a variety of different terms are used – including in CITES – to describe local people who live with or alongside wildlife. CITES frequently, but not exclusively, uses the term “rural communities”. The UN also refers, as well as to Indigenous people and IPLCs, to “peasants and other people working in rural areas” whereby a peasant is “any person who engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organising labour, and who has a special dependency on and attachment to the land.” In some specific countries reference is made to “native peoples”, “tribal peoples”, “aboriginal peoples”, “First Nations”, “Adivasi”, “hunter-gatherers” etc.

For the purposes of this document, we use the term “Indigenous peoples and local communities” (IPs and LCs) to recognise the difference between these two groups, but also as an umbrella phrase or placeholder to capture all of these other terms with a general understanding that it refers to traditional people in rural areas with a close and long term affiliation to specific lands and resources that are collectively managed.

1.2 Purpose

At CoP 19 the issue of mechanisms for better engaging IPs and LCs in CITES decision-making processes will be discussed again. This Information Document seeks to clarify the latest set of proposals, and to lay out some options for enhanced community engagement.⁴ The authors recognise that the challenges of bringing community voices into inter-governmental decision-making in a meaningful way are not limited to CITES, but cut across a number of other environmental and human rights treaties and policy processes. This document draws on these experiences in order to better understand if, and how, other global policy processes have enabled IPS AND LCSs’ meaningful participation in decision-making processes; what lessons and practices could usefully inform CITES; what are the prevailing challenges and opportunities; and what options could best support more

⁴ This document complements another Information Document on this same issue by the Graduate Institute of Graduate: https://cites.org/sites/default/files/documents/E-CoP19-Inf-08_0.pdf

inclusive and participatory approaches. The overarching questions this document sets out to explore are:

- I. ***How, why and by what means have multilateral environmental agreements and other international policy processes sought to ensure IP and LC voices are part of the decision making process?***
- II. ***What opportunities and constraints do existing CITES processes offer for engaging IPs and LCs?***

2. CoP19: What's on the Agenda?

[Document 13 \(*Engagement of indigenous people and local communities*\)](#), submitted by the Standing Committee essentially suggests a renewal of Decisions taken at CoP18 with tasks assigned to the Standing Committee Intersessional Working Group on Indigenous People and Local Communities , on the basis of little progress against those tasks to date. It renews the following:

- Decision 17.57 (Rev. CoP19) to examine the terminology “indigenous peoples”, "local communities” or "rural communities" and make a recommendation as to the need or otherwise for consistent terminology;
- Decision 18.31 (Rev. CoP19) to establish a working group to consider how to effectively engage local communities in CITES processes;
- Decision 18.32 (Rev. CoP19) to collect information from Parties and other relevant organisations on lessons learned in engaging indigenous peoples and local communities.

[Document 14 \(*Livelihoods*\)](#), submitted by the Standing Committee encourages the renewal of several CoP18 Decisions including:

- Decision 18.33 (Rev. CoP19) encouraging Parties to a) to collect additional CITES and Livelihoods case studies b) engage indigenous peoples and local communities’ participation in CITES decision-making and implementation processes at the national level; c) where appropriate, incorporate issues related to CITES implementation and livelihoods into national wildlife conservation and socio-economic development plans and projects;
- Decision 18.34 (Rev. CoP19) to re-establish the CITES and Livelihoods Working Group;
- Decision 18.35 (Rev. CoP19) for the Secretariat to continue to support the collection of case studies and associated outreach materials as well as to organise a joint meeting of the Standing Committee Intersessional Working Group on Indigenous People and Local Communities and the CITES and Livelihoods Working Group.

[Document 15 \(*Participatory mechanisms for rural communities in CITES*\)](#) submitted by Eswatini, Namibia and Zimbabwe proposes that CoP 19:

1) endorses the 2018 *United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas*, and

2) establishes a cross-cutting “Rural Communities Advisory sub-Committee (which advises both the Plants and Animals Committees”). It is suggested that the members of the Committee would include Parties, “Rural Communities Organisations” that “represent and further the interests of one or more identifiable communities” that are “involved in management, conservation, sustainable use of, and international trade in CITES-listed species, or species that could be listed on the CITES Appendices in the future” and NGOs “with a proven track record of work on community based conservation”.

Doc 15 contains a decision directed to the Standing Committee to establish an advisory sub-committee for rural community issues under Resolution Conf. 18.2.

3. Why *should* Indigenous peoples' and local communities' voices and perspectives be taken into account in international decision-making processes?

There are both moral and pragmatic reasons for considering IP and LC priorities and perspectives in decision-making about wild species. Perhaps key for a Convention concerned with conservation is that IPs and LCs have valuable and unique knowledge about wildlife use, management and conservation – knowledge that could help improve the information base for CITES decision-making. Indigenous Peoples are recognised as being the world's most effective stewards of wildlife (IPBES 2019). Despite a global trend of biodiversity loss at an unprecedented rate, one of the key findings of the 2019 IPBES Global Assessment was that biodiversity is declining less rapidly on land that is owned or managed by Indigenous Peoples. This conclusion is supported by the recent IPBES Sustainable Use Assessment (IPBES 2022) which finds that Indigenous Peoples manage wildlife on more than 38 million km² of land, coinciding with approximately 40% of terrestrial conserved areas. The assessment notes “the long history of sustainable uses of wild species in these areas has played a role in maintaining and increasing local levels of biodiversity while supporting indigenous peoples' well-being and livelihoods” and that “loss of opportunity to engage in sustainable use of wild species represents an existential threat to indigenous peoples and local communities.”

Not only are IPs and LCs effective and knowledgeable custodians of wildlife and thus have valuable insights to offer CITES, they also have rights, laid down in international environmental and human rights law, to participate in decision-making about issues that affect their livelihoods. *The UN Declaration on the Rights of Indigenous Peoples*, adopted by the General Assembly on 13 September 2007, for example, calls on states to obtain free, prior and informed consent (FPIC) of indigenous people before adopting legislative or administrative measures that would affect them. Similarly, the *UN Declaration on the Rights of Peasants and Other People Working in Rural Areas* adopted in 2018 calls on states to “consult and cooperate in good faith” with peasants and other people working in rural areas who could be affected by decisions *before* those decisions are made. Wildlife conservation and management policies - including those that implement CITES - are amongst the types of measures or decisions that can deeply affect IPs and LCs in rural areas given their close ties to landscapes and seascapes and the natural resources therein and their role in effectively managing them. Overlooking IP and LC rights is not just a breach of human rights law, but also has direct or potential impacts on IPs' and LCs' ability to meet their daily health, food security and other essential needs.

The contribution of IPs and LCs to biodiversity conservation has become more prominent and gained increasing recognition in recent years – particularly since the IPBES Global Assessment in 2019. Current negotiations on the development of a new Post-2020 Global Biodiversity Framework, for example, are increasingly emphasising the importance of the rights, roles and responsibilities of IPs and LCs.

4. How are Indigenous peoples and local communities currently able to engage in CITES decision-making processes?

CITES does not currently have provisions in its processes for the formal participation of IPs and LCs as decision-makers in their own right. However, Parties are able to include IP and LC representatives in their delegations (and some regularly do, for example Canada). Additionally, IP and LC organisations are able to register as Observers in the same way as NGOs currently do, which requires, *inter alia*, that on the first occasion they register, they receive a letter of accreditation from the CITES Management Authority of the country in which they are based or headquartered. Once admitted as Observers, IP and LC organisations have the right to participate in CoP and CITES Committees and Working Groups. They can also hold side events and produce lobbying and advocacy material with which to seek to influence Parties. As with other Observers, they do not have the right to vote and, again like other Observers, are also subject to certain constraints on speaking rights as laid out in the Rules of Procedure. In this respect, IP and LC organisation are treated no differently to other Observers.

One potential constraint, however, is that since all Observer organisations have to be approved in advance by the Management Authority of the State in which they are located or headquartered,⁵ Parties can effectively act as a gatekeeper to the admittance of potential Observers. In contrast, prospective Observer organisations for Conferences of the Parties to the CBD submit a request directly to the CBD Secretariat and do not need to be approved by their respective governments. Furthermore, as Inf Doc 9 by the Graduate Institute of Geneva points out, the requirements to produce specific information as part of the accreditation process including evidence of activities and programmes of work may mitigate against IP and LC organisations who may not have websites or other options to showcase activities, reports and programmes of work. This constraint is not limited to CITES.

Additionally, there is no categorisation or distinction made between different types of Observer organisations (for example small IP or LC organisations are not distinguished from large international NGOs). The registration fee for Observers is the same, regardless of the type or size of organisation and may be beyond the resources of many IP and LC organisations. CITES does have a “Sponsored Delegates Project” which supports the participation of delegates from developing countries but it specifically for official Party delegates, particularly representatives of their CITES Scientific and Management Authorities. The CBD, by contrast, has a voluntary funding mechanism specifically to support participation of IPs and LCs.

5. How do Indigenous peoples and local communities participate in other international treaties and policy processes?

5.1 Other biodiversity conventions

The Convention on Migratory Species (CMS)

The CMS is very similar to CITES in that there are no formal channels enabling IPs and LCs specifically to contribute to decision-making. IP and LC organisations can register as Observers but, as with CITES, national-level organisations have to be pre-approved by the State in which they are located. Once admitted, Observers have the right to participate but not to vote (Rules of Procedure

⁵ See CITES Rules of Procedure, Rule 4, paragraph 2 b)

adopted at CMS CoP 13). They may also participate in Working Groups, on invitation of the Chair. Also as with CITES, IPs and LCs may participate in national delegations if invited by their government although in practice, participation via this route has been minimal to date.

Convention on Biological Diversity (CBD)

As with CITES and CMS, the Convention on Biological Diversity (CBD) does not make any formal provision for participation of IPs and LCs in its rules of procedure. It does, however, provide more opportunities than CMS or CITES. As with those two Conventions, **IPs and LCs can register to participate as Observers in meetings, but unlike CMS and CITES this does not require national-level organisations to be pre-approved by their governments.** Instead, applications are directed straight to the CBD Secretariat. Furthermore, CBD recognises the “Major Groups”⁶ of stakeholders in relation to sustainable development that were defined at the United Nations “Rio Summit” in 1992, of which “Indigenous Peoples and their communities” are one. The CBD uses the term “IPLC” for this group, and this appears as a specific category on participants’ meeting badges. **“IPLCs” are allocated their own specific space in the CoP meeting rooms (as are other Major Groups including NGOs) and provided with an opportunity to make interventions from the floor (after Parties have made their interventions).**

In addition, **the CBD has a permanent Working Group on Article 8(j)** - which establishes an obligation to “[...] *respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities [...]*” – **which has an Indigenous co-chair, and in which IP and LC representatives play a full and active role** – although the outputs are generally voluntary guidelines rather than binding decisions. The Nagoya Protocol is one binding instrument that *has* emerged from the CBD but even this, though it is specifically designed to protect the rights and knowledge of IPs and LCs with respect to access and benefit sharing from genetic resources, was negotiated by Parties with IPs and LCs – along with other observers – able to influence from the sidelines but not to negotiate directly. The Protocol, does, however confer on IPs and LCs the right to participate in policy implementation processes.

IPs and LCs can also be invited to participate as part of national delegations, although, to date, this has been quite rare. They may also make contributions to consultations and other calls for submissions issued by the CBD Secretariat – for example IPs and LCs have been active in submitting inputs to the draft Post-2020 Global Biodiversity Framework.

Unlike CITES and CMS, the CBD Secretariat staff is **specifically mandated to facilitate and support the engagement of IPs and LCs in CBD deliberations and a fund exists to support their participation.** This fund was set up after CoP7 in 2004 in response to Decision VII/16 G, paragraph 10, on the Participatory mechanism for indigenous and local communities. This Fund remains the only United Nations fund specifically for the participation of IPs and LCs in meetings related to the Convention.⁷ Beneficiaries of the Fund are determined by a Selection Committee consisting of seven IP and LC representatives, one from each of the seven geo-cultural regions recognized by the [United Nations Permanent Forum on Indigenous Issues](#)⁸, along with the Bureau of the Conference of the Parties. The number of beneficiaries of the Fund depends on the amount of financial resources available and they receive either full or partial support, including for example a round-trip air ticket

⁶ Women; Children and Youth; Indigenous Peoples; NGOs; Local Authorities; Workers and Trade Unions; Business and Industry; Scientific and Technological Community; Farmers

⁷ <https://www.cbd.int/traditional/fund.shtml>

⁸ Africa; Asia; Central and South America and the Caribbean; The Arctic; Central and Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; The Pacific

or a subsistence allowance for the duration of the meetings. In recent years, the number of selected representatives has ranged between 10-35 individuals per meeting.⁹

Also unlike CMS and CITES, **IP and LC inputs to the CBD also benefit from coordination through a recognised IP and LC caucus** - the [International Indigenous Forum on Biodiversity](#) (IIFB). This is a network of IP and LC organisations which shares information, organises meetings in the lead up to CoPs or subsidiary body meetings, and often develops common policy positions and inputs – for example it has proposed amendments to the draft Post-2020 Global Biodiversity Framework to better recognise IP and LC rights. The IIFB also runs a portal to support IIFB negotiators in exchanging information and accessing documents. The [Indigenous Women’s Biodiversity Network](#) (IWBN) also brings the issues of **indigenous women** to the forefront of international discussions while emphasising the vital role they play in biodiversity conservation by facilitating a community of practice.¹⁰

A report from the CITES Secretariat to the SC74 highlighted that “The fundamental legal provisions on IPLC engagement in the text of the CBD ... and the solid participatory mechanism coupled with funding support and capacity-building arrangements can help address some of the challenges identified by CITES Parties. However, it is interesting to note that a report shared by the CBD Secretariat underlines that *‘a challenge remains for achieving full integration of Article 8(j) and provisions related to indigenous peoples and local communities in the work of the Convention and its Protocols, with full and effective participation of indigenous peoples and local communities and that is, to what extent the practices for enhanced participation of IPLCs enjoyed under the Working Group can be taken up by other subsidiary bodies or the COP itself.’*”¹¹

Recently, a closing statement from the [CBD Alliance](#) with regard to discussions at the 4th meeting of the Open Ended Working Group (which is negotiating the Post 2020 framework) in Nairobi in June 2022 highlighted the frustration of Alliance members about the lack of inclusion and engagement with IPs and LCs.¹²

5.2 Other “Rio” Conventions

[United Nations Convention to Combat Desertification \(UNCCD\)](#)

The UNCCD Secretariat encourages the active involvement of Civil Society Organisations (CSOs), including IPs and LCs, in the implementation of the Convention. Currently more than 600 CSOs are accredited with Observer status to the UNCCD COP a limited number of which are IP or LC organisations. **A CSO panel exists to facilitate the coordination, communication and collaboration among the accredited CSOs** including:¹³

- Promoting and increasing active involvement of CSOs on the implementation of the Convention and the negotiations undertaken at the COP;
- Encouraging local, national and regional CSOs to become accredited;
- Increasing communication and knowledge exchange among CSOs;
- Raising awareness of UNCCD activities.

⁹ See, for example <https://iifb-indigenous.org/geneva/> ; <https://iifb-indigenous.org/geneva/>

¹⁰ <http://iwbn-rmibn.org/>

¹¹ <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-20-02.pdf>

¹² <https://docs.google.com/document/d/1Qje-kvqZVKRT916qpl7-XFR93q1RAAfvm8puz0qQKU/edit>

¹³ <https://csopanel.org/about-us/>

The Panel consists of five members, one from each of five UN regions¹⁴, democratically elected by the observer organisations. The CSO Panel is supported by the Secretariat, which provides it with information about the meetings and processes of the Convention.¹⁵ In preparation for the most recent CoP (CoP15 held in May 2022), the CSO Panel members held preparatory meetings of the CSOs, reviewed official documents and drafted various statements and interventions during the event.¹⁶

CSOs have also been involved in implementing CoP decisions. For example, following decision 26/COP.14 on land tenure¹⁷, FAO, in collaboration with the UNCCD Secretariat, prepared a technical guide for the integration of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) into the implementation of the UNCCD and the Land Degradation Neutrality Fund. The CSO Panel members attended two consultation meetings for the preparation of the technical guide, and contributed to gathering comments and case studies for consideration in the guide and contributed to the peer review of the technical guide.¹⁸ This has been cited as a positive example of CSO engagement and has been presented in other international fora as a success story portraying how civil society could shape the decision-making process in multilateral environmental agreements.¹⁹

The United Nations Framework Convention on Climate Change (UNFCCC)

Like the CBD, the UNFCCC has a recognised caucus for IPs and LCs - the [International Indigenous Peoples Forum on Climate Change](#) (IIPFCC) which was established in 2008. The mandate of the IIPFCC is to discuss and agree common positions that IP and LC organisations will advocate for in specific UNFCCC processes²⁰. In addition, Decision 1/CP.21 (2015) **established a Local Communities and Indigenous Peoples Platform (LCIPP) to strengthen the knowledge, technologies, practices, and efforts of IPs and LCs** related to addressing and responding to climate change, to facilitate the exchange of experience and the sharing of best practices and lessons learned on mitigation and adaptation and to enhance the engagement of IPs and LCs in UNFCCC process.²¹ At CoP 26, one of the activities of the platform included a Knowledge Keepers Gathering, where 28 IPs, nominated from within the seven UN Indigenous socio-cultural regions, **engaged directly as knowledge holders and shared experiences as indigenous experts with governments.** This was the first time that such a meeting had been convened within the parameters of the UNFCCC “Blue Zone” (the official zone).²²

Participation in the Platform is **supported by the UN Voluntary Fund for Indigenous Peoples** which provides financial support to representatives of IPs for their participation in international processes on issues affecting their lives, the mandate of which was expanded at the 2019 UN General Assembly to include participation in UNFCCC process, including the meetings of the Facilitative Working Group of the LCIPP.²³ In 2019, the UN Voluntary Fund for Indigenous Peoples’ Board recommended the issuance of 7 grants for representatives of indigenous organisations to attend the UNFCCC Indigenous Platform and SBSTA, plus 7 grants for representatives of IP organisations to

¹⁴ Africa; Asia and the Pacific; Eastern Europe; Latin America and Caribbean; Western Europe and Others

¹⁵ https://www.unccd.int/sites/default/files/2022-03/ICCD_COP%2815%29_12-2202310E.pdf

¹⁶ https://www.unccd.int/sites/default/files/2022-03/ICCD_COP%2815%29_12-2202310E.pdf

¹⁷ <https://www.unccd.int/sites/default/files/sessions/documents/2019-11/26-cop14.pdf>

¹⁸ https://www.unccd.int/sites/default/files/2022-03/ICCD_COP%2815%29_12-2202310E.pdf

¹⁹ https://www.unccd.int/sites/default/files/2022-03/ICCD_COP%2815%29_12-2202310E.pdf

²⁰ <http://www.iipfcc.org/>

²¹ <https://unfccc.int/sites/default/files/resource/docs/2017/sbsta/eng/06.pdf>

²² <https://www.culturalsurvival.org/news/states-fail-adequately-address-climate-change-indigenous-peoples-analysis-cop26-decisions>

²³ https://lcipp.unfccc.int/sites/default/files/2021-06/Synthesis%20document%20Activity%2011_20%20June%202021.pdf

attend the pre-CoP, and a further 7 grants for representatives of IP organisations to attend CoP itself.²⁴

Despite these advances, a recent podcast by IISD on Indigenous Peoples and Multilateral Environment Agreements²⁵ highlighted that whilst some progress has been made, IPs are still fighting many of the same issues as they were 50 years ago. Chief Judy Wilson attended UNFCCC CoP 26 representing the Assembly of First Nation Associations and noted that because the Assembly was not a party to the UN, they have limited influence over international agreements. She mentioned that they were kicked out of more meetings than they were able to attend, and that whenever they tried to move the dial to be included (e.g. with reference to FPIC) they were blocked by governments.

5.3 Other UN Environmental Policy Processes

United Nations Environment Assembly (UNEA)

UNEA ensures the active participation of all relevant stakeholders through the UN Major Groups process where different types of stakeholders are recognised as specific Major Groups. IP and LC organisations can be accredited to be part of the Indigenous Peoples Major Group. Indigenous Peoples are also represented in UNEP's Major Groups Facilitating Committee (MGFC).²⁶ Major Groups are invited to provide their input into the preparatory process for UNEA, including agenda setting. A Global Major Groups and Stakeholders Forum (GMGSF) is held in advance of each UNEA, funded by UNEP and coordinated by UNEP and the MGFC. Accredited IP and LC organisations can also participate in discussions at UNEA itself, and in meetings of the Committee of Permanent Representatives, which undertakes governance related work in-between the biennial UNEA meetings.

The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES)

IPBES recognises the importance of indigenous and local knowledge (ILK) to the conservation and sustainable use of ecosystems. This is reflected in the IPBES Conceptual Framework and also in the attention provided to **ensuring indigenous and local knowledge (ILK) is included in IPBES assessments**. IPBES has an **ILK task force with six Indigenous members which has produced guidance** on working with indigenous and local knowledge systems. IPs and LCs participate in IPBES assessments as authors (subject to nomination by their government), fellows and reviewers. Procedures are still being put in place for participation of non-State actors as Observers.²⁷

The United Nations Educational, Scientific and Cultural Organization (UNESCO)

The work of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) with IPs and LCs is guided by its policy on engaging with indigenous peoples.²⁸ Like other conventions, UNESCO offers Observer status for NGOs, including IP and LC organisations. The UNESCO

²⁴ <https://www.ohchr.org/en/about-us/funding-budget/indigenous-peoples-fund/un-voluntary-fund-indigenous-peoples-previous-session>

²⁵ <https://soundcloud.com/user-165800906/iisd-gac-policy-lab-indigenous-peoples-meas>

²⁶ <https://www.unep.org/civil-society-engagement/major-groups-modalities/major-group-categories/indigenous-peoples-and>

²⁷ See <https://ipbes.net/accredited-organisations>

²⁸ See <https://unesdoc.unesco.org/ark:/48223/pf0000262748> In its policy, UNESCO considers participation to be one of the rights of indigenous peoples that are of specific relevance for its work, and explicitly adheres to article 41 of the United Nations Declaration on the Rights of Indigenous Peoples, in which it is stated that the organs and specialized agencies of the United Nations system and other intergovernmental organizations should establish ways and means of ensuring the participation of indigenous peoples on issues affecting them. In its policy, UNESCO also puts special emphasis on the participation of indigenous women.

Convention for the Protection of the World Cultural and Natural Heritage is of particular relevance to IPs and LCs since many of its sites are in territories inhabited by indigenous peoples. Indigenous peoples' organisations may attend the annual sessions of the Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage as Observers. The autonomous International Indigenous Peoples' Forum on World Heritage, established in July 2017 by IP delegates at the forty-first session of the Committee, held in Krakow, Poland, is recognized by the Committee as an important **platform for the involvement of IPs in the identification, conservation and management of World Heritage properties**. Limited information exists as to its effectiveness and impact however.

The Global Environment Facility

The Global Environment Facility (GEF) is the financial mechanism for a number of environmental treaties including CBD, UNFCCC and UNCCD and states that its guided by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In 2012 it established an Indigenous Peoples Advisory Group to provide advice to the its Indigenous Peoples focal point on the operationalization and reviewing of the Principles and Guidelines for Engagement with Indigenous Peoples paper, particularly on the appropriate modality to enhance dialogue among the Indigenous Peoples, GEF Partner Agencies, the GEF Secretariat and other experts. The advisory group also provides guidance on financing options for IPs and enhancing monitoring and evaluation metrics, among other things.

5.4 UN Indigenous and human rights processes, funds and programmes

There are three UN bodies that are mandated to deal specifically with IP issues: the Permanent Forum on Indigenous Issues, the Special Rapporteur on the Rights of Indigenous Peoples, and the Expert Mechanism on the Rights of Indigenous Peoples.

The United Nations Permanent Forum on Indigenous Issues

The United Nations Permanent Forum on Indigenous Issues (UNPFII) is a high-level advisory body to the [Economic and Social Council](#) (ECOSOC), and was established in 2000 to deal with indigenous issues related to economic and social development, culture, the environment, education, health and human rights. More specifically, the Permanent Forum:

- provides expert advice and recommendations on IP issues to the Council, as well as to programmes, funds and agencies of the United Nations, through ECOSOC;
- raises awareness and promotes the integration and coordination of activities related to indigenous issues within the UN system;
- prepares and disseminates information on IP issues;
- promotes respect for and full application of the provisions of the UN Declaration on the Rights of Indigenous Peoples and follow up the effectiveness of this Declaration (Art. 42 UNDRIP).

The Permanent Forum's engagement and role in promoting IP rights are made possible through the Trust Fund on Indigenous Issues, which overall facilitates follow-up to the Forum's recommendations, awareness raising and outreach on IP issues as well as representation and participation of Permanent Forum members at international meetings of significance for its mandate.

Special Rapporteur on the Rights of Indigenous Peoples

The **Special Rapporteur on the Rights of Indigenous peoples** is a position that was established in 2001 by the UN Commission on Human Rights. The mandate of the Special Rapporteur is to:

- Promote good practices, including new laws, government programs, and constructive agreements between indigenous peoples and states, to implement international standards concerning the rights of IPs;
- Make recommendations and proposals on appropriate measures to prevent and remedy violations of the rights of IPs;
- Report on the human rights situations of IPs around the world;
- Address specific cases of alleged violations of IPs
- Enhance engagement with and participate in the annual sessions of the Permanent Forum on Indigenous Issues and of the Expert Mechanism on the Rights of Indigenous Peoples to ensure complementarity between their work.

Other special procedures may also tackle issues related to Indigenous Peoples' rights, including for example the **Special Rapporteur on Human Rights and the Environment** who reports to the Human Rights Council.

Expert Mechanism on the Rights of Indigenous Peoples

The **Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)** was established in 2007 by the UN Human Rights Council and provides it with expertise and advice on the rights of IPs. The Expert mechanism also **assists Member States** in achieving the goals of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It consists of **seven independent experts**, appointed by the Human Rights Council, selected on the basis of competence and experience in the rights of Indigenous Peoples, due consideration for experts of indigenous origin, and gender balance. The Expert Mechanism conducts studies to advance the promotion and protection of Indigenous Peoples' rights by:

- clarifying the implications of key principles, such as self-determination and free, prior and informed consent
- examining good practices and challenges in a broad array of areas pertaining to Indigenous Peoples' rights,
- suggesting measures that States and others can adopt at the level of laws, policies and programmes.

Despite the existence of these three mechanisms there remain concerns regarding the lack of international recognition of IP representatives and institutions in UN processes. In 2011 EMRIP proposed that the Human Rights Council encourage the General Assembly to adopt measures to ensure that IP governance bodies and institutions were able to participate at the United Nations as Observers with at a minimum the same participatory rights as NGOs.²⁹ In 2014, a high-level meeting of the General Assembly - the World Conference on Indigenous Peoples³⁰ – produced an outcome document in which Member States committed to considering ways to enable the participation of IP representatives and institutions in meetings of relevant UN bodies on issues affecting them. A subsequent consultation revealed the following:

- Agreement that, at a minimum, the level of participation of IPs at the United Nations should not fall below that of NGOs;
- Recommendation for the establishment of a new body to accredit IP representative institutions as a new category of participation (i.e. not as NGOs).

²⁹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/196/88/PDF/N2019688.pdf?OpenElement> See p 3

³⁰ The General Assembly, in its resolution 65/198 of 21 December 2010, decided to organize a high-level plenary meeting of the General Assembly, to be known as the World Conference on Indigenous Peoples, in order to share perspectives and best practices on the realization of the rights of indigenous peoples, including pursuing the objectives of the United Nations Declaration on the Rights of Indigenous Peoples, see here.

However in further hearings held in 2018 and 2019 IPs expressed their disappointment at the lack of progress in enhancing their participation and particularly that UN practices of accreditation did not recognize IP governance structures and representative entities. In 2020, at a meeting in Quito, indigenous peoples decided to temporarily establish a coordinating body, with two members from each of the seven indigenous socio-cultural regions, for consultation and coordination and to facilitate cooperation among IPs with regard to the enhanced participation process.

6. Lessons and ideas for enhancing Indigenous peoples' and local communities' participation in CITES

It is clear from the experience of different Conventions and other UN processes that CITES is not alone in struggling to find an effective formal and participatory mechanism through which IPs and LCs can contribute meaningfully to decision-making processes. Across the UN, it seems that progress on ensuring the participation of IPs and LCs has been constrained. The CBD is often held up as being much more progressive convention in terms of IP and LC engagement, but even here, the possibilities for decision-making are restricted – as perhaps is not surprising for an intergovernmental treaty where the Parties are States, not organisations or other non-government stakeholders.

The Rural Communities Advisory Committee under the Standing Committee - as proposed in Document 15 - would be a significant step forward in improving IP and LC engagement, without the constraints that have prevented establishment of a *permanent* committee of similar standing to the Plants and Animals Committees as been previously advocated.

Beyond the proposals that are on the agenda for CoP19, there are also examples of useful mechanisms that could further enhance participation of IPs and LCs in CITES. These include lessons for the Secretariat but also for Parties including:

- 1) Establishment of some form of **IPs and LCs Platform or Panel**, as has been developed in the UNCCD in the form of the Civil Society Panel, and UNFCCC in the form of the Local Communities and Indigenous Peoples' Platform. In CITES, queries have been made as to who and what constitutes a "rural community" and how could rural community involvement ever be representative given the wide range, vast number, and geographic spread of such communities. In UNCCD and UNFCCC the respective panels consist of nominated regional representatives. Such a Platform would not have the decision-making authority of a Permanent Rural Communities committee as has previously been advocated for at CITES. But it could be the mechanism through which many of the tasks outlined in [Document 15](#) could be fulfilled if the proposed Rural Communities Advisory Committee is not agreed.
- 2) Amendment of the CITES Rules of Procedure such that – as with the CBD – IP and LC organisations can **apply directly to the Secretariat to be accredited** for Observer status rather than via their national CITES management authorities. Inf Doc 9 by the Graduate Institute of Geneva further suggests that there is an amendment to the Rules of Procedure to establish a dedicated category of Observer for IPs and LCs. Taking either of these suggestions forward would require at least one Party to submit a draft Resolution to amend the Rules of Procedure along these lines.

- 3) Establishment of an **IP and LC caucus** - similar to those in the CBD and UNFCCC - so that IP and LC organisations can become more organised, coordinated and coherent. Once IP and LC organisations are accredited, such a body could help them better understand CITES processes, become more informed about the proposals under discussion, the rationale for those proposals and their implications, and develop common positions on which to base interventions from the floor. An IP and LC caucus would also provide the Secretariat with a focal point from which to call for IP and LC interventions once Parties have had their say, in the way that currently happens in the CBD negotiations.
- 4) Waive the registration cost for CITES meeting attendance for IP and LC organisations and/or set up a **fund to support IP and LC participation** similar to the UN Trust Fund and CBD IPLC Fund. Lessons could be extracted from both of these on governance structure, selection criteria and possible sympathetic donors.
- 5) Enhance **representation of IPs and LCs on national delegations**. This is an issue that only national governments can address but is clearly something that can happen where there is political will. Parties could explore how IPs and LCs have been selected in national delegations that do include them in order to overcome any perceived issues around representation.
- 6) Establish a **dialogue** between the CITES Secretariat and the UN processes and mechanisms that are specifically intended to support IP and LC participation and rights.

7. Conclusion

The issue of the IP and LC participation in CITES decision-making processes has been raised repeatedly at CITES meetings for many years now. Clear evidence on the valuable contribution that IPs and LCs make to the management and conservation of biodiversity make the need to resolve this issue all the more urgent for strengthening CITES effectiveness. CITES should not feel it is alone in facing this challenge - it has been highlighted as a concern across multiple conventions and across the UN itself. But this is not a reason for inaction – change is already happening in other national and international policy discourse, IP and LCs voices and demands are becoming louder, and CITES can choose whether to be ahead of the curve or behind it.

There are significant constraints to the degree to which IPs and LCs (and indeed any non-State actors) can be effectively engaged in what is an agreement among governments. Nevertheless, IPs and LCs not only have clear legal rights to participate in decision-making over issues that concern them, but also have valuable knowledge and experience to share. As such their participation is not just a matter of rights but also one of a potentially huge contribution to the effective implementation of CITES and thus an issue which warrants greater attention.

This information document reviews some of the common challenges to IP and LC participation that have been experienced across the UN and does not suggest that there is a simple solution that can resolve this issue. Nevertheless, there are now some viable options on the table as well as some practical steps that have been taken in other policy forums that could be replicated or adopted and adapted by CITES. All of these would make a significant difference and represent a major step forward both for the Convention as well as for wider learning within the UN.