

Urgent information for Indigenous peoples of all regions

UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

Report of the Global Indigenous Peoples' Caucus Steering Committee

*This report contains the latest and important news on the Declaration
Responses are needed by Tuesday, September 3, 12:00 noon, New York time.
You will find attached four documents for your review.*

In 2006 the Global Indigenous Peoples' Caucus decided by consensus, and thereafter on several occasions confirmed, that Indigenous Peoples' work on the Declaration on the Rights of Indigenous Peoples be coordinated through the Global Indigenous Peoples' Caucus Steering Committee ("Steering Committee"). Members of the Steering Committee are appointed from each of the seven regions of the world consider issues at the global level and to coordinate communications in their regions. Les Malezer, the Pacific regional representative and Chairperson of the Global Indigenous Peoples' Caucus, is convener of the Steering Committee.

The Steering Committee met in New York during the week of August 27-31. (A list of the participating regional coordinators is attached.) This is a report of these meetings.

Background

Since the adoption of the Declaration on the Rights of Indigenous Peoples in June 2006 by the UN Human Rights Council, the Global Indigenous Peoples' Caucus has lobbied hard for the UN General Assembly to endorse the Declaration without changes or amendments. The decision in December 2006 by the UN General Assembly to delay the adoption of the Declaration was a serious setback for this effort. Nevertheless, the Global Indigenous Peoples' Caucus has continued to advocate for the Declaration in New York, in Geneva and around the world.

In recent months, the governments seeking approval of the Declaration adopted by the Human Rights Council – these governments are known as the "Co-sponsors" - have indicated that the achievement of outright adoption in the UN General Assembly was proving to be extremely difficult as they continued to engage in consultations with other states.

In May of 2006 some of the Co-sponsors - Guatemala, Mexico and Peru - engaged in serious discussions in New York with the Africa Group of States (the "Africa Group"). They undertook these consultations to see if an acceptable agreement could be achieved between the Co-sponsors and the Africa Group leading to final adoption of the Declaration.

Such consultations among states were also recommended in the report of Ambassador Davide, the "facilitator" appointed by the President of the UN General Assembly to bring the opposing States closer together.

The Indigenous Peoples Caucus has continued to call for the adoption of the Declaration as adopted by the Human Rights Council. Indigenous peoples have not been included in the discussions between the Co-sponsors and the Africa Group. We also have no capacity to participate in the final decision by the General Assembly.

Developments this week

On Tuesday, August 29, the Co-sponsors met with the Steering Committee to report on their negotiations with the African Group. They reported that this has been a very difficult process, but that they were now very close to an agreement. However, a few details remained unresolved in the negotiations.

They did not present the Steering Committee with any of the language being discussed, and did not go into details as to what the emerging agreement looked like. They did reaffirm that an agreement would need to include a specific reference to State territorial integrity in the Declaration. In return, all key provisions including on land and resource rights, self-determination, free prior and informed consent and treaties remain intact.

The co-sponsors said the reason they had entered into negotiations was that it was clearly impossible to reach an agreement with the African Group that did not include at least some amendments to the Declaration text. The co-sponsor group deems it much too risky to push the Declaration through the General Assembly against opposition from the African Group. Very unfavourable amendments would be introduced during the debate at the General Assembly and it would be impossible to control the outcome. Hence, in the co-sponsor group's assessment it was necessary to enter into text negotiations with the African Group.

The Steering Committee took note of this report from the Cosponsors.

The Committee expressed its appreciation for the co-sponsors' efforts to reach an acceptable agreement on the Declaration. However the Steering Committee emphasised that it would not comment on any arrangement until they had time to see and consider all amending text under the arrangement. The States said they would provide the Steering Committee with the agreed text as soon as a formal agreement with the African Group was confirmed.

The Co-sponsors argued that there is a glaring need to now conclude negotiations and adopt the Declaration. The "opposing" states – predominantly Canada and New Zealand – are reacting strongly to signals that an agreement with the Africa Group might soon be concluded. They are demanding to be included in negotiations and that they have produced proposed language (see attachment) for amendments to the Declaration.

The Co-sponsors expressed the opinion that if the adoption of the Declaration is delayed into the 62nd session of the General Assembly (less than three weeks away) it would be impossible to keep Canada, New Zealand et al – and their proposed amendments - out of the negotiations. The only outcome would, in the co-sponsors' opinion, be a seriously diluted Declaration.

The co-sponsor group confirmed that an agreement with the Africa Group would include a pact to jointly vote down any amendments on the floor of the General Assembly, coming from Canada, or other opposing States.

The Chair of the Steering Committee distributed a document containing the amendments to the Declaration that he foresaw might be included in a negotiated agreement between the co-sponsor group and the African Group. Since these amendments were not confirmed, the Steering Committee decided not to distribute the document. It was considered better to wait for an official text before circulating the agreement in the regions.

Nevertheless, the Steering Committee discussed and analysed the amendments, as foreseen and presented by the committee Chair. The Steering Committee noted that there were much fewer amendments than had been sought by the Africa Group or the Canada Group.

The Steering Committee quickly concluded that, of the envisioned amendments, the one that caused the most concern was the inclusion of a reference to territorial integrity in Article 46. The committee understood that it would be nearly impossible to avoid a reference to territorial integrity in the Declaration. It is evidently too important to many African (and also Asian) states. Some committee members, however, thought that the proposal was discriminatory, and potentially could be harmful to Indigenous peoples and the rights in the Declaration. Other committee members did not see any problem with the proposed language.

Given that an agreement between the co-sponsor group and the African Group was imminent, the Steering Committee recognized that it would be very difficult, probably impossible, to influence the text amendments at this stage. Some committee members proposed that the language on territorial integrity, if it had to be included, should at least be stated in a way that was more consistent with text that already appeared in international law. The committee decided to make an attempt to craft more acceptable language on territorial integrity to be handled over to Mexico for use in the final negotiations with the African Group. Two paragraphs with suggested wording along those lines were drafted to present to the co-sponsors without delay.

On the evening of August 29, the Chair of the Steering Committee together with the Chair of the Permanent Forum, and also regional member of the Steering Committee, Victoria Tauli-Corpuz, met with the co-sponsors and presented the committee's suggested wording for improvements on the language on territorial integrity.

The Co-sponsor/ Africa Agreement

On the afternoon August 30, the government of Mexico informed the Steering Committee by telephone call that the co-sponsor group and the African Group had reached an agreement on the Declaration. On August 31 the co-sponsors met with the Steering Committee and presented the text of the negotiated agreement, which contained nine proposals to change text in the Declaration as passed by the Human Rights Council.

Committee members first thanked the co-sponsors for all their efforts and for being able to successfully reach an agreement with the African Group. The Steering Committee reminded the Co-sponsors that Indigenous peoples in each of the seven regions would now study the

agreement. Following the hasty consultations the Steering Committee would respond to the co-sponsors. The committee agreed to meet with the Co-sponsors after the regional consultations and report back indigenous people's positions on the Declaration with the negotiated changes.

Responding to questions and concerns from members of the Steering Committee, the co-sponsors offered the following information about the agreement:

- In their view this is the final document. The African Group has committed to not come forward with any further request for additional amendments to the Declaration and has agreed to vote against any amendments made on the floor.
- The co-sponsors were satisfied that they had managed to reach an agreement with the African Group that includes amendments to very few of the provisions in the Declaration, in particular compared to the long list of amendments that the African Group initially wanted to see included in the Declaration. The co-sponsors further stated that they were very pleased to present an agreed Declaration that leaves all – in their opinion – the most central articles in the Human Rights Council Declaration intact. These include the articles on self-determination; lands, territories and natural resources; free, prior and informed consent; treaties; and pre-ambular paragraphs recognizing inherent and equal rights of Indigenous peoples.
- The co-sponsors stated that even though, technically speaking, it is not a closed document, in their view it would not be possible to open up the negotiated text for any further refinement by the Indigenous Peoples. Other interested parties – such as opposing states like Canada, New Zealand and the Russian Federation – would also find their way to the negotiating table.
- They further stated that the agreement must be seen as an integrated whole or “package”. This means that if the co-sponsor group would go back to the African Group and attempt to re-negotiate the language on territorial integrity, the African Group would instantly respond by wanting to open up the articles on lands and natural resources for negotiation, which are unchanged from the Human Rights Council text. Hence, in the co-sponsor group's opinion, it is not a viable option for Indigenous peoples to try to further amend the agreed changes as presently drafted. Their interest now is to know whether Indigenous peoples can accept the Declaration or not with the newly negotiated changes.
- They repeated what has always been the case: that the co-sponsors will not go ahead and push for adoption of a Declaration that Indigenous peoples do not want.
- If a Declaration that enjoys the support of the African Group is presented to the UN General Assembly, the co-sponsor group is certain that the vast majority of Asian, Eastern European and Caribbean states will also support the Declaration. Western Europe and Latin America's votes have already been secured. (Currently there are 67 co-sponsors, 15 additional countries who voted in favour of the Human Rights Council resolution and the African Group adds an additional 51 votes.)

- If the Indigenous peoples of the world support the adoption of the Declaration as agreed to by the co-sponsors and the African Group, the co-sponsors believe it will be adopted by the UN General Assembly with an almost unanimous vote, with only very few opposing States.

Discussions regarding changes to Article 46 and “territorial integrity”

The co-sponsors were well aware that many Indigenous peoples had argued for many years against the inclusion of a provision upholding state territorial integrity in the Declaration. They explained that they understood that this might be the most difficult provision for Indigenous peoples to accept in the newly negotiated text. They also once again expressed that an agreement with the African Group would not be possible without this inclusion.

Members of the Steering Committee again asked the co-sponsors why their suggested wording on territorial integrity had not been included in the final agreed changes. The co-sponsor group reported that it was not possible to include the language on territorial integrity submitted by the Steering Committee, because it would have led to the African Group insisting on opening up the land and resource articles for changes.

They further stated that in their view it is not necessary to include the language on territorial integrity that could make the provision to more acceptable Indigenous peoples, since that language is already included in the Declaration, through reference to the Vienna Declaration and Programme of Action in the preamble.

Other Steering Committee members asked that if in the view of the co-sponsors the provision on territorial integrity now included in Article 46 would affect all the rights in Declaration since the paragraph begins “Nothing in this Declaration may be interpreted as implying...”. The co-sponsors responded that in existing international law, territorial integrity is clearly tied to the exercise of the right to self-determination and therefore would not be construed as affecting other rights.

In further discussion, members of the Steering Committee responded to concerns expressed for Indigenous peoples’ territorial integrity by affirming that in their view Article 26 left intact in fact recognizes Indigenous peoples’ territorial integrity over lands they have traditionally owned and occupied. Article 37 on treaties further affirms these rights.

Indigenous peoples’ responses needed immediately

The Steering Committee is immediately sending out the Declaration as agreed by the co-sponsor group and the African Group. This document is going to Indigenous peoples globally.

This is obviously a decisive moment in the history of Indigenous peoples struggle for respect and recognition of our rights. **Indigenous peoples must now decide whether they can now accept the Declaration or not**, with the new changes. As agreed by the Global Indigenous Caucus, we now require an orderly process to decide on the Declaration.

To register your position on the Declaration, please *do not contact the states directly*, or circulate your position through list-serves etc.

Please convey your opinions to the regional coordinator in your region. The regional coordinators will report back to the Steering Committee on the responses from each region. The Steering Committee will let the co-sponsor group know whether Indigenous peoples support adoption of the Declaration with the changes or not. By using this agreed manner of communicating, we avoid confusion and disclosing of information that can be used by opposing states.

The regional coordinators need to receive your responses by Tuesday, September 4 at 12:00 noon, New York time.

The Steering Committee will meet with co-sponsors, to deliver the results of the consultations. If the message is that Indigenous peoples can support the Declaration with the changes, the co-sponsor group will set meetings with other States, notably the Asian and the Eastern European Groups at the end of the week to present the agreed Declaration to them.

Please consider the attached documents.

In taking a position on the Declaration, indigenous representatives may find it helpful to also study the African Proposal and the proposed amendments to the Declaration tabled by Canada et al. The African Proposal shows the starting point for the African Group coming into the negotiations, and the kinds of amendments that could potentially be presented on the floor. The Canada et al document shows proposed amendments that would have to be considered in any negotiations that go beyond General Assembly's 61st session.

Attached are the following documents:

- Declaration with changes ("Co-sponsor/ Africa agreed draft"). *Changes are highlighted.*
- The Canada/ New Zealand/ Russia/ Colombia proposal ("Canada et al Proposals").
- The Africa proposed amendments submitted in May 2007 ("Africa May Proposals").
- A list of the regional coordinators and their contact information.

There are very different kinds of amendments contained in these documents: the Africa Proposed Amendments contains changes to 36 provisions and the Canada et al Proposal contains changes to 20 provisions. The new Co-sponsor/ Africa agreed draft has nine amendments.

The Steering Committee is meeting with the co-sponsor group late Tuesday afternoon or early Wednesday morning, we will need you comments by Tuesday 12:00 noon. We regret the short time given to you on such an important matter, but we are not in charge of the time table. The vote on the Declaration must take place before the end of the 61st Session of the General Assembly on September 17.

Keep watch. In some regions there will be follow-up messages from the regional coordinators shortly. Again, please respond to them as soon as possible.

LIST OF REGIONAL COORDINATORS

GLOBAL INDIGENOUS PEOPLES' STEERING COMMITTEE MEMBERS PRESENT AT MEETING – AUGUST 27-31, 2007

Africa	Saodata Aboubacrine	saodata@hotmail.com
Arctic	Mattias Ahren	mattias.ahren@saamicouncil.net
Asia	Joan Carling	joan@cpaphils.org
Asia	Vicky Tauli-Corpuz	vicky@tebtebba.org
Latin America & Caribbean	Jose Carlos Morales	kantan@ice.co.cr
North America	Andrea Carmen	andrea@treatycouncil.org
North America	Chief Ed John	edjohn@fns.bc.ca
Pacific	Les Malezer (Chairperson)	les.malezer@faira.org.au
Pacific	Mililani Trask	gibson@ilhawaii.net
Russia and Eastern Europe	Mikail Todyshev	mtodishev@mail.ru

United Nations Declaration on the Rights of Indigenous Peoples

The Human Rights Council General Assembly

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming also that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Further recognizing the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing also that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

~~*Recognizing that indigenous peoples have the right freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect,*~~

Considering that the rights affirmed in treaties, agreements and constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights **as well as the Vienna Declaration and Programme of Action**, affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right of self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing also that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect,

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(d) Any form of forced assimilation or integration ~~by other cultures or ways of life imposed on them by legislative, administrative or other measures;~~

(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately-owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

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 be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, of a just, fair and equitable compensation, for the lands, territories and

resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a **significant threat to** relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed

consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of **their** mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of Treaties, Agreements and Other Constructive Arrangements concluded with States or their successors and to have States honour and respect such Treaties, Agreements and other Constructive Arrangements.

2. Nothing in this Declaration may be interpreted as to diminish or eliminate the rights of Indigenous Peoples contained in Treaties, Agreements and Constructive Arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to have access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States, shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of

the United Nations **or construed as authorizing or encouraging any action which would dismember or impair totally or in part, the territorial integrity or political unity of sovereign and independent States.**

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law; **and** in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

PROPOSAL BY AFRICA – 8 MAY 2007
DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The General Assembly

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin, racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources, **in accordance with the national laws,**

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in **applicable existing** treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring an end to all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources, **where appropriate,** will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the **demilitarization** of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world (**Seek clarification of what is meant by demilitarization**)

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the **international instruments on the rights of the child**,

Recognizing that indigenous peoples have the right **on equal basis with other citizens to freely** ~~freely to~~ determine their relationships with state in a spirit of coexistence, mutual benefit and full respect,

Considering that the rights affirmed in **applicable existing** treaties, agreements and constructive arrangements between States and indigenous are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, , the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right of self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and Indigenous peoples, based on principles of **territorial integrity, sovereignty**, justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples, (**Seek clarification on what is meant by “collective rights which are indispensable...”**)

Recognizing that the situation of indigenous peoples varies from region to region, country to country and from community to community, every country or region shall have the prerogative to define who constitutes indigenous people in their respective countries or regions taking into account its national or regional peculiarities. (African Group Proposal)

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the rights to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right to ~~self-determination. By virtue of that right they—freely determine their political status and freely~~ **participate in the political affairs of the State and to** pursue their economic, social and cultural development **on an equal basis with others.**

Article 4

~~Indigenous peoples, in exercising their right to self-determination,~~ **indigenous peoples** have the right, to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions **in accordance with the provisions of national laws.**

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State **where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights.**

5bis. The application of paragraph 1 of article 5 shall not prevent the indigenous people from exercising their rights granted to all citizens and from assuming the corresponding duties

Article 6

Every indigenous individual has the right to nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanism for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their, cultural values or ethnic identities;
 - (b) **Subject to the applicable legal system**, any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) **Subject to the applicable legal system** any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration by other cultures ~~or ways of life imposed on them by legislative, administrative or other measures;~~

- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right. **This right shall be exercised in accordance with the rule of law, respect for national boundaries and the principle of national and territorial integrity. Agreed**

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place, without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, development in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

3. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
4. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems

and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish, **in accordance with the provisions of national laws**, and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own language and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, *inter alia*, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making, in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. **This right shall be exercised in accordance with the constitutions and national laws of States.**

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions **in accordance with the provisions of national laws**, to be secure in the enjoyment of their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress. **(OK)**

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, *inter alia*, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection guarantees against all forms of violence and discrimination.

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 be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standards of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationships with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources, and to uphold their responsibilities to future generations in this regard.

Article 26

1. **Subject to the provisions of national laws**, indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired
2. **This includes** ~~Indigenous peoples have~~ the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned **as well as the national laws of the country concerned.**

Article 27

States shall establish and implement, in conjunction with indigenous people concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws **where appropriate**, traditions, customs and land tenure system, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. **Subject to the provisions of national laws**, indigenous peoples have the right to redress, by means that can include restitution or, when this no possible, or a just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which they have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of land, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.

States shall establish and implant assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

- ~~1. Military activities shall not take place in the land or territories of indigenous peoples, unless justified by a significant threat to relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.~~
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunctions with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories, **where applicable**, and other resources.
3. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands

or territories and other resources, particularly in connection with the development, utilization or exploitation of ~~their~~ minerals, water or other resources.

2. States shall provide effective mechanisms for just and fair redress for any other activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with **national laws and** international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibility of individuals to their communities.

Article 36

1. **States shall take appropriate measures to enable** indigenous peoples, in particular those divided by international borders, ~~have the right~~ to maintain and develop contacts, ~~relations and cooperation~~, including activities for spiritual, cultural, ~~political~~, economic and social purposes, with their own members as well as other communities peoples across borders.
2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right **where applicable** to the recognition, observance and enforcement of **existing** treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as to diminish or eliminate the rights of Indigenous Peoples contained in **existing** treaties, agreements and constructive arrangements.

Article 38

States in conjunction and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration. **(This Article should come after Article 42)**

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation **in accordance with national laws**, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right, **on equal basis with other citizens**, to have access to and prompt decision through just, fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provision of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights of indigenous peoples have now or may acquired in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations.
2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law, in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.
3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of **territorial integrity, sovereignty**, justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

Permanent Mission of Canada
Permanent Mission of Colombia
Permanent Mission of New Zealand
Permanent Mission of the Russian Federation

Excellency,

Re: Draft Declaration on the Rights of Indigenous Peoples

The Permanent Missions of Canada, Colombia, New Zealand and the Russian Federation are pleased to forward to you the attached non-paper on the Draft Declaration on the Rights of Indigenous Peoples.

This non-paper is a contribution to the ongoing discussions. It has been prepared by a cross-regional group of States, and offers possible amendments to address key concerns with the current Declaration text. These suggestions focus on a limited number of key Articles, with a view to providing "clear and tangible adjustments" to the text using a "minimal change" approach. As has been observed by the Facilitator, "action on the current text of the Declaration, without allowing room for certain adjustments to address the concerns raised, might result in wide-ranging polarizations ... among Member States." We are committed to finalizing the text of the Declaration during UNGA61, and we stand ready to discuss our proposals with other delegations. It is in this spirit that we add these suggestions to other proposals for change that are being considered, and reiterate our desire for negotiations as the best means to build a greater consensus for a final Declaration text.

August 13, 2007

[Please note that this document does not place Articles of the *UN Declaration on the Rights of Indigenous Peoples* in numerical order.]

Draft UN Declaration on the Rights of Indigenous Peoples

Non-Paper on Proposed Amendments

Articles: 3, 4, 10, 11, 19, 26, 27, 28, 29, 30, 31, 32(2), 46 (13Articles)

International Law, National Constitutional Frameworks and Third Party Rights

Article 46

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law, **in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary** solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just **and most compelling** requirements of a democratic society. **Any such limitations shall be non-discriminatory.**

3. The provisions set forth in this Declaration shall be interpreted in accordance with **international law, constitutional frameworks and** the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith. **The Declaration shall not be construed as authorising or encouraging any actions to nullify or impair agreements, arrangements or settlements between indigenous peoples and the State.**

Self-Determination, Self-Government and Indigenous Institutions

Article 3

Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2bis In accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, this shall not be construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principles of equal rights and self-determination of peoples and thus possessed of a government representing the whole population belonging to the territory without distinction of any kind.

Article 4

Indigenous peoples, in exercising **the right of** self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions, **in cooperation with the State.**

Lands, Territories and Resources

Article 26

1. Indigenous peoples have **the** rights to the lands, territories and resources which they **own, and may have rights to the lands, territories and resources which they** have traditionally owned, occupied or otherwise used **or acquired.**
2. **This may include Indigenous peoples have** the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection **to rights** to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 29

2. States shall take effective measures to ensure that no storage or disposal of hazardous **materials waste** shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by **such hazardous** materials, are duly implemented.

Veto Power over the State

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions **in order to obtain their free, prior and informed consent** before adopting and implementing legislative or administrative measures that may affect them.

Article 32(2)

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions **in order to obtain their free, prior and informed consent** prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of their mineral, water or other resources.

Military Issues and the Protection of People on the Territory of the State

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories, **unless justified by a significant public interest**. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned **where possible**, and just and fair compensation and, where possible, with the option of return.

Article 30

1. Military activities shall **not only** take place in the lands or territories of indigenous peoples, **unless where** justified by a significant **threat to relevant** public interest or otherwise freely agreed with or requested by the indigenous peoples concerned, **in accordance with constitutional frameworks**.
2. **Where military activities take place by agreement or upon request**, States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Consistency with International Intellectual Property Rights

Article 11

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, **protect preserve** and develop the past, present and future **tangible** manifestations of their cultures, **such as that may include** archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

Article 31

1. Indigenous peoples have the right to maintain, **control, protect preserve** and develop their cultural heritage, traditional knowledge and traditional cultural expressions, **as well as which may include** the manifestations of their sciences, technologies and cultures, human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also **may** have the right to maintain, control, protect and develop **their** intellectual property rights over such cultural heritage, traditional knowledge, and traditional cultural expressions.

Redress and Restitution

Article 11.

2. States shall provide **redress through** effective mechanisms **for redress**, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, **intellectual**, religious and spiritual property taken without their free, prior and informed consent **or in violation of their laws, traditions and customs**.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, **effective mechanisms including** a fair, independent, impartial, open and transparent process, giving due **recognition consideration** to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and **adjudicate the rights resolve the claims** of indigenous peoples pertaining to **their** lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to **pursue claims for** redress, **by means** that can include restitution or, when this is not possible, of a just, fair and equitable

compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. **Unless otherwise freely agreed upon by the peoples concerned, Compensation shall may** take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Información Urgente para los Pueblos Indígenas de todas las regiones

DECLARACION DE LAS NACIONES UNIDAS SOBRE LOS DERECHOS DE LOS PUEBLOS INDIGENAS

Informe del Comité Directivo del Conclave Mundial de los Pueblos Indígenas

Este informe contiene las noticias más actualizadas e importantes sobre la Declaración. Se requieren recibir sus respuestas a más tardar el martes 4 de septiembre a mediodía tiempo de Nueva York. Hay cuatro documentos anexados para su revisión.

En 2006 el Conclave Mundial de los Pueblos Indígenas decidió por consensos, y desde entonces ha confirmado esta decisión en varias ocasiones, que el trabajo de los Pueblos Indígenas sobre la Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas se coordinará a través del Comité Directivo del Conclave Mundial de los Pueblos Indígenas (el Comité Directivo). Integrantes del Comité Directivo se designan de cada uno de las siete regiones del mundo para considerar temas al nivel internacional y para coordinar comunicaciones en sus regiones. Les Malezer, el representante de la región del Pacífico y el Presidente del Conclave Mundial de los Pueblos Indígenas, convoca al Comité Directivo.

El Comité Directivo se reunió en Nueva York durante la semana de 27 al 31 de agosto. (Se anexa una lista de los coordinadores regionales.) Esto es un informe de estas reuniones.

Antecedentes

Desde la aprobación de la Declaración sobre los Derechos de los Pueblos Indígenas en junio de 2006 por el Consejo de Derechos Humanos de las Naciones Unidas, el Conclave Mundial de los Pueblos Indígenas ha hecho cabildeo intensamente para lograr que la Asamblea General de la ONU aprueba la Declaración sin cambios ni enmiendas. En diciembre de 2006 la Asamblea General de la ONU decidió posponer la votación sobre la Declaración que fue un grave contratiempo. Sin embargo, el Conclave Mundial de los Pueblos Indígenas ha seguido luchando para la Declaración en Nueva York, Ginebra y en todo el mundo.

En los últimos meses, los gobiernos a favor de la aprobación de el texto de la Declaración aprobada por el Consejo de Derechos Humanos - es decir, los gobiernos conocidos como los "Co-Patrocinadores" - han indicado que se han dado cuenta en base en sus consultas con otros estados que se veía bastante difícil lograr la aprobación de este texto en la Asamblea General de la ONU.

En mayo de 2006 algunos de los Co-Patrocinadores – Guatemala, México y Perú – entablaron diálogos en Nueva York con el Grupo de Estados Africanos (el “Grupo Africano”). Los Co-Patrocinadores llevaron a cabo consultas para averiguar si se podría llegar a un acuerdo aceptable entre los Co-Patrocinadores y el Grupo Africano para lograr la aprobación final de la Declaración.

El Embajador Davide, el “facilitador” designado por la Presidenta de la Asamblea General de la ONU, también recomendó en su informe que se llevaran a cabo consultas entre los estados con posiciones encontradas para lijar diferencias.

El Conclave de los Pueblos Indígenas ha insistido en la aprobación de la Declaración tal como fue aprobado por el Consejo de Derechos Humanos. Los Pueblos Indígenas no han sido incluidos en las discusiones entre los Co-Patrocinadores y el Grupo Africano. Tampoco podemos participar en la toma de la decisión final por la Asamblea General.

Acontecimientos de esta semana

El martes, 29 de agosto, los Co-Patrocinadores se reunieron con el Comité Directivo para informar sobre los avances en las negociaciones con el Grupo Africano. Informaron que ha sido un proceso muy difícil, pero que estaban a punto de llegar a un acuerdo. Sin embargo, quedaron pendientes algunas detalles no resueltos en las negociaciones.

Los Co-Patrocinadores no dieron copia del texto negociado y no explicaron en detalle el perfil del acuerdo emergente. Pero sí indicaron que el acuerdo necesitaba incluir en la Declaración una referencia específica a la integridad territorial de los Estados. A cambio, quedaron sin enmiendas todas las disposiciones claves incluyendo las sobre los derechos a la tierra y recursos, a la libre-determinación, consentimiento libre, previo e informado y a los tratados.

Los Co-Patrocinadores dijeron que decidieron entrar en negociaciones porque era claro que era imposible llegar a un acuerdo con el Grupo Africano sin incluir algunas enmiendas al texto de la Declaración. El grupo de los Co-Patrocinadores concluyó que era demasiado arriesgado ir a la votación en la Asamblea General con la oposición del Grupo Africano. A hacerlo así, se presentarían enmiendas muy poco favorables durante el debate en la Asamblea General y no se podría controlar el resultado. Por lo tanto, la evaluación del Grupo de los Co-Patrocinadores era que se necesitaba entrar en negociaciones del texto con el Grupo Africano.

El Comité Directivo tomó nota de este informe de los Co-Patrocinadores.

El Comité agradeció a los Co-Patrocinadores por sus esfuerzos encaminados a llegar a un acuerdo aceptable sobre la Declaración. Sin embargo, el Comité Directivo enfatizó que no comentará sobre cualquier arreglo hasta hubieron podido verlo y estudiar el texto con las enmiendas. Los Estados dijeron que proporcionarían el texto acordado al Comité Directivo en cuanto se confirmara el acuerdo formal con el Grupo Africano.

Los Co-Patrocinadores señalaron que era urgente concluir las negociaciones y aprobar la Declaración. Los estados “de oposición” –sobre todo Canadá y Nueva Zelanda –están inquietados por los señales que se estaba a punto de lograr un acuerdo con el Grupo Africano. Están exigiendo que se les incluyera en las negociaciones y avisaron que tienen propuestas de texto para hacer enmiendas a la Declaración. (Se anexa su propuesta).

Los Co-Patrocinadores expresaron la opinión que si la aprobación de la Declaración se pospone hasta la sesión 62 de la Asamblea General (que comienza en menos que tres semanas) sería imposible seguir excluyendo a Canadá, Nueva Zelanda y otros estados –y sus propuestas de enmiendas – de las negociaciones. En la opinión de los Co-Patrocinadores, el único resultado sería que se diluirá gravemente la Declaración.

El Grupo de los Co-Patrocinadores confirmaron que el acuerdo con el Grupo Africano incluirá un compromiso de votar en bloque en contra de cualquier enmienda presentada por Canadá u otros estados de oposición en la plenaria de la Asamblea General a la hora de la votación.

En la reunión cerrada del Conclave, el Presidente del Comité Directivo distribuyó un documento conteniendo las enmiendas a la Declaración que él anticipaba podrían ser incluidas en el acuerdo negociado entre el Grupo de los Co-Patrocinadores y el Grupo Africano. Porque no estaban confirmadas estas enmiendas, el Comité Directivo decidió no distribuir el documento. Se consideró mejor esperar el texto oficial antes de distribuir el acuerdo a las regiones.

Sin embargo, el Comité Directivo discutió y analizó las enmiendas, en base del documento presentado por el Presidente del texto anticipado. El Comité Directivo tomó nota que habían muchas menos enmiendas que el Grupo Africano o el Grupo de Canadá habían presentado.

El Comité Directivo rápidamente concluyó que de las enmiendas anticipadas, la mas preocupante era la inclusión de una referencia a la integridad territorial en el Artículo 46. El Comité comprendió que era casi imposible evitar la inclusión en la Declaración de una referencia a la integridad territorial. Obviamente esta referencia resulta demasiado importante para los Estados Africanos (y también Asiáticos). Sin embargo, algunos integrantes del Comité consideraron que la propuesta era discriminatoria y podría ser dañina para los Pueblos Indígenas y los derechos contenidos en la Declaración. Otros integrantes del comité no vieron ningún problema con el texto propuesto.

Tomando en cuenta que un acuerdo entre el Grupo de los Co-Patrocinadores y el Grupo Africano era eminente, el Comité Directivo reconoció que seria muy difícil, si no imposible, influir las enmiendas al texto en esta etapa. Algunos integrantes del Comité propusieron que si necesariamente se iba a incluir el texto sobre integridad territorial, que por lo menos se debiera redactar de tal forma que sería más consistente con texto que ya existe en derecho internacional. El Comité decidió intentar proponer textos sobre integridad territorial que se entregaría a México para las negociaciones finales con el

Grupo Africano. En ese sentido, se redactó dos párrafos para presentar sin ninguna demora a los Co-Patrocinadores.

En la noche del 29 de agosto, el Presidente del Comité Directivo y la Presidenta del Foro Permanente quien es también integrante regional del Comité Directivo, Victoria Tauli-Corpuz, se reunieron con los Co-Patrocinadores y presentaron la redacción propuesta por el Comité para mejorar el texto sobre integridad territorial.

El Acuerdo entre los Co-Patrocinadores y África

En la tarde del 30 de agosto, el gobierno de México avisó por teléfono al Comité Directivo que el Grupo de los Co-Patrocinadores y el Grupo Africano habían llegado a un acuerdo sobre la Declaración. El 31 de agosto, los Co-Patrocinadores se reunieron con el Comité Directivo y presentaron el texto del acuerdo negociado lo cual contiene nueve propuestas de cambios al texto de la Declaración aprobado por el Consejo de Derechos Humanos.

En primer lugar, los integrantes del Comité agradecieron a los Co-Patrocinadores por todos sus esfuerzos y por haber llegado exitosamente a un acuerdo con el Grupo Africano. El Comité Directivo recordó a los Co-Patrocinadores que los Pueblos Indígenas de cada una de las siete regiones ahora tendrán que estudiar el texto del acuerdo. Se les avisó que después de consultar oportunamente con las regiones, el Comité Directivo responderá a los Co-Patrocinadores. El Comité se comprometió a reunirse con los Co-Patrocinadores después de las consultas regionales para informarles sobre las posiciones de los Pueblos Indígenas sobre las enmiendas negociadas.

En respuesta a las preguntas y preocupaciones de los integrantes del Comité Directivo, los Co-Patrocinadores proporcionaron la siguiente información sobre el acuerdo:

- Los Co-Patrocinadores consideran que eso es el documento final. El Grupo Africano se ha comprometido a no solicitar enmiendas adicionales a la Declaración y a votar en contra de cualquier nueva enmienda presentada a la hora de la votación.
- Los Co-Patrocinadores estaban satisfechos porque habían logrado llegar a un acuerdo con el Grupo Africano, que tiene pocas enmiendas a las disposiciones de la Declaración, sobre todo si se le compara con la larga lista de enmiendas que el Grupo Africano originalmente propuso para inclusión en la Declaración. Además los Co-Patrocinadores señalaron que les complace presentar un texto de la Declaración que, en su opinión, deja intactos los artículos más medulares del texto de la Declaración aprobado por el Consejo de Derechos Humanos. Estos artículos incluyen los artículos sobre libre-determinación; tierras, territorios y recursos naturales; consentimiento libre, previo e informado y los párrafos preambulares; que reconocen los derechos inherentes e iguales de los Pueblos Indígenas.

- Los Co-Patrocinadores señalaron que, aunque formalmente no es un documento cerrado, en su opinión no sería posible abrir el texto negociado a los insumos de los Pueblos Indígenas sin que otras partes interesadas, tales como estados de oposición como Canadá, Nueva Zelanda y la Federación Rusa también participaran en las negociaciones.
- Además los Co-Patrocinadores manifestaron que el acuerdo se tiene que entender como un conjunto o “un paquete”. Eso significa que si el grupo de Co-Patrocinadores se reúne otra vez con el Grupo Africano para intentar renegociar el texto sobre integridad territorial, el Grupo Africano de inmediato contestaría que quiere abrir y renegociar los artículos sobre tierras y recursos naturales, los cuales en el acuerdo final quedaron sin cambios al texto aprobado por el Consejo de Derechos Humanos. Por lo tanto en la opinión del Grupo de los Co-Patrocinadores intentar cambiar el texto acordado no es una opción viable para los Pueblos Indígenas. Ahora los Co-Patrocinadores quieren saber si los Pueblos Indígenas pueden aceptar o no la Declaración con las enmiendas negociadas.
- Los Co-Patrocinadores reiteraron lo que siempre han mantenido: que los Co-Patrocinadores no impulsarán la aprobación de una Declaración que los Pueblos Indígenas rechazan.
- Si una Declaración que cuenta con el apoyo del Grupo Africano se presenta a la Asamblea General de la ONU, el Grupo de los Co-Patrocinadores tiene la certeza que la gran mayoría de los Estados de Asia, Europa del Este y del Caribe votarán a favor de la Declaración. Ya están asegurados los votos de Europa de Oeste y América Latina. (Actualmente se cuenta con 67 co-patrocinadores, 15 países adicionales que votaron a favor de la resolución del Consejo de Derechos Humanos y el apoyo del Grupo Africano añade 51 votos adicionales.)
- Si los Pueblos Indígenas del mundo apoyan la aprobación del texto de la Declaración acordado por los Co-Patrocinadores y el Grupo Africano, los Co-Patrocinadores creen que se aprobará por la Asamblea General de la ONU casi por unanimidad, con muy pocos estados votando en contra.

Discusiones sobre las enmiendas al Artículo 46 y “integridad territorial”

Los Co-Patrocinadores estaban bien consientes que muchos Pueblos Indígenas habían argumentado por muchos años contra la inclusión en la Declaración de una disposición reconociendo la integridad territorial de los Estados. Explicaron que comprendieron que para que los Pueblos Indígenas aceptaran esta enmienda del texto negociado podría ser la más difícil. También reiteraron que no sería posible tener un acuerdo con el Grupo Africano sin incluir esta enmienda.

Integrantes del Comité Directivo preguntaron a los Co-Patrocinadores porqué la propuesta del Comité Directivo sobre integridad territorial no se había incluido en el acuerdo final. El Grupo de Co-Patrocinadores informaron que no era posible incluir el

texto sobre integridad territorial entregado por el Comité Directivo porque su inclusión hubiera desembocado en que el Grupo Africano insistiera en abrir y cambiar los artículos sobre tierras y recursos.

Además los Co-Patrocinadores manifestaron que en su opinión no es necesario incluir las modificaciones al texto sobre integridad territorial que hacen la disposición más aceptable a los Pueblos Indígenas, porque estas modificaciones están incluidas implícitamente en el preámbulo de la Declaración con la referencia a la Declaración de Viena y el Programa de Acción.

Otros integrantes del Comité Directivo preguntaron si los Co-Patrocinadores consideran que la disposición sobre integridad territorial incluido en el Artículo 46 afectará a todos los derechos en la Declaración tomando en cuenta que el párrafo comienza “Nada de lo señalado en la presente Declaración se interpretará en el sentido de que confiera...” Los Co-Patrocinadores respondieron que en el derecho internacional existente, la integridad territorial está claramente ligada al ejercicio del derecho a la libre determinación y por lo tanto no se entenderá en el sentido de que afecta a otros derechos.

Algunos integrantes del Comité Directivo respondieron a las preocupaciones de los Pueblos Indígenas sobre integridad territorial afirmando que en su opinión el hecho de que el Artículo 26 quedó intacto reconoce la integridad territorial de los Pueblos Indígenas sobre las tierras que han poseído u ocupado tradicionalmente. El Artículo 37 sobre tratados también afirma esos derechos.

Se requieren inmediatamente las respuestas de los Pueblos Indígenas

El Comité Directivo esta enviando inmediatamente la Declaración tal como fue acordada por el Grupo de Co-Patrocinadores y el Grupo Africano. Este documento se envía a los Pueblos Indígenas del mundo.

Obviamente esto constituye un momento decisivo en la historia de la lucha de los Pueblos Indígenas para el respeto y reconocimiento de nuestros derechos. **Los Pueblos Indígenas tienen que decidir ahora si pueden aceptar o no la Declaración** con las nuevas enmiendas. Tal como acordó el Conclave Mundial de los Pueblos Indígenas, ahora necesitamos un proceso ordenado para decidir sobre la Declaración. Para registrar tu posición, por favor *no se comuniquen directamente con los Estados*, ni tampoco circulen su posición a través de listas de correo electrónico, etc.

Por favor comuniquen sus opiniones al Coordinador Regional de su región. Los coordinadores regionales van a informar al Comité Directivo sobre las respuestas de cada región. El Comité Directivo avisará al Grupo de Co-Patrocinadores si los Pueblos Indígenas apoyan u no la aprobación de la Declaración con las enmiendas. Aprovechamos esta forma acordada de comunicarnos para evitar confusión y no divulgar información que puede ser utilizada por los estados de la oposición.

Los Coordinadores Regionales necesitan recibir sus respuestas a más tardar el martes 4 de septiembre al mediodía tiempo de New York.

El Comité Directivo se va a reunir con los Co-Patrocinadores para entregar los resultados de las consultas. Si el mensaje es que los Pueblos Indígenas pueden apoyar la Declaración con las enmiendas, el Grupo de los Co-Patrocinadores concertará reuniones al final de la semana con otros Estados, especialmente con los Grupos de Asia y Europa del Este, para presentarles la versión acordada de la Declaración.

Favor de revisar los documentos anexos

Para tomar una posición sobre la Declaración, puede resultar útil para los representantes Indígenas revisar la Propuesta Africana y las enmiendas propuestas a la Declaración presentadas por Canadá y otros. La Propuesta Africana demuestra la posición del Grupo Africano al comienzo de las negociaciones y el tipo de enmiendas que se hubieran podido presentar a la hora de la votación. El documento de Canadá y otros demuestra las enmiendas propuestas que se tendrán que considerar si las negociaciones van más allá de la sesión 61 de la Asamblea General.

Anexados se encuentran los siguientes documentos:

- La Declaración con las enmiendas (Borrador acordado por los Co-Patrocinadores y el Grupo Africano). Cambios al texto señalado en amarillo.
- La propuesta de Canadá/Nueva Zelanda/Rusia/Colombia (Propuesta de Canadá y otros).
- La propuesta de enmiendas del Grupo Africano de mayo del 2007 (Propuesta África mayo).
- La lista de los coordinadores regionales y sus datos.

Existen muy diferentes tipos de enmiendas en esos documentos: la Propuesta de enmiendas del Grupo Africano contienen cambios a 36 disposiciones y la propuesta de Canadá y otros contienen enmiendas a 20 disposiciones. El borrador de la Declaración acordado por los Co-Patrocinadores y el Grupo Africano tienen nueve enmiendas.

El Comité Directivo se reunirá con el Grupo de Co-Patrocinadores en la tarde del martes o temprano el miércoles en la mañana. Necesitamos sus comentarios a más tardar el martes a mediodía tiempo de New York. Lamentamos que hay tan poco tiempo para un asunto tan importante, pero los calendarios políticos no dependen de nosotros. La votación sobre la Declaración se tiene que llevar a cabo antes del final de la sesión 61 de la Asamblea General que concluye el 17 de septiembre.

Manténgase alertos. En algunas regiones, puede ser que los Coordinadores envíen mensajes de seguimiento a la brevedad. Favor de responder a cualquier comunicación lo más pronto posible.

Declaración de las Naciones Unidas sobre los derechos de los pueblos indígenas

The General Assembly,

Guiado por los propósitos y principios de la Carta de las Naciones Unidas, y la buena fe en el cumplimiento de las obligaciones asumidas por los Estados de acuerdo con la Carta,

Afirmando que los pueblos indígenas son iguales a todos los demás pueblos y reconociendo al mismo tiempo el derecho de todos los pueblos a ser diferentes, a considerarse a sí mismos diferentes y a ser respetados como tales,

Afirmando también que todos los pueblos contribuyen a la diversidad y riqueza de las civilizaciones y culturas, que constituyen el patrimonio común de la humanidad,

Afirmando además que todas las doctrinas, políticas y prácticas basadas en la superioridad de determinados pueblos o personas o que la propugnan aduciendo razones de origen nacional o diferencias raciales, religiosas, étnicas o culturales son racistas, científicamente falsas, jurídicamente inválidas, moralmente condenables y socialmente injustas,

Reafirmando que, en el ejercicio de sus derechos, los pueblos indígenas deben estar libres de toda forma de discriminación,

Preocupado por el hecho de que los pueblos indígenas hayan sufrido injusticias históricas como resultado, entre otras cosas, de la colonización y enajenación de sus tierras, territorios y recursos, lo que les ha impedido ejercer, en particular, su derecho al desarrollo de conformidad con sus propias necesidades e intereses,

Consciente de la urgente necesidad de respetar y promover los derechos intrínsecos de los pueblos indígenas, que derivan de sus estructuras políticas, económicas y sociales y de sus culturas, de sus tradiciones espirituales, de su historia y de su concepción de la vida, especialmente los derechos a sus tierras, territorios y recursos,

Consciente también de la urgente necesidad de respetar y promover los derechos de los pueblos indígenas afirmados en tratados, acuerdos y otros arreglos constructivos con los Estados,

Celebrando que los pueblos indígenas se estén organizando para promover su desarrollo político, económico, social y cultural y para poner fin a todas las formas de discriminación y opresión dondequiera que ocurran,

Convencido de que el control por los pueblos indígenas de los acontecimientos que los afecten a ellos y a sus tierras, territorios y recursos les permitirá mantener y reforzar sus instituciones, culturas y tradiciones y promover su desarrollo de acuerdo con sus aspiraciones y necesidades,

Considerando que el respeto de los conocimientos, las culturas y las prácticas tradicionales indígenas contribuye al desarrollo sostenible y equitativo y a la ordenación adecuada del medio ambiente,

Destacando la contribución de la desmilitarización de las tierras y territorios de los pueblos indígenas a la paz, el progreso y el desarrollo económicos y sociales, la comprensión y las relaciones de amistad entre las naciones y los pueblos del mundo,

Reconociendo en particular el derecho de las familias y comunidades indígenas a seguir compartiendo la responsabilidad por la crianza, la formación, la educación y el bienestar de sus hijos, en observancia de los derechos del niño,

Reconociendo que los pueblos indígenas tienen el derecho de determinar libremente sus relaciones con los Estados en un espíritu de coexistencia, beneficio mutuo y pleno respeto;

Considerando que los derechos afirmados en los tratados, acuerdos y arreglos constructivos entre los Estados y los pueblos indígenas son, en algunas situaciones, asuntos de preocupación, interés y responsabilidad internacional, y tienen carácter internacional,

Considerando también que los tratados, acuerdos y demás arreglos constructivos, y las relaciones que éstos representan, sirven de base para el fortalecimiento de la asociación entre los pueblos indígenas y los Estados,

Reconociendo que la Carta de las Naciones Unidas, el Pacto Internacional de Derechos Económicos, Sociales y Culturales y el Pacto Internacional de Derechos Civiles y Políticos **así como la Declaración de Viena y el Programa de Acción** afirman la importancia fundamental del derecho de todos los pueblos a la libre determinación, en virtud del cual éstos determinan libremente su condición política y persiguen libremente su desarrollo económico, social y cultural,

Teniendo presente que nada de lo contenido en la presente Declaración podrá utilizarse para negar a ningún pueblo su derecho a la libre determinación, ejercido de conformidad con el derecho internacional,

Convencido de que el reconocimiento de los derechos de los pueblos en la presente Declaración fomentará relaciones armoniosas y de cooperación entre los Estados y los pueblos indígenas, basadas en los principios de la justicia, la democracia, el respeto de los derechos humanos, la no discriminación y la buena fe,

Alentando a los Estados a que cumplan y apliquen eficazmente todas sus obligaciones para con los pueblos indígenas dimanantes de los instrumentos internacionales, en particular las relativas a los derechos humanos, en consulta y cooperación con los pueblos interesados,

Subrayando que corresponde a las Naciones Unidas desempeñar un papel importante y continuo de promoción y protección de los derechos de los pueblos indígenas,

Considerando que la presente Declaración constituye un nuevo paso importante hacia el reconocimiento, la promoción y la protección de los derechos y las libertades de los pueblos indígenas y en el desarrollo de actividades pertinentes del sistema de las Naciones Unidas en esta esfera,

Reconociendo y reafirmando que las personas indígenas tienen derecho sin discriminación a todos los derechos humanos reconocidos en el derecho internacional, y que los pueblos indígenas poseen derechos colectivos que son indispensables para su existencia, bienestar y desarrollo integral como pueblos,

Reconociendo también que la situación de los pueblos indígenas varía de región a región y de país a país y que el significado de las particularidades nacionales y regionales y la diversidad de los antecedentes históricos y culturales se deberían tomar en consideración,

Proclama solemnemente la Declaración de las Naciones Unidas sobre los derechos de los pueblos indígenas, cuyo texto figura a continuación, como ideal común que debe perseguirse en un espíritu de solidaridad y respeto mutuo:

Artículo 1

Los indígenas tienen derecho, como pueblos o como personas, al disfrute pleno de todos los derechos humanos y libertades fundamentales reconocidos por la Carta de las Naciones Unidas, la Declaración Universal de Derechos Humanos y la normativa internacional de los derechos humanos.

Artículo 2

Los pueblos y las personas indígenas son libres e iguales a todos los demás pueblos y personas y tienen derecho a no ser objeto de ninguna discriminación en el ejercicio de sus derechos que esté fundada, en particular, en su origen o identidad indígena.

Artículo 3

Los pueblos indígenas tienen derecho a la libre determinación. En virtud de ese derecho determinan libremente su condición política y persiguen libremente su desarrollo económico, social y cultural.

Artículo 4

Los pueblos indígenas, en ejercicio de su derecho de libre determinación, tienen derecho a la autonomía o el autogobierno en las cuestiones relacionadas con sus asuntos internos y locales, así como los medios para financiar sus funciones autónomas.

Artículo 5

Los pueblos indígenas tienen derecho a conservar y reforzar sus propias instituciones políticas, jurídicas, económicas, sociales y culturales, manteniendo a la vez sus derechos a participar plenamente, si lo desean, en la vida política, económica, social y cultural del Estado.

Artículo 6

Toda persona indígena tiene derecho a una nacionalidad.

Artículo 7

1. Las personas indígenas tienen derecho a la vida, la integridad física y mental, la libertad y la seguridad de la persona.

2. Los pueblos indígenas tienen el derecho colectivo a vivir en libertad, paz y seguridad como pueblos distintos y no serán sometidos a ningún acto de genocidio ni a ningún otro acto de violencia, incluido el traslado forzoso de niños del grupo a otro grupo.

Artículo 8

1. Los pueblos y las personas indígenas tienen derecho a no sufrir la asimilación forzosa o la destrucción de su cultura.

2. Los Estados establecerán mecanismos eficaces para la prevención y el resarcimiento de:

a) Todo acto que tenga por objeto o consecuencia privar a los pueblos y las personas indígenas de su integridad como pueblos distintos o de sus valores culturales o su identidad étnica;

b) Todo acto que tenga por objeto o consecuencia enajenarles sus tierras, territorios o recursos;

c) Toda forma de traslado forzoso de población que tenga por objeto o consecuencia la violación o el menoscabo de cualquiera de sus derechos;

d) Toda forma de asimilación e integración forzosas ~~a otras culturas o modos de vida que les sean impuestos por medidas legislativas, administrativas o de otro tipo;~~

e) Toda forma de propaganda que tenga como fin promover o incitar la discriminación racial o étnica dirigida contra ellos.

Artículo 9

Los pueblos y las personas indígenas tienen derecho a pertenecer a una comunidad o nación indígena, de conformidad con las tradiciones y costumbres de la comunidad o nación de que se trate. No puede resultar ninguna discriminación de ningún tipo del ejercicio de ese derecho.

Artículo 10

Los pueblos indígenas no serán desplazados por la fuerza de sus tierras o territorios. No se procederá a ningún traslado sin el consentimiento libre, previo e informado de los pueblos indígenas interesados, ni sin un acuerdo previo sobre una indemnización justa y equitativa y, siempre que sea posible, la opción del regreso.

Artículo 11

1. Los pueblos indígenas tienen derecho a practicar y revitalizar sus tradiciones y costumbres culturales. Ello incluye el derecho a mantener, proteger y desarrollar las manifestaciones pasadas, presentes y futuras de sus culturas, como lugares arqueológicos e históricos, utensilios, diseños, ceremonias, tecnologías, artes visuales e interpretativas y literaturas.

2. Los Estados proporcionarán reparación por medio de mecanismos eficaces, que podrán incluir la restitución, establecidos conjuntamente con los pueblos indígenas, respecto de los bienes culturales, intelectuales, religiosos y espirituales de que hayan sido privados sin su consentimiento libre, previo e informado o en violación de sus leyes, tradiciones y costumbres.

Artículo 12

1. Los pueblos indígenas tienen derecho a manifestar, practicar, desarrollar y enseñar sus tradiciones, costumbres y ceremonias espirituales y religiosas; a mantener y proteger sus lugares religiosos y culturales y a acceder a ellos privadamente; a utilizar y vigilar sus objetos de culto, y a obtener la repatriación de sus restos humanos.

2. Los Estados procurarán facilitar el acceso y/o la repatriación de objetos de culto y de restos humanos que posean mediante mecanismos justos, transparentes y eficaces establecidos conjuntamente con los pueblos indígenas interesados.

Artículo 13

1. Los pueblos indígenas tienen derecho a revitalizar, utilizar, fomentar y transmitir a las generaciones futuras sus historias, idiomas, tradiciones orales, filosofías, sistemas de escritura y literaturas, y a atribuir nombres a sus comunidades, lugares y personas y mantenerlos.

2. Los Estados adoptarán medidas eficaces para garantizar la protección de ese derecho y también para asegurar que los pueblos indígenas puedan entender y hacerse entender en las actuaciones políticas, jurídicas y administrativas, proporcionando para ello, cuando sea necesario, servicios de interpretación u otros medios adecuados.

Artículo 14

1. Los pueblos indígenas tienen el derecho a establecer y controlar sus sistemas e instituciones docentes que impartan educación en sus propios idiomas, en consonancia con sus métodos culturales de enseñanza y aprendizaje.

2. Las personas indígenas, en particular los niños indígenas, tienen derecho a todos los niveles y formas de educación del Estado sin discriminación.

3. Los Estados adoptarán medidas eficaces, junto con los pueblos indígenas, para que las personas indígenas, en particular los niños, incluidos los que viven fuera de sus comunidades, tengan acceso, cuando sea posible, a la educación en su propia cultura y en su propio idioma.

Artículo 15

1. Los pueblos indígenas tienen derecho a que la dignidad y diversidad de sus culturas, tradiciones, historias y aspiraciones, queden debidamente reflejadas en la educación pública y los medios de información públicos.

2.Los Estados adoptarán medidas eficaces, en consulta y cooperación con los pueblos indígenas interesados, para combatir los prejuicios y eliminar la discriminación y promover la tolerancia, la comprensión y las buenas relaciones entre los pueblos indígenas y todos los demás sectores de la sociedad.

Artículo 16

1.Los pueblos indígenas tienen derecho a establecer sus propios medios de información en sus propios idiomas y a acceder a todos los demás medios de información no indígenas sin discriminación alguna.

2.Los Estados adoptarán medidas eficaces para asegurar que los medios de información públicos reflejen debidamente la diversidad cultural indígena. Los Estados, sin perjuicio de la obligación de asegurar plenamente la libertad de expresión, deberán alentar a los medios de comunicación privados a reflejar debidamente la diversidad cultural indígena.

Artículo 17

1.Las personas y los pueblos indígenas tienen derecho a disfrutar plenamente de todos los derechos establecidos en el derecho laboral internacional y nacional aplicable.

2.Los Estados, en consulta y cooperación con los pueblos indígenas, tomarán medidas específicas para proteger a los niños indígenas contra la explotación económica y contra todo trabajo que pueda resultar peligroso o interferir en la educación del niño, o que pueda ser perjudicial para la salud o el desarrollo físico, mental, espiritual, moral o social del niño, teniendo en cuenta su especial vulnerabilidad y la importancia de la educación para el pleno ejercicio de sus derechos.

3.Las personas indígenas tienen derecho a no ser sometidas a condiciones discriminatorias de trabajo, entre otras cosas, empleo o salario.

Artículo 18

Los pueblos indígenas tienen derecho a participar en la adopción de decisiones en las cuestiones que afecten a sus derechos, por conducto de representantes elegidos por ellos de conformidad con sus propios procedimientos, así como a mantener y desarrollar sus propias instituciones de adopción de decisiones.

Artículo 19

Los Estados celebrarán consultas y cooperarán de buena fe con los pueblos indígenas interesados por medio de sus instituciones representativas antes de adoptar y aplicar medidas legislativas y administrativas que los afecten, para obtener su consentimiento libre, previo e informado.

Artículo 20

1.Los pueblos indígenas tienen derecho a mantener y desarrollar sus sistemas o instituciones políticos, económicos y sociales, a que se les asegure el disfrute de sus propios medios de subsistencia y desarrollo y a dedicarse libremente a todas sus actividades económicas tradicionales y de otro tipo.

2.Los pueblos indígenas desposeídos de sus medios de subsistencia y desarrollo tienen derecho a una reparación justa y equitativa.

Artículo 21

1.Los pueblos indígenas tienen derecho, sin discriminación alguna, al mejoramiento de sus condiciones económicas y sociales, entre otras esferas, en la educación, el empleo, la capacitación y el readiestramiento profesionales, la vivienda, el saneamiento, la salud y la seguridad social.

2.Los Estados adoptarán medidas eficaces y, cuando proceda, medidas especiales para asegurar el mejoramiento continuo de sus condiciones económicas y sociales. Se prestará particular atención a los derechos y necesidades especiales de los ancianos, las mujeres, los jóvenes, los niños y las personas con discapacidades indígenas.

Artículo 22

1. Se prestará particular atención a los derechos y necesidades especiales de los ancianos, las mujeres, los jóvenes, los niños y las personas con discapacidades indígenas en la aplicación de la presente Declaración.

2. Los Estados adoptarán medidas, junto con los pueblos indígenas, para asegurar que las mujeres y los niños indígenas gocen de protección y garantías plenas contra todas las formas de violencia y discriminación.

Artículo 23

Los pueblos indígenas tienen derecho a determinar y a elaborar prioridades y estrategias para el ejercicio de su derecho al desarrollo. En particular, los pueblos indígenas tienen derecho a participar activamente en la elaboración y determinación de los programas de salud, vivienda y demás programas económicos y sociales que les conciernan y, en lo posible, a administrar esos programas mediante sus propias instituciones.

Artículo 24

1. Los pueblos indígenas tienen derecho a sus propias medicinas tradicionales y a mantener sus prácticas de salud, incluida la conservación de sus plantas, animales y minerales de interés vital desde el punto de vista médico. Las personas indígenas también tienen derecho de acceso, sin discriminación alguna, a todos los servicios sociales y de salud.

2. Las personas indígenas tienen derecho a disfrutar por igual del nivel más alto posible de salud física y mental. Los Estados tomarán las medidas que sean necesarias para lograr progresivamente la plena realización de este derecho.

Artículo 25

Los pueblos indígenas tienen derecho a mantener y fortalecer su propia relación espiritual con las tierras, territorios, aguas, mares costeros y otros recursos que tradicionalmente han poseído u ocupado y utilizado de otra forma y a asumir las responsabilidades que a ese propósito les incumben respecto de las generaciones venideras.

Artículo 26

1. Los pueblos indígenas tienen derecho a las tierras, territorios y recursos que tradicionalmente han poseído, ocupado o de otra forma utilizado o adquirido.

2. Los pueblos indígenas tienen derecho a poseer, utilizar, desarrollar y controlar las tierras, territorios y recursos que poseen en razón de la propiedad tradicional u otra forma tradicional de ocupación o utilización, así como aquellos que hayan adquirido de otra forma.

3. Los Estados asegurarán el reconocimiento y protección jurídicos de esas tierras, territorios y recursos. Dicho reconocimiento respetará debidamente las costumbres, las tradiciones y los sistemas de tenencia de la tierra de los pueblos indígenas de que se trate.

Artículo 27

Los Estados establecerán y aplicarán, conjuntamente con los pueblos indígenas interesados, un proceso equitativo, independiente, imparcial, abierto y transparente, en el que se reconozcan debidamente las leyes, tradiciones, costumbres y sistemas de tenencia de la tierra de los pueblos indígenas, para reconocer y adjudicar los derechos de los pueblos indígenas en relación con sus tierras, territorios y recursos, comprendidos aquellos que tradicionalmente han poseído u ocupado o utilizado de otra forma. Los pueblos indígenas tendrán derecho a participar en este proceso.

Artículo 28

1. Los pueblos indígenas tienen derecho a la reparación, por medios que pueden incluir la restitución o, cuando ello no sea posible, una indemnización justa, imparcial y equitativa, por las tierras, los territorios y los recursos que tradicionalmente hayan poseído u ocupado o utilizado de otra forma y que hayan sido confiscados, tomados, ocupados, utilizados o dañados sin su consentimiento libre, previo e informado.

2. Salvo que los pueblos interesados hayan convenido libremente en otra cosa, la indemnización consistirá en tierras, territorios y recursos de igual calidad, extensión y condición jurídica o en una indemnización monetaria u otra reparación adecuada.

Artículo 29

1. Los pueblos indígenas tienen derecho a la conservación y protección del medio ambiente y de la capacidad productiva de sus tierras o territorios y recursos. Los Estados deberán establecer y ejecutar programas de asistencia a los pueblos indígenas para asegurar esa conservación y protección, sin discriminación alguna.

2. Los Estados adoptarán medidas eficaces para garantizar que no se almacenen ni eliminen materiales peligrosos en las tierras o territorios de los pueblos indígenas sin su consentimiento libre, previo e informado.

3. Los Estados también adoptarán medidas eficaces para garantizar, según sea necesario, que se apliquen debidamente programas de control, mantenimiento y restablecimiento de la salud de los pueblos indígenas afectados por esos materiales, programas que serán elaborados y ejecutados por esos pueblos.

Artículo 30

1. No se desarrollarán actividades militares en las tierras o territorios de los pueblos indígenas, a menos que lo justifique una amenaza importante para el interés público pertinente o que se hayan acordado libremente con los pueblos indígenas interesados, o que estos lo hayan solicitado.

2. Los Estados celebrarán consultas eficaces con los pueblos indígenas interesados, por los procedimientos apropiados y en particular por medio de sus instituciones representativas, antes de utilizar sus tierras o territorios para actividades militares.

Artículo 31

1. Los pueblos indígenas tienen derecho a mantener, controlar, proteger y desarrollar su patrimonio cultural, sus conocimientos tradicionales, sus expresiones culturales tradicionales y las manifestaciones de sus ciencias, tecnologías y culturas, comprendidos los recursos humanos y genéticos, las semillas, las medicinas, el conocimiento de las propiedades de la fauna y la flora, las tradiciones orales, las literaturas, los diseños, los deportes y juegos tradicionales, y las artes visuales e interpretativas. También tienen derecho a mantener, controlar, proteger y desarrollar su propiedad intelectual de dicho patrimonio cultural, sus conocimientos tradicionales y sus expresiones culturales tradicionales.

2. Conjuntamente con los pueblos indígenas, los Estados adoptarán medidas eficaces para reconocer y proteger el ejercicio de estos derechos.

Artículo 32

1. Los pueblos indígenas tienen derecho a determinar y elaborar las prioridades y estrategias para el desarrollo o la utilización de sus tierras o territorios y otros recursos.

2. Los Estados celebrarán consultas y cooperarán de buena fe con los pueblos indígenas interesados por conducto de sus propias instituciones representativas a fin de obtener su consentimiento libre e informado antes de aprobar cualquier proyecto que afecte a sus tierras o territorios y otros recursos, particularmente en relación con el desarrollo, la utilización o la explotación de sus recursos minerales, hídricos o de otro tipo.

3. Los Estados establecerán mecanismos eficaces para la reparación justa y equitativa por esas actividades, y se adoptarán medidas adecuadas para mitigar sus consecuencias nocivas de orden ambiental, económico, social, cultural o espiritual.

Artículo 33

1. Los pueblos indígenas tienen derecho a determinar su propia identidad o pertenencia conforme a sus costumbres y tradiciones. Ello no menoscaba el derecho de las personas indígenas a obtener la ciudadanía de los Estados en que viven.

2. Los pueblos indígenas tienen derecho a determinar las estructuras y a elegir la composición de sus instituciones de conformidad con sus propios procedimientos.

Artículo 34

Los pueblos indígenas tienen derecho a promover, desarrollar y mantener sus estructuras institucionales y sus propias costumbres, espiritualidad, tradiciones, procedimientos, prácticas y, cuando existan, costumbres o sistemas jurídicos, de conformidad con las normas internacionales de derechos humanos.

Artículo 35

Los pueblos indígenas tienen derecho a determinar las responsabilidades de los individuos para con sus comunidades.

Artículo 36

1. Los pueblos indígenas, en particular los que están divididos por fronteras internacionales, tienen derecho a mantener y desarrollar los contactos, las relaciones y la cooperación, incluidas las actividades de carácter espiritual, cultural, político, económico y social, con sus propios miembros así como con otros pueblos a través de las fronteras.

2. Los Estados, en consulta y cooperación con los pueblos indígenas, adoptarán medidas eficaces para facilitar el ejercicio y garantizar la aplicación de este derecho.

Artículo 37

1. Los pueblos indígenas tienen derecho a que los tratados, acuerdos y otros arreglos constructivos concertados con los Estados o sus sucesores sean reconocidos, observados y aplicados y a que los Estados acaten y respeten esos tratados, acuerdos y otros arreglos constructivos.

2. Nada de lo señalado en la presente Declaración se interpretará en el sentido de que menoscaba o suprime los derechos de los pueblos indígenas que figuren en tratados, acuerdos y arreglos constructivos.

Artículo 38

Los Estados, en consulta y cooperación con los pueblos indígenas, adoptarán las medidas apropiadas, incluidas medidas legislativas, para alcanzar los fines de la presente Declaración.

Artículo 39

Los pueblos indígenas tienen derecho a la asistencia financiera y técnica de los Estados y por conducto de la cooperación internacional para el disfrute de los derechos enunciados en la presente Declaración.

Artículo 40

Los pueblos indígenas tienen derecho a procedimientos equitativos y justos para el arreglo de controversias con los Estados u otras partes, y a una pronta decisión sobre esas controversias, así como a reparación efectiva de toda lesión de sus derechos individuales y colectivos. En esas decisiones se tendrán debidamente en consideración las costumbres, las tradiciones, las normas y los sistemas jurídicos de los pueblos indígenas interesados y las normas internacionales de derechos humanos.

Artículo 41

Los órganos y organismos especializados del sistema de las Naciones Unidas y otras organizaciones intergubernamentales contribuirán a la plena realización de las disposiciones de la presente Declaración mediante la movilización, entre otras cosas, de la cooperación financiera y la asistencia técnica. Se establecerán los medios de asegurar la participación de los pueblos indígenas en relación con los asuntos que les conciernan.

Artículo 42

Las Naciones Unidas, sus órganos, incluido el Foro Permanente para las Cuestiones Indígenas y los organismos especializados, en particular a nivel local, así como los Estados, promoverán el respeto y la plena aplicación de las disposiciones de la presente Declaración y velarán por la eficacia de la presente Declaración.

Artículo 43

Los derechos reconocidos en la presente Declaración constituyen las normas mínimas para la supervivencia, la dignidad y el bienestar de los pueblos indígenas del mundo.

Artículo 44

Todos los derechos y libertades reconocidos en la presente Declaración se garantizan por igual al hombre y a la mujer indígenas.

Artículo 45

Nada de lo contenido en la presente Declaración se interpretará en el sentido de que menoscaba o suprime los derechos que los pueblos indígenas tienen en la actualidad o puedan adquirir en el futuro.

Artículo 46

1. Nada de lo señalado en la presente Declaración se interpretará en el sentido de que confiera a un Estado, pueblo, grupo o persona derecho alguno a participar en una actividad o realizar un acto contrarios a la Carta de las Naciones Unidas **o se entenderá en el sentido de que autoriza o fomenta acción alguna encaminada a quebrantar o menoscabar total o parcialmente, la integridad territorial o la unidad política de Estados soberanos e independientes.**

2. En el ejercicio de los derechos enunciados en la presente Declaración, se respetarán los derechos humanos y libertades fundamentales de todos. El ejercicio de los derechos establecidos en la presente Declaración estará sujeto exclusivamente a las limitaciones determinadas por la ley, y con arreglo a las obligaciones internacionales en materia de derechos humanos. Esas limitaciones no serán discriminatorias y serán sólo las estrictamente necesarias para garantizar el reconocimiento y respeto debidos a los derechos y libertades de los demás y para satisfacer las justas y más apremiantes necesidades de una sociedad democrática.

3. Las disposiciones enunciadas en la presente Declaración se interpretarán con arreglo a los principios de la justicia, la democracia, el respeto de los derechos humanos, la igualdad, la no discriminación, la buena administración pública y la buena fe.