

**Joint-Statement by Dr Jeff Harmer AO, Secretary, Department of Families, Housing, Community Services and Indigenous Affairs and Mr John T. Kris, Chair, Torres Strait Regional Authority to the UN Permanent Forum on Indigenous Issues regarding 'Indigenous Peoples: Development with Culture and Identity', as delivered on 20th April 2010.**

*(as delivered)*

The Australian delegation has a statement in two parts. I will begin and my colleague from the Torres Strait Regional Authority will deliver part two.

**Part One**

Mr Chairman, may I congratulate you on your election and wish you well in your endeavours. I would also like to thank Ms Tauli Corpuz for her years of leadership.

At last year's Permanent Forum Australia was the first country to announce its change of position to support the Declaration on the Rights of Indigenous peoples. We were pleased and moved yesterday to be joined by our New Zealand friends and colleagues in that support, and we commend the progress made by the Governments of Canada and the United States. There is still much work to be done on the Declaration and we look forward to working with Governments and the Permanent Forum to advance Indigenous peoples' rights internationally.

Australia recognises that it is crucial for Aboriginal people and Torres Strait Islanders in Australia that development takes place in the context of recognition of, and respect for, their unique cultures and attachment to land and waters. We welcome the Permanent Forum's consideration of the theme "Indigenous peoples: development with culture and identity".

Support for Indigenous land, culture and language assists in maintaining strong communities, improving wealth creation and economic sustainability. This growing appreciation for Indigenous culture has brought economic benefits, not only to individual artists, but to their communities and to other Indigenous communities where the arts centre is a key aspect of social cohesion and community identity.

In Australia, the Government has a range of legislation and programs designed to support connections to country and the social, cultural and economic benefits that flow from this connection.

The Australian Government is committed to ensuring that Traditional Owners and local Indigenous communities derive long-term benefits from engagement with the resources industry through ownership and control that they have over their own land.

The Indigenous Land Corporation also assists Aboriginal people and Torres Strait Islanders to acquire and manage land for social, economic and cultural benefits.

Some Traditional Owners have entered into agreements with the Australian Government to promote biodiversity and cultural resource conservation on their land. Indigenous Protected Areas helps Indigenous communities to protect their significant cultural values for future generations.

The attachment to land and culture is reflected in the dynamic Indigenous visual arts sector. In many remote communities, arts centres are the primary or sole vehicle for economic activity, leading to income and employment opportunities.

Through the National Art and Crafts Industry Support Program the Australian Government provides support to over 80 Indigenous arts centres, the majority of which are based in remote locations, which offer direct professional support to over 5,000 artists. Support is also provided to Indigenous visual arts peak organisations and advocacy bodies.

The Australian Government recognises that language is integral to the maintenance of culture. Funding through the National Indigenous Languages Policy is aimed at addressing the serious problem of Indigenous language loss through a coordinated national response.

Aboriginal and Torres Strait Islander culture in Australia is vibrant and dynamic. It has its roots in the land and sea and the traditional knowledge of hundreds of generations.

I now hand over to my colleague from the Torres Strait Regional Authority to deliver part two of our statement.

## **Part Two**

We would like to use this intervention to highlight the significance of the Torres Strait Region Sea claim in preserving the culture and identity for the Torres Strait Islander people.

The Torres Strait people throughout the ages have had a strong tie and cultural connection with the sea.

This connection has not been broken for thousands of years and having this recognised in law is critical for protecting our future.

Our bond to the sea goes across many areas of our lives, from culture and storytelling, to providing us with food.

We use materials from our waters to produce vital tools, trade items and sacred artefacts that are part of our traditional ceremonies, as well as rely on these resources to build a regional economy.

For us, the sea is an extension of the land, and we are still coming to terms with the legal separation of these two according to Australian law.

Based on this natural extension of traditional ownership, the Torres Strait Regional Sea Claim was applied for over a large part of the waters in the Torres Strait in 2001.

In 2008, the Federal Court of Australia commenced hearing the Regional Sea claim and all arguments were concluded in July 2009.

The Torres Strait Regional Seas Claim finding will be very important to Torres Strait Islander people for two main reasons.

The first is that it will test the core principals of the Native Title Act and the commitment of the Australian Government and legal system to recognising native title for the indigenous people of Australia, especially over the seas.

We are aware that in recent times, other first Australian brothers and sisters have made claims over sea country with varying results.

Our spirits are not dampened by these rulings and we aim to build on them to create a greater sense of hope for our future.

Recognising native title allows for the on-going maintenance and preservation of Torres Strait culture and identity.

A positive finding in favour of the Torres Strait applicants is an opportunity for the Australian Government to acknowledge our traditional rights to sea-based ownership and the resources contained within these waters.

Our traditional rights to the sea surrounding our island homes is supported by Article 3 and Article 32 paragraph 1, of the United Nations Declaration on the Rights of Indigenous peoples.

The second reason that a positive finding favouring the Torres Strait applicants will be critical to the future is that it will strengthen the current legal structure to protect our land and waters and ensure that we will always have the lead role in determining the future for our communities and our environment.

Unlike any other part of Australia, the Torres Strait shares a physical border with Papua New Guinea and Indonesia.

Traditionally and historically we were able to defend our sea territories from trespassers, and therefore protect it from being overfished or exploited.

We have made some progress in recent times, as Torres Strait Islanders have been able to secure the majority ownership of two vital fisheries within our region to build an economic future on.

But this needs to be complemented by legal recognition that we own our seas.

While our people work in partnership with the Australian and Queensland Governments to protect the Australian border, we are still seeking real recognition of our connection to the seas in the Torres Strait and a strengthened legal framework that will allow us to maintain our connection and provide for ourselves by sustainably using this resource for many generations to come.

The Regional sea claim is an essential part of gaining and protecting this right and we can only hope that the Federal Court of Australia will acknowledge this by granting us native title over our waters.

We must protect the limited resources that we have due to the relatively small geographic area of our homeland – because if we exhaust these, then we will have nothing to hand on to our future generations.

I thank you for this opportunity to share our journey and story with the ninth session of the Permanent Forum on Indigenous Issues and ask that you will continue to monitor the progress of this historic sea claim in the Torres Strait.