



**Statement by Australia, New Zealand and the United States of America
on the Declaration on the Rights of Indigenous Peoples
Permanent Forum on Indigenous Issues
17 May 2006**

CHECK AGAINST DELIVERY

Madame Chair, distinguished delegates, I am making this statement on behalf of Australia, New Zealand, and the United States of America.

Madame Chair, Australia, New Zealand, and the United States of America supported the establishment and the work of this Forum. Over its relatively short history, the UN Permanent Forum has contributed to the promotion of issues affecting indigenous peoples. It is serving to bring their concerns into direct engagement with the United Nations. We welcome that, Madame Chair.

Madame Chair, this Forum was one of the main achievements of the first international decade of the world's indigenous peoples. It is disappointing that another objective of that decade - to elaborate a Declaration on the Rights of Indigenous Peoples - has not been met. It has been impossible to reach a consensus amongst States on a text. The Chair's "final compromise text", which was annexed to his report to CHR earlier this year (E/CN.4/2006/79) is an improvement on the original Sub Commission text and a possible basis for further consideration. But, it does not enjoy consensus. There is no agreement on most of its crucial provisions, as the Chair himself has acknowledged. It, therefore, remains fundamentally flawed.

Madame Chair, the provisions for articulating self-determination for indigenous peoples in this text, for example, are inconsistent with international human rights law. Indeed, some of its provisions attempt to reinterpret the Covenants. They could be misrepresented as conferring a unilateral right of self-determination (Article 3) and possible secession upon a specific subset of the national populace, thus threatening the political unity, territorial integrity and indeed the security of existing UN Member States. Article 3 in the text, unqualified as it is at present, has the potential to create instability.

The draft text also appears to confer upon a minority, a power of veto over the laws of a democratic legislature (Article 20). While we strongly support the full and active engagement of indigenous peoples in democratic decision-making processes, no government can accept the notion of creating different classes of citizenship. Nor can one group in society have rights that take precedence over

those of others. In this context, it is important to be mindful of the Convention on the Elimination of Racial Discrimination.

Madame Chair, the provisions on lands and resources are particularly unworkable and unacceptable. They ignore the contemporary realities in many countries with indigenous populations, by appearing to require the recognition of indigenous rights to lands now lawfully owned by other citizens, both indigenous and non-indigenous (Article 26). Such provisions would be impossible to implement.

Other important provisions in the Chair's text are potentially discriminatory. It seems to be assumed that the rights of all individuals, which are enshrined in international law, are a secondary consideration in this Declaration. Collective rights do not prevail over the human rights of individuals, as implied in Article 34 of the text. That only confirms that this text is fundamentally flawed in its most significant provisions.

Madame Chair, any attempt to put this text forward for endorsement in the United Nations would be disingenuous and irresponsible. It lacks consensus support and thus any moves to adopt it by the new Human Rights Council would establish a dangerous precedent. It would also risk creating confusion, ambiguity and endless debate on what the Declaration means. Endorsement of this text, which many States – even with the best of intentions - could never live up to, would be a gross disservice to indigenous people. And, it would potentially undermine the cause of advancing human rights internationally. Many other countries, representing all regions, have shared their concerns in this regard with our respective governments.

States need to pause and reflect very carefully indeed on the very obvious shortcomings in the current text before any action on it could be legitimately contemplated in the United Nations.

Madame Chair, Australia, New Zealand, and the United States of America want a Declaration that can become a tangible and on-going standard of achievement. To achieve that, it must be universally accepted, observed and upheld in order to have political and moral force as a Declaration. None of us want a Declaration that, at its outset, is regarded as artificial, unrealistic, simply rhetorical, and thus ultimately irrelevant. The situation for indigenous people in some countries is very worrying indeed. What is needed is a new standard of achievement that has the potential to make a real difference in their circumstances and one that is an investment and positive force in their futures. Sadly, the current text falls well short of ever achieving that. It would be in effect, Madame Chair, a lost opportunity.

Madame Chair, I thank you.