Statement by the Association on American Indian Affairs

Mr. Chair,

The Association on American Indian Affairs’ (AAIA) International Repatriation Project formally submits the following Statement, reflecting its position on the repatriation of Indigenous ancestral remains, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony, which is supported by the U.N. Declaration on the Rights of Indigenous Peoples, the Outcome Document of the U.N. General Assembly World Conference on Indigenous Peoples, and Indigenous law. We formally request that the U.N. create an Expert Working Group on Indigenous International Repatriation, composed of Indigenous representatives.

International Repatriation is a human rights issue. Indigenous ancestral remains, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony have been taken without the free, prior, and informed consent of Indigenous Peoples. In addition, museums, universities, collectors, auction houses, and other repositories continue to display, possess, sell, and profit from Indigenous ancestral remains, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony without the free, prior and informed consent of Indigenous peoples.

The theft of Indigenous ancestral remains, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony has occurred over the past five centuries. There are many cases in which Native American ancestral remains and cultural items were taken from genocidal removals and massacres, and subsequently studied and/or placed in museums. In addition, Native American graves were looted (or excavated) without the free, prior and informed consent of their Peoples. Today, the sale of Indigenous ancestral remains, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony continues to promote the looting and theft of Indigenous graves. Private Auction houses, universities, museums, and other repositories continue to refuse to consult with Indigenous peoples, despite well-founded support within international, national, and Indigenous law for repatriation.

The U.N. Declaration on the Rights of Indigenous Peoples supports the examination of historic atrocities and colonialism that has led to the need to repatriate Indigenous ancestral
remains, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony and specifically supports international repatriation in Articles 11 and 12. Article 12 states, "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." In addition, Operative Paragraph 27 of the U.N. General Assembly World Conference on Indigenous Peoples Outcome Document further supports adopting mechanisms for international repatriation, stating:

*We affirm and recognize the importance of indigenous peoples' religious and cultural sites and of providing access to and repatriation of their ceremonial objects and human remains in accordance with the ends of the United Nations Declaration on the Rights of Indigenous Peoples. We commit ourselves to developing, in conjunction with the indigenous peoples concerned fair, transparent and effective mechanisms for access to and repatriation of ceremonial objects and human remains at the national and international levels.* (Emphasis added.)

Indigenous Peoples have also passed Resolutions supporting international repatriation, including: the National Congress of American Indians Resolution Supporting International Repatriation (2012), the largest tribal member and Native Nation organization in the United States; the United South and Eastern Tribes (2014), comprised of 26 Native Nations; and several individual Native Nations. This information and specific statements and letters from Indigenous Peoples were submitted to the United Nations Expert Mechanism on the Rights of Indigenous Peoples cultural heritage study and to the UNEMRIP 8th session by the Association on American Indian Affairs and the International Indian Treaty Council and further information on Indigenous experiences in international repatriation and recommendations may be viewed there.

Indigenous Peoples have asserted that museums, universities, collectors, private auction houses, and other repositories have: 1) failed to consult with Indigenous Peoples; 2) cannot provide evidence of consent by Indigenous Peoples to hold Indigenous remains, funerary objects, sacred/secret objects, and objects of cultural patrimony; 3) failed to repatriate or have engaged Indigenous Peoples in resource-draining and excessively long repatriations; 4) refused to provide supporting archival and document information to Indigenous Peoples to assist with identifications; 5) placed preservation conditions upon repatriations; and 6) are forcing Indigenous Peoples to buy back their ancestors, funerary objects, sacred/ceremonial objects, and objects of cultural patrimony, despite these egregious and ongoing human rights violations that have occurred in the past and continue today.

Indigenous Peoples also assert that museums, universities, collectors, private auction houses, and other repositories should: 1) engage in consultations with Indigenous Peoples; 2) provide inventories of Indigenous ancestral remains, funerary objects, secret/sacred objects, and objects of cultural patrimony to Indigenous Peoples that remain cognizant of cultural sensitivities in their approach; and 3) develop international repatriation policies. Indigenous Peoples further assert that nations should develop laws and policies for Indigenous consultation and repatriation. Indigenous Peoples assert that the U.N. should: 1) create an Expert Working Group on International Repatriation, composed of Indigenous Peoples; 2) implement mechanisms for
international repatriation that incorporate the various views of Indigenous Peoples and include Indigenous consultation requirements; 3) call for the modification of Customs regulations to allow for the cultural and religious needs of Indigenous Peoples during international repatriations; and 4) remain cognizant that many Indigenous Peoples’ nations are located across international borders.

The Association on American Indian Affairs supports these statements and concerns made by Indigenous Peoples and formally requests that the U.N. create an Expert Working Group on International Repatriation with Indigenous representatives. Within the mandate of the U.N. EMRIP is the ability to provide “the Human Rights Council with thematic advice, in the form of studies and research, on the rights of Indigenous peoples”. We request that the UNEMRIP, in conjunction and consultation with Indigenous Peoples, create a study on Indigenous international repatriation to highlight the ongoing abuses of private auction houses, museums, universities, and other repositories. This study should be thorough and well-researched, as there are many Indigenous international repatriation efforts active with Indigenous communities and as inter-Indigenous efforts, including the Te Papa Museum International Repatriation Programme (New Zealand), the Advisory Committee for Indigenous Repatriation (Australia), and the AAIA International Repatriation Project and Working Group on International Repatriation (US). Indigenous consultations should take no more than two years to compile such information. Incorporated into this study should be considerations for the market in the sale of Indigenous ancestors, funerary objects, sacred objects, and objects of cultural patrimony, which Indigenous Peoples assert are illegal, and the intersections they play in illegal markets in drugs, guns, and crime throughout the world, as well as fakes and forgeries that misrepresent Indigenous culture. It is important, within this study, not to lose the individual statements made by Indigenous Peoples, as it is their inherent right to self-determination. Therefore, we also advise the EMRIP to collate all statements at the end of the research study from Indigenous communities.