

Thank you Mr. Chairperson. I speak as an indigenous person, one of the 370 Million indigenous peoples in the world, most of whom continue to suffer from corporate and business activities. Extractive and other large scale corporate activities constitute today 'one of the most important sources of abuse of the rights of indigenous peoples' in virtually all parts of the world.<sup>1</sup>

We welcome the inclusion of a provision on “Prevention” in the zero draft. Preventive measures will reduce the adverse impacts of corporate activities on the existence and rights of indigenous peoples. However, we feel that despite evidence showing the disproportionate impact of corporate and business activities on indigenous peoples and their communities, the Zero Draft is lacking in protecting the rights of indigenous peoples in this aspect.

For indigenous peoples, mere consultation as provided in Article 9 is inadequate. It is recommended therefore that a separate provision is included that will specifically ensure that Free, Prior and Informed Consent of Indigenous Peoples (FPIC) is fully realized in this convention.

FPIC is a “manifestation of indigenous peoples’ right to self-determine their political, social, economic and cultural priorities. It constitutes three interrelated and cumulative rights of indigenous peoples: the right to be consulted; the right to participate; and the right to their lands, territories and resources.”<sup>2</sup> FPIC cannot be achieved if one of these components is missing.

FPIC for indigenous peoples is protected in international law, among others are International Labour Organization Convention (ILO) 169 and the UN Declaration on the Rights of Indigenous Peoples (Articles 10,11,19,28, 29). International law further provides that consultation with Indigenous Peoples must be carried out through institutions that are representative of Indigenous communities, and specifies that Indigenous peoples should control the process by which representatives are determined.

We would like to refer members of this Honorable Working Group to the study made by the Expert Mechanism on the Rights of Indigenous Peoples submitted to the Human Rights Council in September 2018 (A/HRC/39/62), to further support this recommendation.

Thank you.

Submitted by:

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<sup>1</sup> James Anaya, former UN Special Rapporteur on the Rights of Indigenous Peoples.

<sup>2</sup> “Free Prior and Informed Consent: A human rights based approach”, Study of the Expert Mechanism on the Rights of Indigenous Peoples, A/HRC/39/62, 10-28 September 2018.

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