RESOLUTION: That the Permanent Forum request the Commission on Sustainable Development (CSD), in conjunction with the other Environment secretariats (eg CBD, CCD, UNFCCC, CITES) compile a report on the implementation of Chapter 26 of Agenda 21 and other relevant chapters, such as Chapter 36 and 15. The report should focus specifically on how these Environment secretariats / agencies are implementing these chapters for Indigenous Peoples in their progress of work under their conventions. The CSD report should be submitted as a written report to the third session of the Permanent Forum on Indigenous Issues.

That the Permanent Forum refer the expert paper prepared by Madam Erica-Irene Diaz, on Heritage Protection for Indigenous Peoples.

In 1992 the Mabo decisions of the High Court gave legal recognition in Australian law to Aboriginal law and traditional knowledge. However, in recent years there have been developments that cause great concern about the recognition of the traditional knowledge and traditional law of the Aboriginal peoples and Torres Strait Islander peoples.

The first case to which I refer is the legal case known as the ‘De Rose Hill’ case, where the Federal Court of Australia ruled that the Yunkunytjatjara / Pitjantjatjara peoples, of the Western Desert region of South Australia had lost ownership because they lost customary connection with their land over a period of a twenty-years.

The Federal Court judge:

- Disregarded the fact that the Yunkunytjatjara were intimidated, by threats of violence, from returning to the land;
- Discounted their connection with land based upon his value of what customary association should represent, and questioned the Yunkunytjatjara association with romantic notions gleaned from historical ethnographic records on tradition and law;
- Refused to accept the validity of contemporary economic and social changes to the community’s structure; and
- Formed a personal opinion that elders were not passing on law to youth, in part because youth were exposed to modern education curricula.

The second case relates to a case known as ‘Hindmarsh Bridge’ where secret ‘women’s business’ was
deliberately maligned by government and judicial officials in order to force urban developments over sacred Aboriginal land of the Ngarrinjeri Peoples.

A recent publication reveals that two government officials, conspired to discredit the traditional knowledge provided by Ngarrinjeri women. A federal government member, Ian McLachlan, had knowingly and deliberately copied and leaked secret information which had been delivered to his parliamentary office in error, and then conspired to discredit the information.

The South Australian government then established a Royal Commission which concluded the secret information was concluded.

Despite recent court findings that there was no reason, and never had been a reason, to believe the evidence of the Ngarrinjeri women had been fabricated, the damage was already done by the construction of the bridge commencing in 1999.

The third and final case which I would like to raise is the decision last week by the Australian government to dump radio-active waste on the lands of the Pitjantjatjara peoples of Central Australia.

Using the ‘national interest’ argument the government chose the Pitjantjatjara site, Arcoona, over a property owned by the Western Mining Corporation and another property close to Woomera defence testing range.

The Western Mining Company, which operates the nearby Olympic Dam uranium mine, is known to have strongly opposed the use of its property.

Also, Arcoona is the furthest of these three locations from the white township of Andamooka.

The traditional owners have campaigned long and hard to oppose the dumping of the nuclear waste, which is generated from a nuclear reactor in Lucas Heights, Sydney, in their region.

In April this year, two of the women elders, Eileen Kampakuta Brown and Eileen Wani Wingsfield, received the Goldman Prize for environmental activism, for their campaign called ‘Irati Wanti’ – ‘the poison, leave it’, but their global recognition provides little satisfaction in these circumstances.

The government has not followed the principles of free, prior and informed consent or acknowledged the traditional ownership of the lands. The government says it is bound to ‘just compensation’ terms under the national constitution, but this provision has never resulted, in one hundred and two years of the constitution, in any compensation to Aboriginal peoples for loss of land.

Mr Chairman, this Permanent Forum is not a complaints forum, and there seems to be no intention by the Australian Government to have its discriminatory practices against the Aboriginal peoples and Torres Strait Islander peoples under scrutiny from any of the United Nations agencies.

Therefore we have drawn attention to the program of action from the Earth Summit, or Rio Conference, of 1992. We believe that the recommendations and actions proposed by that Summit can go a long way towards preventing or alleviating cases such as the ones I have just mentioned, and seek more information from the agencies, through the Commission on Sustainable Development, for further consideration at the next session of the Permanent Forum.