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UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES

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AGENDA ITEM 4a): ECONOMIC AND SOCIAL DEVELOPMENT

Statement by Foundation for Aboriginal and Islander Research Action (FAIRA)

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Thank you, Mr Chairman.

We support the recommendations provided in the intervention on behalf of the Pacific Caucus.

Mr Chairman, in our intervention under this topic last year we raised the issue of commercial use of natural resources and the commercial use of cultural resources. We do not know if there is any UN agency to which we can refer the issue of our Indigenous ownership over such resources and our capacity to engage in commercial exploitation of resources.

We are aware that under the heading of 'sustainable development' there are a growing number of international 'standards' which recognize our right to free, prior and informed consent, and our right to benefit sharing. However our ownership of natural resources seems to be only directly addressed in the discussion of Indigenous rights. For example:

Article 29

Indigenous peoples are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property.

They have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs and visual and performing arts.

Article 30

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. Pursuant to agreement with the indigenous peoples concerned, just and fair compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

We therefore urge the Permanent Forum to consider ways to keep States and international agencies aware of the right of Indigenous Peoples to exercise full control over commercial development of their resources.

In our experience, the British and Australian law did not recognise our existence until 1992 when the High Court ruled in the Mabo case that we hold continuing title to the lands.

Unfortunately, since 1992 the government has legislated away much of our capacity to own and manage our lands. We will be reporting on that in a later statement.

In the past year the Australian courts have made decisions which severely limit our ownership. For example, they say we do not own what lies below the lands, and we do not own what grows or exists on top of the lands. They say we even do not have the right to exclude other people from entering or traversing our lands.

We do not accept these assertions, which are no different to the assertions made in 1788, when they thought they successfully stole our lands.

We raise this matter to say to the Permanent Forum and our Indigenous brothers and sisters that we must emphasise the right of Indigenous Peoples to own and manage the resources.

Mr Chairman, because of the contemporary developments in Australia, under an aggressive, regressive and 'assimilationist' government, we would also like to refer to Article 23 of DRRIP.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

The Australian Government clearly does not believe in this right, because it is taking the steps to remove the budget from ATSIC and to return to 'departmental' control of programs. We have had 100 years of misadministration through government and department controls, yet that does not seem to be a reason for recognising our right to development.

We ask that the Permanent Forum consider ways to educate and inform States, like Australia, of our rights to exist as 'Indigenous Peoples', and to not force assimilation policies upon us.

Again, Mr Chairman, we ask the Australian Government to clarify its position to the Permanent Forum on such key Indigenous rights, like other States have freely done in this session.

END