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OTHER MATTERS

Review of activities undertaken under the International Decade of the World's Indigenous People

Report of the seminar on treaties, agreements and other constructive arrangements between States and indigenous peoples

(Geneva, 15-17 December 2003)

Chairperson-Rapporteur: Mr. Wilton Littlechild (I.P.C.)

Summary

The present report contains a summary of the discussions that took place during the seminar on treaties, agreements and other constructive arrangements between States and indigenous peoples, held in Geneva from 15 to 17 December 2003. The list of documents and participants can be found in the annexes to this report.

The conclusions and recommendations adopted by the participants were submitted to the sixtieth session of the Commission on Human Rights and are contained in document E/CN.4/2004/111. The Government of Canada also presented its own recommendations, which are contained in the annexes to document E/CN.4/2004/G/28.

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* Annexes I and II are reproduced in the language of submission only.

Introduction

1. In its resolution 2002/19, the Sub-Commission on the Promotion and Protection of Human Rights recommended that the United Nations High Commissioner for Human Rights organize, before the end of the International Decade of the World's Indigenous People, a seminar on treaties, agreements and other constructive arrangements between States and indigenous peoples to explore ways and means to follow up on the recommendations included in the final report of the Special Rapporteur, Mr. Miguel Alfonso Martínez (E.CN.4/Sub.2/1999/20). The Commission on Human Rights endorsed the recommendation of the Sub-Commission in its decision 2003/117. This decision was subsequently endorsed by the Economic and Social Council in its decision 2003/271.

2. The seminar on treaties, agreements and other constructive arrangements between States and indigenous peoples was held at the United Nations Office at Geneva, from 15 to 17 December 2003. The purpose of the present report is to summarize the general debate.

I. ORGANIZATION OF WORK

A. Opening of the seminar

3. The opening address was delivered by the Acting United Nations High Commissioner for Human Rights, Mr. Bertrand Ramcharan. He provided a brief overview of the work of the United Nations in the fields of human rights and indigenous peoples, stressing that historic treaties are of contemporary human rights significance. He emphasized the importance of looking at the utility of treaties as a basis for improved relations between indigenous peoples and States. He further pointed out that treaties, agreements and other constructive arrangements are to be found in all regions of the world and also among indigenous peoples themselves. The Acting High Commissioner concluded by recalling the Secretary-General's decision to strengthen national human rights protection.

4. Mr. Alfonso Martínez expressed the view that the seminar should take into account historic treaties but also be forward-looking. He further reminded the participants that the ultimate objective of the study was to offer elements on how to achieve the best possible promotion and protection of the human rights and fundamental freedoms both under national law and international law in creating for this purpose new legal standards negotiated by all interested parties in a process intended to create mutual trust based on good faith.

B. Election of the Chairperson-Rapporteur

5. Mr. Wilton Littlechild, International Chief of Treaty Six in Canada and member of the Permanent Forum on Indigenous Issues, was elected Chairperson-Rapporteur of the seminar by acclamation. He reminded the seminar that the call for follow-up to the treaty study was made at the Working Group on Indigenous Populations in July 1998, specifically the recommendation that said that there should be three workshops on the matter. He welcomed the holding of the present seminar.

C. Adoption of the agenda

6. The Chairperson introduced the provisional agenda and proposed a slight amendment to include an indigenous prayer before opening the debate. The elder Louis Raine, from the Louis Bull Cree Nation, gave an invocation in his native Cree language. The agenda was then adopted.

D. Documentation

7. The seminar had before it a series of background papers: 17 were prepared by indigenous non-governmental organizations, 2 by the Government of Canada, and 2 by academics. The final report of the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20) was also made available. The list of documents is contained in annex II.

II. GENERAL DISCUSSION

Item 1: Presentation of the recommendations of the final report of the study on treaties, agreements and other constructive arrangements between States and indigenous populations

8. Ms. Roxanne Dunbar-Ortiz (Indigenous World Association) presented her paper entitled “Treaties with Native Americans: evidence of the legal existence of the United States”. She stated that the United States of America would not exist if there had not been treaties. She drew attention to the 1848 Treaty of Guadalupe Hidalgo and the case of the Pueblo Indians of New Mexico. While the sovereignty of the 22 Pueblo city States was acknowledged as evidence when Pueblo Indian territories were exempted from the unsustainable Mexican policy of land tenure, the United States Court of Private Land Claims denied Pueblo Indians their property rights. She said that the Treaty of Guadalupe Hidalgo reveals that it is not only “Indian treaties” that are broken but also treaties between States.

9. Several participants expressed their support of the Special Rapporteur’s recommendations but stressed that national processes in treaty implementation had made little progress. Mr. Al Lameman (Confederacy of Treaty Six First Nations) explained that his people had been involved in the treaty study from the beginning and welcomed the recommendations being made by the Special Rapporteur on the follow-up. He reminded the seminar that Treaty No. 6 of 1876 is a living international treaty and just as relevant today as when it was entered into in a sacred manner in 1876. Mr. Les Malezer (Foundation for Aboriginal and Islander Research Action) emphasized that treaty rights go far beyond land rights. He also raised a concern about the lack of political will on the part of States to recognize treaty rights.

10. Mr. Kent Lebsock (Teton Sioux Nation Treaty Council) referred to situations where domestic dispute-resolution mechanisms failed. He spoke in favour of establishing an international advisory body to resolve disputes arising from treaties and constructive arrangements involving indigenous peoples.

11. Particular attention was also focused on specific regions. Mr. Ronald Barnes (Indigenous Peoples and Nations Coalition) drew attention to the situation of Alaska and suggested that further analysis should be made of constructive arrangements. He also raised the situations in which indigenous peoples are third parties and wondered whether indigenous peoples were legally bound by treaties between two States. With reference to the situation in Asia and Africa, Mr. Roy Devasish (Taungya and Hill Tracts NGO Forum) stressed the need for further studies as well as the importance of having additional seminars focusing more on agreements and other constructive arrangements. This was also stressed by Mr. Joseph Ole Simel (Mainyoito Pastoralists Integrated Development Organization) and Mr. Atencio Lopez Martinez (Asociacion Napguana of Panama) who underlined that the situation in their regions was different from the one in North America.

12. Additional comments were made in relation to bilateral and multilateral treaties that are concluded in violation of historic and numbered treaties. Reference was made to the North American Free Trade Agreement. Mr. Marcelino Diaz de Jesus (Consejo de Pueblos Nahuas del Alto Balsas) mentioned the Plan Puebla Panama, and recommended that the impact of multilateral agreements on the situation of indigenous peoples be addressed in a further study by the Special Rapporteur.

13. Ms. Sandra Ginnish (Canada) presented the Government of Canada's document entitled "Perspectives on treaties, agreements and other constructive arrangements between States and indigenous peoples". She made a number of comments on specific recommendations that Canada supports. For instance, in relation to land and resources to which indigenous peoples have traditional connections, she explained that Canada had undertaken an extensive effort to negotiate modern treaties. She further stated that Canada supports negotiations and consultations on treaties and other constructive arrangements in political forums instead of the courts.

Item 2: The situation of existing treaties, agreements and other constructive arrangements

14. The Special Rapporteur, Mr. Alfonso Martínez, explained why he considered that so-called historic treaties were relevant today and concluded in his final report that they continue to have full force and are sources of rights and duties for all the original parties or their successors. He indicated that the interpretation of these treaties should be based on the circumstances that existed at the time that the agreement was concluded and entered into. He asked how Queen Victoria would have considered it necessary to reach an agreement with another party, in which obligations were laid down for the Crown and rights were embodied, if that party was not recognized by the Queen as a subject of international law. There is no doubt that these treaties had an international status, he said, and that there are no legal grounds to consider that there has been a dramatic change in the legal status of such instruments. The burden of proof to argue otherwise should then fall to parties who are seeking either political or economic benefits on the basis of their conclusions.

(a) Analysis of the difficulties relating to the full implementation of existing treaties, agreements and other constructive arrangements; in particular, of the rights of indigenous peoples recognized in those instruments

15. Mr. Joseph Ole Simel introduced the situation of the Maasai in Kenya in his paper "The Anglo-Maasai agreements/treaties: A case of historical injustice and the dispossession of the Maasai natural resources, and the legal perspectives". He stated that one of the major difficulties for full implementation of treaties and constructive arrangements is the undetermined status of historic treaties and constructive arrangements. He explained that the 1904 and 1911 Anglo-Maasai agreements were not valid treaties but legal fiction intended to deprive the Maasai of their rights, resulting in dispossession of natural resources and their displacement from their traditional lands.

16. Referring to the understandings of the treaty itself, Mr. Wes George contrasted the inequalities of the intent of treaty partners and recalled the trust that the forefathers put in "spoken words" as binding articles of the treaty. Mr. Richard Lightning emphasized the need to interpret treaties, which were negotiated in good faith and using the ceremonial pipe, according to the spirit and context of the negotiations. He drew attention to the fact that many words are impossible to translate from English to Cree. The question then is: How much of the treaty negotiations did the Chiefs truly understand?

17. Mr. Mario Ibarra pointed to the problem of internal law negating the existence or ignoring treaties signed between colonial authorities (in the name of the Spanish Crown) or of authorities of the republics (in the name of their respective Governments) and indigenous authorities. He analysed in his presentation sources showing that the 1888 Treaty of Rapa Nui (Easter Island) and the medieval Spanish judicial documents called *parlamentos* have all the attributes and characteristics of treaties.

18. The representative of the Government of Chile explained that there were consultations on the status of the Rapa Nui going on and that a commission to verify the situation had been created, composed of representatives of the Rapa Nui Elders' Council and State officials.

19. Raja Devasish Roy, referring to the case of the Chittagong Hill Tracts Accord (CHT) of 1997, explained that the changing political climate of a country caused by changes in its Government was a continuing challenge for implementing treaty or political agreement-based rights. He pointed to the problem that in the CHT case there are not many avenues open: international human rights law remains largely toothless and Bangladesh is lethargic when it comes to implementation. This is further hindered by the dualistic system of law, which does not allow for an "automatic" enforcement of international instruments' provisions in the municipal courts.

20. Some participants noted that the fundamental problem regarding both historical and contemporary treaties and constructive arrangements between States and indigenous peoples is the lack of observance and compliance by the State party. Chief Rod Alexis affirmed in a statement read by Mr. Ron Lameman that the main difficulty for implementation of treaties is the inability or unwillingness of the other party to the treaty (the Crown) to accept the

understandings of the treaty and the treaty obligations as handed down in indigenous oral tradition from their elders. Chief Oren Lyons said that in 1977 indigenous peoples could not obtain recognition of their treaties domestically and so had been obliged to raise their concerns internationally.

21. Mr. Kent Lebsock recalled that the Lakota Nation had entered into several treaties with the Government of the United States, specifically the Fort Laramie Treaties of 1851 and 1868, the latter of which was abrogated unilaterally by the United States after the Congress had passed a resolution in 1871 which declared that "no Indian nation or tribe … shall be acknowledged or recognized as an independent nation". He explained further that treaty rights cannot be separated from collective rights, land rights and the right to self-determination. Efforts by State governments to oppose the collective rights of indigenous peoples were used to limit rights to self-determination and to invalidate treaties that certainly evidence a distinction as "peoples". He called for the establishment of an international forum to address the issue and recommended that the International Court of Justice be asked for an advisory opinion on the international status of treaties.

22. Mr. William Means mentioned the Western Shoshone Nation which had, like the Lakota Nation, the Hopi Nation and many others, consistently refused to accept payment for lands. In December 2002, the Inter-American Human Rights Court found that the United States had violated the Western Shoshone's rights to equality before the law, right to a fair trial, and right to property under the Inter-American Declaration on the Rights and Duties of Man. The Western Shoshone had not been given the opportunity to raise the issue of their title to their land as evidenced by the Treaty of Peace and Friendship of Ruby Valley of 1863.

23. Ms. Charmaine White Face reported that the major difficulty in the United States relating to the full implementation of existing treaties is the lack of awareness that there are any existing treaties and agreements at all. Similarly, Ms. Roxanne Dunbar-Ortiz underlined that there is a lack of public education outside of courts. For instance, law schools do not include information on the status - or sometimes even existence - of treaties between indigenous peoples and States. She recommended that States be obligated to provide public education to non-indigenous people in order to prevent mistrust and the wrong perception that indigenous peoples receive better treatment and advantages. She emphasized that this situation not only put a special burden upon indigenous peoples, especially from Hawaii, Alaska and Puerto Rico, but on all peoples of the world.

24. The Representative of the Government of Canada said that it understood the importance of public education and that a number of initiatives in which they try to explain the importance and sacred nature of treaties have been supported. It announced also the establishment of a new treaty commission in Manitoba, modelled after the one in Saskatchewan.

25. Ms. Claire Charter indicated that, in recent years, the New Zealand Parliament has incorporated so-called "Treaty of Waitangi principles" into some legislation. However, courts have not given effect to the wording of the Maori version of the treaty, for instance not giving effect to the guarantee of Maori *rangatiratanga*/self-determination.

26. Ms. Sharon Venne said that the Akaitcho Dene had rejected a major settlement in 1990 when it required them to extinguish their rights to lands and resources of their territories, which is contrary to the original treaty that ensured non-interference from non-Dene people. She further stressed that most modern agreements contain no provisions for discussing the view of indigenous peoples and the Government-driven, unilateral, unyielding process is undermining the spirit of treaty-making.

27. Mr. Liton Bom (Asia Indigenous Peoples Pact) introduced his paper "Role of the UN and intergovernmental organizations for conflict resolution in Burma between the State and indigenous peoples: the Panglong Agreement that was forgone by the State and its consequences". During pre-discussions to the Panglong Conference between the Burmese and indigenous peoples from frontier areas, in the presence of British authorities, an agreement on preconditions for the joining was reached, including that indigenous peoples would not join the Union if the Burmese did not agree on the mentioned facts and principles. The proposals were not included in the written agreement, as the Burmese saw them as constitutional matters. However, the 1947 Constitution of Burma was adopted without fully reflecting the spirit of the agreement.

(b) The importance of confidence-building steps to promote harmonious relations between indigenous and non-indigenous sectors of the population in multicultural societies and contribute to conflict resolution and prevention

28. Several indigenous participants stressed the need for confidence building and reconciliation but affirmed that States have shown a lack of political will to take such steps. Mr. Raja Devasish Roy pointed to the fact that evaluating successes or failures of arrangements depended necessarily upon subjective analyses, based upon the intentions of the parties to such accords, and that it is usually the non-State party that is the weaker and more apprehensive of the two. Fearing non-implementation of the Government's responsibilities in post-agreement situations is therefore not surprising. A way to deal with this issue is by phasing negotiations and including quid pro quo arrangements. He mentioned the plan to link repatriation of the Pahari refugees from India to Bangladesh with a parallel rehabilitation of Bengali settlers outside the CHT, as such a quid pro quo arrangement.

29. Mr. Kent Lebsock underlined the need for "mutually agreed conflict-resolution mechanisms" identified in the treaty study and to the core values identified by Ms. Daes, in particular the principle of equality and human rights. He suggested as one of the most effective ways to promote harmonious relations is simply recognizing the rights of indigenous peoples under international law.

30. Ms. Sharon Venne said that the principles of good faith and free prior and informed consent were also important. The process of replacing historical treaties by so-called modern-day treaties was a way of putting treaties within a domestic framework. She criticized the practice of some Governments of negotiating with indigenous individuals who were not fully representative of the community.

31. Chief Rod Alexis, in a statement read by Mr. Ron Lameman, emphasized that any new initiatives must involve full and meaningful participation of the indigenous peoples. He said that the situation in Treaty Six Territory was at the present time somewhat unique in that they are

involved in bilateral nation-to-nation discussions with the Crown and it had been agreed that the process is stand-alone, that the treaty talks are not part of any past, present, or future self-government initiatives of the Government of Canada. He emphasized the importance of public education starting in all sectors of the education system and involving a complete overhaul of the whole curriculum, in order to sensitize the Government, industry and the general public to the cause and effect of their actions on indigenous peoples.

32. Councillor Randy Ermineskin drew attention to Treaty Six Education, which was formed by the Chiefs of the Confederacy of Treaty Six First Nations in March 2002 to support and build the capacities of local education authorities. He raised the issue of the lack of proper resources and funding that would meet the needs of First Nations' students and requirements to be addressed.

33. Mr. Jonathan Bull, representing Chief Simon Threefingers, drew attention to the fact that the matter of implementation of treaties between indigenous peoples and European colonizers remains very much a situation of one-sided interpretation and unilateral institutional abrogation of all indigenous treaties, a reality that must be changed in order to initiate peaceful relations and mutual respect. Although they have a bilateral nation-to-nation process in place and even though there is talk of establishing a quasi-tribunal type of Treaty Commission office in Alberta, legislative and policy changes are ongoing without due regard to the treaty and are happening because indigenous peoples are looked upon as being in the way of "progress". The establishment of an impartial Treaty Protectorate Department could have appropriate power and authority to adjudicate on any dispute regarding indigenous treaties.

(c) The important role of effective national mechanisms to ensure the full recognition, implementation and protection of indigenous treaty rights

34. Chief Victor Buffalo (International Organization of Indigenous Resource Development) informed the seminar that the Samson Cree Nation instituted legal proceedings against Canada to address the mismanagement of the people's oil and gas. He indicated that, in an effort to correctly interpret the treaty, the Federal Court moved to the people's land in June 2000 to hear the Elders in the Cree language about the historical account of what had taken place when Treaty 6 of 1876 was negotiated and concluded.

35. Mr. Joseph Ole Simel highlighted the need for constitutional amendments in Kenya to provide legislation and review of historical land claims and disputes. He said that the current draft Constitution of Kenya proposes a mechanism to review all claims of unjust expropriation of land at the Coast and Rift Valley, and to establish how best such claims can be justly, peacefully and equitably resolved.

36. Although supporting the recommendation of the treaty study regarding the establishment of "special jurisdiction" at the national level, many participants expressed concerns. Mr. Raja Devasish Roy underlined the danger that indigenous peoples are often excluded from the usually "majoritarian" and consequently undemocratic process leading to the establishment of such mechanisms. Mr. Kent Lebsock noted that domestication or the attempts to make international treaties the subject of judicial and legislative control demonstrates the historical ineffectiveness of a national jurisdiction and that effective participation of indigenous peoples in these mechanisms never took place. Referring to the Special Rapporteur's observation that there

is a need for international options in cases of ineffectiveness of national institutions, he stressed that indigenous peoples requested repeatedly international adjudication. When entire groups of people believe, based on a vast amount of historical fact, that they cannot enter a forum as equals, it is impossible to find justice in a domestic setting, he said.

37. Chief Rod Alexis recommended that a truly impartial treaty tribunal be established nationally to facilitate the implementation of all indigenous treaties, to act as a clearinghouse of information on treaties through a national registry, and to address any disputes that arise as a result of misunderstandings related to treaties. In order to work and bear the type of authority needed, such a tribunal should be established under the auspices of the Governor-General and supported by the Prime Minister and Parliament.

38. The representative of the Government of Canada said that it supported a broad system of negotiations and consultations on treaties and constructive arrangements, with significant institutional capacity for dispute resolution outside of the judicial process, as well as recourse to a judicial system in the Supreme Court of Canada. There were many comprehensive claims and self-government negotiations taking place and constitutional recognition of existing aboriginal and treaty rights had been extended to recognize as treaty rights those rights acquired through both existing and future land claims settlements. The representative drew attention to the specific land claims process and the treaty land entitlement process, which bring with them the ability to redraw the boundaries of aboriginal lands and which often result in sizeable parcels of land being acquired by the affected First Nations community. Using the example of a recent agreement with the Nisga'a people, he explained that modern treaties require the passage of enabling legislation by the Parliament of Canada.

Item 3: Modern-day treaties, agreements and other constructive arrangements, including:

(a) Consideration of ways and means to redress the historical process of dispossession, in particular of non-treaty peoples, as an essential element of the establishment of a new relationship between indigenous peoples and States based on an effective partnership

39. Referring to the situation of the Kuna of Panama, who are non-treaty peoples, Mr. Atencio Lopez Martinez presented his paper "La autonomía del pueblo Kuna en Panamá" to report on developments and ways of establishing and implementing autonomy. He explained that, in the nineteenth century, Colombia gave legal autonomy to the Kuna with the creation of the "Comarca Tulenega", autonomy which was not recognized by Panama when it got independence from Colombia in 1903. Through a peace treaty and a series of laws and decrees, the Kuna had won agreement from Panama to maintain its autonomous status and indigenous reserves, collectively held by indigenous communities. Traditional authorities were recognized, and bilingual intercultural education was initiated. Kuna autonomy got legal recognition by a law passed in 1953 which established definitively the Comarca de San Blas.

40. The representative of the Government of Canada stated that its primary process for achieving reconciliation between the prior rights of aboriginal peoples and the rights of the Canadian State and other Canadians is through the negotiation of treaties. Modern treaty-making encompassed (a) the negotiations of comprehensive land claim agreements; and (b) the

negotiation of self-government arrangements. In 1973, the Supreme Court of Canada recognized the continued existence of aboriginal rights in parts of Canada and as a result the Government of Canada established a policy for negotiation. In 1982, aboriginal and treaty rights were recognized and affirmed in the Constitution of Canada, which places significant limits on the ability of Government to interfere with aboriginal treaty rights. In 1983, the Government of Canada recognized the inherent right of self-government as an existing aboriginal right and established a process for negotiation of treaty or non-treaty agreements to implement aboriginal self-government.

41. The representative further explained that modern treaties are instruments of relationship-building: they set out the framework for new political relationships between aboriginal governments and other Governments. Modern land-claim and self-government treaties in Canada cannot be implemented through machinery outside the Canadian State; they are designed as Canadian constitutional instruments to manage relationships within the Canadian federation. Since 1986 modern land claim agreements have been accompanied by implementation plans, and provide already for joint implementation committees, arbitration mechanisms and access to Canadian courts to resolve implementation issues.

42. A series of questions were raised following the Canadian intervention. Chief Francis Bull said that there were still indigenous peoples who are left out of the process, such as the Jim Ochiese group, the Big John group and the Rocky Mountain Cree. He questioned the access to rights of wrongly displaced and dispossessed nations without a current land base such as the Pahpaschase First Nation and Chief Big Bear's Cree peoples. Questions were also raised about budget allocation to indigenous peoples for treaty negotiations. In addition, Mr. Kent Lebsock noted that the term "modern treaties" are often agreements whereby governments domesticate international treaties. Canada admitted that historic treaties only covered 40 per cent of Canada so far and modern treaties cover additional significant areas. Funding programmes do exist to assist indigenous peoples in land claim and self-government negotiations as well as for capacity-building and research. Concerning the relation between historic and modern treaties, Canada explained that they both have equal recognition under the Constitution.

43. The Special Rapporteur, Mr. Alfonso Martínez, emphasized further the importance in all negotiations of basic principles: consent, mutual respect of the legal personalities of the parties, and negotiation in complete freedom. He noted that treaties not made by indigenous peoples, but affecting them, must be guided by the same principles. There must not be an automatic application of treaties to communities that have not given their consent.

44. Ms. Tove Pedersen described in her presentation how observance of the right of self-determination has been achieved in the case of Greenland following the Greenland Home Rule Act passed in 1978 by the Government of Denmark. She explained that Greenland home rule is an extensive type of self-government, which delegates legislative and executive power to the Home Rule Authority, the Greenland Home Rule Parliament and the Greenland Home Rule Government. After 20 years of experience, the Government established in 2000 a commission on the expansion of home rule, which identified and described new arrangements that will satisfy self-government aspirations of Greenland within the Danish Realm, explored areas such as the judicial system, foreign affairs and security policy, and put forward proposals for self-governance and economic self-sufficiency.

45. The representative of the Government of Mexico explained that the country is in the process of intense redefinition of its relationship with indigenous peoples, and that a broad national debate is going on to overcome forms of inequity from the past. Mexico considers international instruments as important complements of national laws. Mexico is analysing the recommendations of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, and looking at ways to integrate them into the national human rights programme. He spoke about a cooperation programme that has an indigenous element and seeks to support indigenous representatives in gaining a broader knowledge of the working of international instruments. He further explained that several of the recommendations contained in the treaty study were already dealt with in the United Nations draft declaration on the rights of indigenous peoples and that he, therefore, only reaffirmed Mexico's commitment to the draft declaration process. He recommended that it would be interesting for national parliaments to know the outcomes of the seminar.

46. Ms. Claire Charter introduced her paper, "Report on the Treaty of Waitangi 1840 between Maori and the British Crown". She suggested that particular modern-day treaty settlement processes must meet certain standards to be effective and, above all, fair. Reasons for difficulties for establishing an effective partnership using the current New Zealand Treaty of Waitangi settlement process are: certain rights integral to Maori and guaranteed to Maori under the treaty are not on the negotiation table, as for instance *rangatiratanga*/self-determination and Maori rights to oil and gas reserves. Also, there is no independent body to oversee and monitor treaty settlements, the Office of Treaty Settlements (a body within the Ministry of Justice) is both the Government's negotiator and policy-setter.

47. Mr. Les Malezer presented his paper "Aspiring to a treaty or constructive arrangement: the experience of Aboriginal peoples and Torres Strait Islander peoples of Australia". He provided a perspective on the treaty study from the viewpoint of Australian Aboriginals and Torres Strait Islanders. He recalled that the British colonized Australia without regard for the existence or rights of indigenous peoples. No treaties were concluded. He drew attention to the fact that during the past three decades indigenous calls for a treaty have been dismissed, mostly out-of-hand, by the Government of Australia, whose rationale has been that indigenous peoples do not have legal standing to negotiate a peer agreement with the Government. Various efforts by the Government, in moments of "good faith", to establish "constructive agreements" have failed to materialize or grow, mainly because of lack of will or about-turns in the political system. The Australian experience serves as an important lesson to show that political will is the very foundation of any movement forward at the international and national levels in establishing fair treaties and constructive arrangements. Although the 1992 Mabo case overturned the doctrine of *terra nullius* ("land without owner"), he emphasized that indigenous peoples in Australia are still struggling against the consequences of this doctrine.

48. Mr. Ronald Barnes introduced his paper "Indigenous peoples and the United Nations Charter: De-colonization". He said that Alaska and Hawaii were placed on the list of non self-governing territories under article 73 of the Charter of the United Nations. However, the United States of America ceased reporting on Alaska and it was removed from the list of non-self-governing territories after adoption of General Assembly resolution 1469 (XIV) of 12 December 1959. In the process, indigenous peoples were never consulted and basic principles established in numerous General Assembly resolutions for the implementation of self-determination of peoples in non-self-governing territories were ignored.

49. He further explained that General Assembly resolution 742 (VIII) of 27 November 1953, which stated the necessity for consideration of "freely expressed will of the people at the time of the taking of the decision" and "on the basis of absolute equality", was never implemented. He said that, instead, literary tests for voters barred indigenous peoples from voting. He further explained that if the historical and juridical situations were properly examined, it would be discovered that Alaska never belonged legally to the United States of America.

(b) Processes, principles and other essential elements in modern-day treaties, agreements, other constructive arrangements, in particular through participation by indigenous representatives

50. Mr. Raja Devasish Roy explained that negotiation and implementation should be seen as a continuum and safeguards built into the agreements. The Chittagong Hill Tracts Accord of 1997, for instance, does not provide for arbitration or mediation, and experience shows that a third-party mediator would be helpful. He emphasized the usefulness of entrenchment clauses built into treaties and constructive arrangements to prevent arbitrary and unilateral revocation or repudiation of responsibilities. In particular, a double-entrenchment clause that prevents changes only through an amendment to the national constitution should be foreseen. He gave two examples in which constitutional safeguards for treaty rights were made: the Mizoram Accord of 1985, where a two-thirds majority is required for any change or amendment to the constitution; in the case of a two-chamber parliament, a two-thirds majority in both chambers and the consent of the Mizoram States Assembly. Another example is the South Tyrolean autonomy package, which is guaranteed by a bilateral treaty between Italy and Austria.

51. Mr. William Means drew attention to principles for treaties and constructive arrangements mentioned by the Special Rapporteur, which are essentially the same as for historic treaties and constructive arrangements: mandated representatives, basic agreement, ratification, and the actual power of the negotiators to bind the parties. He emphasized that the most essential quality is mutuality, not only in the full legal meaning of the word, but describing a process and outcome that is freely entered into in the broadest sense by both parties. There has to be good faith between the parties and a willingness on the part of both parties to negotiate freely and without coercion, on an equal footing, and with the intent to fully comply with and implement the agreements reached.

52. The representative of the Government of Canada explained that its experience with modern treaty-making indicates that the following features are important for effective treaty-making processes: legitimacy with both aboriginal and non-aboriginal citizens; a domestic legal foundation which provides recognition of aboriginal rights in a manner which is compatible with the legal and constitutional structure of the State; a focus on more than legal reconciliation; treaties must establish the foundation for new political, social and economic relationships which will improve the social conditions of aboriginal peoples; achievement of political support requires public education and demonstration that treaties provide mutual benefit to aboriginal and non-aboriginal citizens; political commitment and mandating at the highest levels within the State.

(c) Practical experiences resulting from the negotiating process and the entry into force of contemporary treaties, agreements and other constructive arrangements

53. Mr. Raja Devasish Roy pointed to the importance of incentives or sanctions ("carrot and stick") in negotiations, where "sticks" would include avenues for taking the dispute - over non-implementation - to a court, tribunal or arbitration body, whether national or supranational, and "carrots" could include trade and other benefits. He explained that the people of the CHT had learned that there are no effective mechanisms available at the regional, national or international level that can be invoked to help implement the unimplemented provisions of the 1997 CHT Accord. There are hardly any "sticks" available to help non-State parties. He suggested considering in these cases lobbying donors for positive or negative inducements (for instance, providing or withholding aid, loans or other trade, political office or financial benefits and opportunities). Such an approach may also have the advantage of not unduly embarrassing the "guilty" party, especially if it is a State, concerned about its reputation and sovereignty.

54. Mr. William Means noted that contemporary treaties and constructive arrangements face the same problems regarding lack of State compliance. He referred to the San Andrea Accords, negotiated between the Ejército Zapatista de Liberación Nacional and the Government of Mexico in 1996, which were changed by the Mexican legislature so completely that indigenous peoples have now rejected the revisions and continue to call for adoption of the original negotiated agreement. Important terms of the Guatemala Peace Accords, including the Accord on the Identity and Rights of Indigenous Peoples, negotiated and signed by the Guatemalan National Revolutionary Unity (UNRG) and the State in 1996, were submitted by the Government of Guatemala to a public referendum, where centuries of racism and marginalization assured its failure. He also mentioned the Canadian Supreme Court decision on Delgamuuk whereby the Government of Canada has taken the position that it will only "negotiate" the extinguishment of aboriginal title. This stance utterly fails to reflect the basic principle of mutuality based on equality of the parties and leaves little possibility for justice.

55. Ms. Ruth Sidchogan-Batani (Indigenous Peoples' International Centre for Policy Research and Education) presented her paper "Implementation of the Indigenous Peoples Act (IPRA) in the Philippines: challenges and opportunities". She said that IPRA is the first comprehensive law recognizing the rights of the Philippines' indigenous peoples to their ancestral lands and domain, their rights to social justice and human rights, self-governance and empowerment as well as cultural well-being. The law specifically sets forth the indigenous concept of ownership, recognizing that indigenous peoples' ancestral domain is community property that belongs to all generations. However, after almost seven years of IPRA implementation, major difficulties remain. Indigenous peoples either failed to have their paper titles or have never perfected the titling requirements. She emphasized that although free prior and informed consent was put in place in the Act, its potential had not been explored as a mechanism for the peaceful resolution of disputes.

56. Mr. Viktor Kaisiëpo (Dewan Adat Papua), in his paper "The case of West Papua sovereignty: the process of exclusion of indigenous peoples of West Papua", highlighted the sometimes severe impact of treaties and agreements in which the indigenous peoples have never been equal partners in the dialogue. Against the intent of the Dutch colonial administration and against the will of the population, the administration of the Non-Self-Governing Territory West Papua was transferred to Indonesia in 1963. In agreement with the United Nations,

Indonesia decided that a Papuan act of self-determination need not involve any direct voting by the Papuan population on the issue. Instead a "representative" assembly decided on behalf of the people. In 1969, subjected to political pressure, the councillors selected for this purpose voted unanimously in an "Act of Free Choice" to remain with Indonesia.

57. The Government of Indonesia offered special autonomy in 2001 to the province of Papua. This was rejected by the Presidium of the Papua Council because it was imposed without proper consultation and did not address themes of concerns, such as the human rights violations prevailing since 1963 and the rectification of history. A Presidential Decree was issued in 2003 on the division of the province of Papua into three new provinces without respecting the requirement to consult with the Provincial Parliament of Papua and the Peoples' Representative Council as stipulated in the Special Autonomy Law.

58. Mrs. Sharon Venne, commenting on the previous presentation, pointed to the need to consider how the treaty study can provide forward-looking mechanisms for conflict resolution. The situation of West Papua draws attention to the need for a mechanism for situations where indigenous peoples are caught between different entities. The United Nations could play a vital role and the potential of free prior and informed consent as a criterion should be further explored in cases such as Hawaii, where non-self-governing entities were taken off the list without free prior and informed consent of the indigenous peoples.

59. The representative of Norway provided information on the ongoing drafting of a Nordic Sami Convention. An expert group has been established by the ministers of Sami affairs in Finland, Sweden and Norway and the presidents of the respective Sami parliaments, and is composed of representatives of these three countries. It is expected that the process will take three years. Various options are being discussed, in particular whether the Convention would be a framework convention or provide more precise State obligations. The Convention would cover definition, the right to self-governance, education, environment, cultural heritage, way of livelihood and would be based on international instruments and customary law. The group of experts has also to consider if it should include appeal instances.

Item 4: Implementation, monitoring, dispute resolution and prevention in relation to treaties, agreements and other constructive arrangements, including:

(a) The role of United Nations treaty bodies and the special procedures of the Commission on Human Rights

60. Mr. Mario Ibarra (independent expert) expressed the view that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people should pay particular attention to the question of treaties and constructive arrangements between States and indigenous peoples, especially when on *in loco* visits. Mr. Pablo Guttiérez Vega (University of Sevilla) stated that United Nations treaty bodies have not assumed a proactive role in relation to treaties between indigenous peoples and States.

61. Mr. Jérémie Gilbert (Irish Centre for Human Rights) explained that precedents show that treaty-monitoring bodies could play an important role in the implementation and follow-up to treaties and constructive arrangements signed between indigenous peoples and States. Even though it is not the mandate of treaty-monitoring bodies to explore the follow-up to these treaties

and constructive arrangements, it is their mandate to ensure that these treaties and constructive arrangements are enforced in a manner that is consistent with international human rights. A legal connection between rights entrenched in the Covenants and promises made in treaties exist and Committees recognize that the non-respect of treaty obligations had negative effects with regard to rights protected under the Covenants. He further expressed the view that there is a clear emerging practice from international human rights bodies to follow the implementation of agreements. He gave as example the Committee on Economic, Social and Cultural Rights' concluding observations at its thirty-first session on the report of Guatemala, expressing concerns over the insufficient progress made by Guatemala in the implementation of the 1996 Peace Agreements; the Human Rights Committee, in its concluding observations in 1996 on Guatemala; and the Committee on the Elimination of all Forms of Racial Discrimination criticism of Bangladesh for the "slow progress in implementing the CHT Peace Accord".

62. Ms. Claire Charters confirmed that United Nations treaty bodies can play an important role in implementing, monitoring and resolving disputes involving treaties. However, she drew attention to the fact that although there are some clear synergies between rights guaranteed under the United Nations treaties and the Treaty of Waitangi. United Nations human rights treaty bodies are not always the ideal place to decide on issues involving indigenous peoples' treaty rights. She noted that members of United Nations treaty bodies may have little understanding of treaties between States and indigenous peoples and of indigenous peoples' customs or traditions. She provided the example of the *Mahuika* case, where the Human Rights Committee found that there was majority consent of Maori to the Treaty of Waitangi settlement. However, she stressed that the custom of many Maori *iwi* and *hapu* is based on consensual rather than majority decision-making and hence the Human Rights Committee seems inadvertently overriding this Maori custom.

63. Mr. Kent Lebsock recommended that the Economic and Social Council approve utilizing international bodies and agencies within the United Nations system, including the International Court of Justice, for the preservation and redress of violations to indigenous human rights related to land and treaties, determining the obligations of the parties to redress violations. As Governments may not be willing to do this without encouragement from international bodies, the United Nations has to assert itself as the arbitrator of peace and justice.

64. The representative of the United States of America provided information on treaties between Indian tribes and the United States, noting that these treaties have similar standing to treaties with foreign nations. The representative said that the United States opposed the creation of an international dispute resolution forum for indigenous peoples. He further stated that its Government was also opposed to the establishment of a section within the United Nations Treaty Registry in charge of compiling and publishing all treaties concluded between indigenous peoples and States.

(b) Possible contribution of United Nations specialized agencies and regional intergovernmental organizations

65. Mr. Mario Ibarra emphasized the need for United Nations specialized technical assistance through its bodies, or for an ad hoc mechanism, for implementation of the recommendations (contained in paragraph 310 on negotiations), and a new institutional structure. Technical assistance is also an urgent need in order to ensure indigenous peoples' participation in the negotiating of bilateral or multilateral treaties which, directly or indirectly, might affect them.

66. Mrs. Claire Charters stressed that the contribution of United Nations specialized agencies and regional intergovernmental organizations to the implementation of indigenous peoples' treaty rights is unlimited. She said that the Office of the High Commissioner for Human Rights or specialized agencies could play a role in facilitating the education of United Nations treaty body members in indigenous peoples' treaty rights, and also in how the human rights treaties could be interpreted consistently with indigenous peoples' treaty rights. She further said that agencies such as the United Nations Development Programme could ensure that its development policies do not interfere with, and instead actively promote, indigenous peoples' treaty rights.

67. The International Labour Organization representative provided information about mechanisms that indigenous peoples can use and explained that in Latin America indigenous peoples make use of these avenues.

68. Mr. Liton Bom drew attention to the situation of developing countries where United Nations agencies, financial institutions and aid donor countries have the opportunity and possibilities to play a proactive role as a third party in implementation, monitoring, dispute resolution and prevention in relation to treaties and constructive arrangements. He explained that there is one article in the CHT Peace Accord of 1997 which provides that "regional council will be consulted for every development programme that is to be materialized in the Hill Tracts". However UNDP failed to do so for its programme in the CHT.

69. The United Nations Institute for Training and Research (UNITAR) presented its programme in peacemaking and preventive diplomacy, which had provided training to diplomats and United Nations staff since 1993 and for indigenous peoples' representatives since 2000. The UNITAR training programme to enhance the conflict prevention and peace-building capacities of indigenous peoples' representatives provides advanced training in conflict analysis and negotiation, with a focus on a problem-solving approach to strengthen participants' capacity to more effectively negotiate to have their needs met, while also promoting constructive relationships between members of their communities and those of the dominant community.

(c) Discussion of other recommendations contained in the final report of the Study, including proposals to establish an advisory body, a United Nations depository for treaties and to elaborate further studies on possible ways and means to ensure the full juridical recognition and effective promotion, implementation and protection of the rights of indigenous peoples, including their human rights

70. Mr. William Means drew attention to unresolved or unexamined issues raised by the treaty study itself that merited further consideration and study in future workshops. Mr. Liton Bom also suggested further study, particularly, on the issue of treaties and constructive

arrangements between colonial and successor States and the indigenous peoples of Africa and Asia. It was also suggested that, given the important and complex issues raised by the treaty study, as well as some unresolved and emerging issues not examined in the treaty study itself, that the Sub-Commission and/or the Working Group on Indigenous Peoples create a working group to follow up and further study these issues, and that a regional representation from all parts of the world be included in this working group.

71. Several participants recommended that the three seminars recommended by the Special Rapporteur take place, and that one or more be held on lands affected by treaties between indigenous peoples and States. Treaty No. 6 in Canada offered a host location. Mrs. Claire Charters endorsed, in particular more studies on: the relationship between human rights and rights guaranteed to indigenous peoples under treaties between them and States; the advantages and disadvantages of indigenous peoples having recourse to United Nations treaty bodies; the potential to establish an international advisory body to adjudicate or advise on disputes between indigenous peoples living within the borders of a modern State and non-indigenous institutions and to monitor domestic measures directed to giving some effect to treaties between indigenous peoples and States.

72. Mr. William Means recommended that the seminar reaffirm the importance of article 36 of the draft United Nations declaration on the rights of indigenous peoples in its current text as approved by the Sub-Commission; in particular, its importance as a critical element of the right of self-determination, as well as the importance of its last sentence, which calls for the establishment of a competent international body to directly adjudicate treaty disputes unresolved through other mechanisms.

73. Many participants expressed the view that the refusal of States to give the Permanent Forum on Indigenous Issues a mandate to arbitrate provides evidence that a mediation, arbitration or juridical mechanism under United Nations auspices is not likely to be established. Mr. William Means and other participants recommended that existing human rights mechanism and jurisprudence as they relate to treaties be given immediate and thorough study with the objective of further recommendations on the creation of an international body with the mandate of receiving and hearing disputes over treaties and constructive arrangements entered into between indigenous peoples and States.

74. Mrs. Charmaine White Face stressed that meetings like the treaty seminar, the study on treaties and the information collected by the Commission on Human Rights during the past decade clearly show a need for an advisory body to work only on the topic of treaties and constructive arrangements made between indigenous nations and nation States. Such an advisory body would need a depository for treaties and the ability to conduct further studies on such treaties looking at both problems and solutions from all perspectives. Participants further suggested that, if disputes cannot be settled with the assistance of the Commission on Human Rights, indigenous nations must not be denied the human right to bring treaty disputes to the International Court of Justice.

75. Mr. Mario Ibarra proposed that until the appropriate United Nations bodies adopt necessary measures to establish a treaty depository/registry, OHCHR should initiate or continue with the storage of documents. Many participants endorsed that idea and also suggested that the Working Group on Indigenous Populations have a permanent agenda item on "Treaties and constructive arrangements between States and indigenous peoples".

76. Mr. Pablo Guttiérez Vega analysed the possibility of having historic and modern treaties between indigenous peoples and States registered in accordance with paragraph 102 of the Charter of the United Nations. He objected to the reasons given by the United Nations Treaty Office for not registering them. He said that there were instances where the Treaty Office registers de officio. The office can register treaties of parties that are not members if they entered into force before the adoption of the Charter and if they are not in the League of Nations treaty series.

77. The expert participants adopted by consensus, and a ceremonial drumbeat, the conclusions and recommendations of the seminar, which were submitted to the sixtieth session of the Commission on Human Rights and are contained in document E/CN.4/2004/111. The Government of Canada also presented its own recommendations, which are contained in the annexes to document E/CN.4/2004/G/28.

ANNEXES

Annex I

LIST OF PARTICIPANTS

Indigenous organizations and experts

Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights
Mr. Miguel Alfonso Martínez

Ainu Association of Hokkaido
Ms. Kaori Tahara

Akaitcho Dene
Ms. Sharon Venne

Aotearoa Indigenous Rights Trust
Mr. Teanau Tuiono

Asia Indigenous Peoples Pact
Mr. Liton Bom

Asociación Napguana
Mr. Atencio Lopez Martinez

Consejo de Pueblos Nahuas del Alto Balsas
Mr. Marcelino Diaz de Jesús

Dewan Adat Papua (Papua Lobby)
Mr. Viktor Kaisiëpo

El Consejo Indio de Sud America
Mr. Mamani Nolasco
Ms. Cecilia Toledo
Ms. Ana Vera

Ermineskin Cree Nation
Mr. Randy Ermineskin
Mr. Richard Lightning

Federation of Saskatchewan Indian Nations
Mr. Wes George

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Mr. Les Malezer

Greenland Home Rule
Ms. Tove Sovndahl Pedersen

Haudenosaunee Onondaga Nation
Chief Oren Lyons

Haudenosaunee Ska-Roh-Reh
Ms. Kelly Curry

Indigenous Peoples and Nations Coalition
Mr. Ronald Barnes

Indigenous World Association
Ms. Roxanne Dunbar-Ortiz
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International Chief of Treaty 6
Permanent Forum on Indigenous Issues
Mr. Wilton Littlechild

International Committee for the Respect of the African Charter
on Human and Peoples' Rights
Ms. Berhane Tewelde-Medhin

International Indian Treaty Council
Mr. Ron Lameman
Mr. William Means

Louis Bull Cree Nation
Mr. Jonathan Bull
Mr. Louis Raine

Mainyoito Pastoralists Integrated Development Organization
Mr. Joseph Ole Simel

Movimiento Indio Tupaj Amaru
Mr. Lazaro Pary

Samson Cree First Nation
Chief, Victor Buffalo

Taungya and Hill Tracts NGO Forum Organizations
Mr. Roy Devasish

Tebtebba
Indigenous Peoples' International Centre for Policy Research and Education
Ms. Ruth Sidchogan Batani

Teton Sioux Nation Treaty Council
Mr. Kent Lebsock
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Mr. Emmanuel Civelli
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Mr. Francis Bull
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Mr. Pablo Gutierrez Vega

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Ms. Claire Charters

Independent expert
Mr. Mario Ibarra

Irish Centre for Human Rights
Mr. Gilbert Jeremie

Observers

Conseil indien sud américain
Mr. Denis Gapin

Documentation, Research and Information (DOCIP)
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Ms. Anne Marie Cruz

University of Oslo, the International Project on the Right to Food in Development
Ms. Siri Damman

International Movement against All Forms of Discrimination and Racism
Ms. Kimiko Yamauchi

Independent expert
Mr. Jaime Quispe

Native Law Centre, University of Vienna
Ms. Andrea Ormiston

Governmental representatives

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	Mr. Barry Dewar Director-General, Comprehensive Claims Branch, Department of Indian and Northern Affairs
	Ms. Sandra Ginnish Director-General, Treaties, Research, International and Gender Equality Branch (TRIAGE) Department of Indian and Northern Affairs
	Ms. Marilyn Whitaker Director, International Relations, TRIAGE Department of Indian and Northern Affairs
	Mr. Daniel Hughes Senior Advisor, International Relations, TRIAGE Department of Indian and Northern Affairs
	Mr. Michael Hudson General Counsel, Federal Treaty Negotiation Office
	Mr. Thomas Fetz Permanent Mission of Canada to the United Nations Office at Geneva
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HAITI	Mr. Jean Claudy Pierre
LUXEMBOURG	Mr. André Biever
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MEXICO	Mr. Erasmo R. Martínez Ms. Elía del Carmen Sosa Nishizaki
NORWAY	Mr. Per Ivar Lied
POLAND	Mr. Michal Cygan Mr. Andrzej Sados
RUSSIAN FEDERATION	Mr. Sergey Kondratiev
SOUTH AFRICA	Mr. Pitso Montwedi
UNITED STATES OF AMERICA	Mr. Jeffrey De Laurentis Ms. Stacy Barrios
VENEZUELA	Mr. Madai Hernandez Mr. Rafael Hands Mr. Juan Arias

United Nations agencies

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United Nations Institute for Training and Research	Ms. Trisha Riedy

Intergovernmental organizations

European Commission	Ms. Jone Miren Mugica Inciarte

Annex II

LIST OF BACKGROUND DOCUMENTS

James W. Zion, "The international character of treaties with indigenous peoples and the utilization of treaties"

Marcelino Diaz de Jesus, "Acuerdos constructivos, remunicipalizacion y ciudadanía étnica contra el Plan Puebla Panamá. Estudio de caso del Alto Balsas, Guerrero, Mexico"

Roxanne Dunbar-Ortiz, "Treaties with Native Americans: evidence of the legal existence of the United States"

Ruth Sidchogan-Batani, "Implementation of the Indigenous Peoples Rights Act (IPRA) in the Philippines: challenges and opportunities"

Tove Søvndahl Pedersen, "The Greenland Home Rule arrangement in brief"

Working paper, International Indian Treaty Council

Joseph Ole Simel, "The Anglo-Maasai Agreements/Treaties - a case of historical injustice and the dispossession of the Maasai natural resources (land), and the legal perspectives"

Devasish Roy, "Implementation challenges for Intra-State Peace and Autonomy Agreements between indigenous peoples and States: the case of the Chittagong Hill Tracts, Bangladesh"

Government of Canada, "Analysis of principles, processes and the essential elements of modern treaty-making - the Canadian experience"

Teton Sioux Nation Treaty Council and Na Koa Kailca Kalahui Hawaii, "Proposed recommendations to the UN Expert Seminar on Treaties"

Working paper, by Sharon Venne

Atencio López Martinez, "La autonomía del pueblo Kuna en Panama"

Mario Ibarra, "Algunas reflexiones y notas a propósito de algunos tratados en éste momento, no reconocidos, firmados entre potencias coloniales o Estados actuales y pueblos indígenas"

Wes George, "Background and recommendations"

Claire Charters, "Report on the Treaty of Waitangi 1840 between Maori and the British Crown"

Viktor Kaisiëpo, "The process of exclusion of indigenous peoples of West Papua in determining their destiny about treaties, agreements and measures that are undemocratic and provocative and through which Papuans are set against each other"

Government of Canada, "Perspective on treaties, agreements and other constructive arrangements between States and indigenous peoples"

Liton Bom, "Role of the UN and regional intergovernmental organizations for conflict resolution in Burma between the State and indigenous peoples: *The Panglong Agreement that was forgone by the State party and its consequences*"

Pablo Gutiérrez Vega, "*Treaty rights* y derecho internacional publico. Algunas consideraciones sobre la registrabilidad de los tratados entre pueblos indígenas y Estados por la Oficina de Tratados de Naciones Unidas [UNTS]"

Les Malezer, "Aspiring to a treaty or constructive arrangement - the experience of Aboriginal peoples and Torres Strait Islander peoples of Australia"

Ronald Barnes, "Indigenous peoples and the United Nations Charter: De-colonization"

Jérémie Gilbert, "Mainstreaming human rights in treaties/agreements between States and indigenous peoples"
