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Item 4

Permanent Forum on Indigenous Issues  
Seventh Session

United Nations Headquarters  
New York  
21 April to 2 May 2008

**The impacts of the privatization of the Hul'qumi'num Mustimuhw  
lands upon the traditional way of life and the refusal of Canada  
to deal justly with this issue in the British Columbia modern  
treaty making process**

Prepared and submitted by the:

Cowichan Tribes  
Chemainus First Nations  
Halalt First Nation  
Lake Cowichan First Nation  
Lyackson First Nation  
Penelakut First Nation  
Hul'qumi'num Treaty Group Society  
(collectively known as the Hul'qumi'num Mustimuhw)

And endorsed by:

The First Nations Summit

Members of the Permanent Forum, Indigenous brothers and sisters, Ladies and Gentlemen, distinguished guests. I wish to start by recognizing and thanking the Hadenoshonee whose traditional territory we are on. My name is Lydia Hwitsum and I am the Chief of the Cowichan Tribes. I and my colleagues and fellow Cowichan members, Robert Morales and Rosanne Daniels are here representing and speaking on behalf of the Hulq'umi'num Mustimuxw (Hul'qumi'num Peoples), which are comprised of the Cowichan Tribes, Chemainus, First Nation, Halalt First Nation, Lake Cowichan First Nations, Lyackson First Nation, Penelakut Tribe and the Hul'qumi'num Treaty Group. We are part of the Coast Salish Peoples and live in the south eastern portion of Vancouver Island, British Columbia, Canada. Our communities are socially, culturally, economically inter-connected by language, marriage, travel and trade, sacred ceremonies and rituals. At the cultural and spiritual heart of this connection is the land and rich abundance of resources that once sustained the Hul'qumi'num as indigenous peoples. The connections between the Hul'qumi'num Mustimuxw and our land is dependant upon a combination of subsistence and cultural practices that are carried out upon the traditional land that the Hul'qumi'num used and occupied for since time immemorial. We have experienced the results of the cautions that President Evo Morales spoke of at the opening of this session of the Forum. The Hul'qumi'num Mustimuxw ability to continue their traditional practices upon the land have been severely disrupted by the privatization of our traditional territory. In the 19<sup>th</sup> century 85% of the Hul'qumi'num traditional territory was granted by Canada to the private

ownership of the E & N Railway Corporation. Canada did not consult with or compensate the Hul'qumi'num Mustimuxw for the taking of these lands.

The unlawful granting of the Hul'qumi'num Traditional territory has had a devastating effect on the Hul'qumi'num communities that have depended on and continue to depend on access to our land to carry on our traditional practices.

Throughout the traditional territory, this privatization, has facilitated the destruction of valuable forest lands. 88% of our traditional forest lands are held by private forest companies. As a result of the state's inability to effectively regulate these private forest lands, intense logging has resulted in the deforestation of these lands and only 0.5% is original old growth forest. This privatization has also severely impacted essential water supplies, traditional medicinal plants and wildlife populations. Our dependence upon the marine resources, especially salmon are being impacted by climate change. We are witnessing the declining return of salmon stocks throughout our traditional territory. We are also impacted by the large numbers of human population who now reside within our traditional territory on these private lands. We see a decline in the marine water quality which has resulted in the contamination of shell fish which has been a staple of our diet and lifestyle.

#### **British Columbia Treaty Negotiations**

The Hul'qumi'num member nations have been participating in the British Columbia treaty making process, involving Canada, British Columbia and First Nations, for the past 13 years. The Hul'qumi'num Mustimuxw have been told repeatedly by the state that the so called "private lands" are not on the table for negotiations. The state policy is that these lands are not on the table for return to the

**Hul'qumi'num. Neither replacement lands or compensation nor any other form of restitution has been offered. The Hul'qumi'num Mustimuhw are not able to accept this, therefore we have decided to use International Law to try and get these lands on the table for negotiation. The Hul'qumi'num Mustimuxw have filed a petition with the Inter American Commission on Human Rights alleging that Canada has breached our right to property, right to restitution, right to cultural integrity and right to consultation. We are calling upon Canada to negotiate in good faith by complying with international law standards and in accordance with the provisions of the Declaration on the Rights of Indigenous People.**

**We are seeking the support of the Permanent Forum in our quest to have the state of Canada recognize and address our human rights issues.**

#### **Recommendations**

- 1. The Permanent Forum call upon Canada to recognize and implement the Declaration on the Rights of Indigenous Peoples, especially those articles dealing with the recognition of the indigenous right to property.**
- 2. The Permanent Forum call upon Canada to engage the British Columbia Treaty negotiations in good faith by complying with international standards.**
- 3. The Special Rapporteurs experience and expertise be drawn upon to observe and help identify issues and problem areas that have rendered the British Columbia treaty negotiations ineffective in remedying the states violation of recognized international human rights standards, which could lead to a "best practices" model for state sponsored legislation designed to protect indigenous peoples human rights through good faith negotiations.**