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Agenda Items 3 & 5

**Interactive Dialogue on the Reports of the
Special Rapporteur on the Rights of Indigenous Peoples
Expert Mechanism on the Rights of Indigenous Peoples**

**SPEAKER: LES MALEZER
Foundation for Aboriginal and Islander Research Action**

Mr President

This intervention is by the Foundation for Aboriginal and Islander Research Action. It is also made on behalf of the National Congress of Australia's First Peoples.

We recall the preambular paragraph of the UN Declaration on the Rights of Indigenous Peoples whereby the General Assembly "emphasises that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples". In this regard we welcome the continuing efforts by the Human Rights Council to promote and protect our human rights.

We hope that the High Level Plenary Session of the General Assembly, entitled the World Conference on Indigenous Peoples, will continue positive action by the United Nations that might ensure member States of the UN respect their obligations to respect human rights of all Peoples, as set out under the Charter of the United Nations.

We welcome the developments in the reports submitted under this agenda item in recognition of Indigenous Peoples' right to self-determination. We encourage all States to take note of the recommendations made to advance the self-determination of Indigenous Peoples and to act accordingly.

Mr President

In addressing the report of the Special Rapporteur on the Rights of Indigenous Peoples addressing Extractive Industries we appreciate and support the findings and recommendations.

Restoring the Human Rights and Dignity of the Indigenous Peoples of Australia in the 21st Century

We call upon the Government of Australia in particular to note and respond to this report through engagement with the Aboriginal and Torres Strait Islander Peoples of Australia, through its responses under the Universal Periodic Review, and through other examinations of Australia's human rights achievements.

Mr President

The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) has presented its wide study on Access by Indigenous Peoples to Justice. Addressing the Expert Mechanism Advice No.5 we note the advice does not address the responsibility of States to review their constitutions, laws and judicial processes.

I refer to a recent legal case in Australia, regarding legislation to restrict alcohol to Aboriginal and Torres Strait Islander peoples. The High Court of Australia found such laws are not racially discriminatory. In reaching its conclusion the High Court stated the parliament did not require the free, prior and informed consent of the Aboriginal and Torres Strait Islander Peoples.

In 2009 the Committee on the Elimination of Racial Discrimination had set out minimum standards for 'Special Measures' in its General Comment No. 32, but many of the criteria identified by CERD have not been accepted by the High Court and ultimately the court considers that consultation with Indigenous Peoples by the parliaments is not a pre-requisite for such race-based laws in Australia.

We call upon the legislature and judiciary of Australia to reform their approach to human rights law addressing the rights of Indigenous Peoples, thus to address and divert from historical roots and meet contemporary international human rights standards.

Thanks you, Mr President