TABLE OF CONTENTS

1. Editorial 2

2. Permanent Forum on Indigenous Issues, first session 3
   - Matters calling for action by the Economic and Social Council

3. Commission on Human Rights, 58th session 4
   - Resolutions and decisions concerning indigenous peoples 4

4. Working Group on the Draft Declaration, 7th session 7
   - Organization of work 7
   - Participation and procedure 7
   - Collective rights 8
   - Land, territories and natural resources 10
   - Discussion of articles 12
     - Article 13 12
     - Article 6 13
     - Article 7 14
     - Article 9 15
     - Article 10 16

5. World Summit on Sustainable Development 18

6. The Organization of American States and the American Declaration on the Rights of Indigenous Peoples 20

7. Other matters 21
1. EDITORIAL

"Indigenous peoples make up an estimated one of every 20 members of the human family. I have no doubt that as new members of the United Nations family, you will make an immense contribution to the Organization's mission of peace and progress. On behalf of the United Nations family, I would like to pledge our strong commitment to your cause and your concerns".

It was with these words that Secretary General Kofi Annan closed the first session of the Permanent Forum on Indigenous Issues that took place at the UN Headquarters in New York from May 13 to May 24, 2002. The session was opened by Sid Hill (Tadodaho spiritual leader of the Six Nations Confederacy and descendant of the first inhabitants of Manhattan), Louise Fréchette (Deputy Secretary General), Ivan Simonovic (president of ECOSOC), and Mary Robinson (High Commissioner for Human Rights). In many respects it was a historic event, for it is only now that indigenous peoples are able to represent their own interests directly to the United Nations at a high level.

Mrs. Fréchette recalled the representations of the Six Nations Confederacy to the League of Nations in the 1920s, and then to the United Nations - representations which met mainly with indifference until the International Labour Organization became one of the ‘most staunch defenders’ of indigenous peoples. She also expressed regret that governments have too often refused to use the term indigenous ‘peoples’, so as to avoid any recognition of their collective rights.

The Permanent Forum is part of a long ongoing process that has focused on human rights. The main feature of this process has been the setting up of forums where each indigenous organization can present its situation and help develop principles with a view to their being adopted by the Commission for Human Rights, ECOSOC and the General Assembly. This ‘double mandate’ of the Working Group on Indigenous Peoples (WGIP) is essentially different to that of the Permanent Forum, which is made up of experts working in an individual capacity and whose function is to advise, co-ordinate and inform. This explains the fact that many indigenous organizations believe that the WGIP should continue in its functions.

The first session of the Permanent Forum was a major step forward, but important questions remain. What will its budget be? Will it have its own secretariat, made up of indigenous professionals?

In this issue we will be summarizing the decisions taken by the 15 members of the Permanent Forum. These decisions are pending approval by ECOSOC in July. Following this is a summary of the resolutions of the Commission on Human Rights dealing with indigenous peoples, and then a detailed report on the Working Group on the Draft Declaration. Finally, we finish with a brief report on the meeting of the OAS working group responsible for drawing up a draft American declaration on the rights of indigenous peoples and a summary of a document on the preparation for the World Summit on Sustainable Development.

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2. PERMANENT FORUM ON INDIGENOUS ISSUES
First session, New York, 13-24 May 2002

270 organizations participated in the first PF meeting, including 204 indigenous organizations, 30 governmental delegations and 11 inter-governmental organizations, besides the 15 members of the Forum. The decisions published hereunder were made by the Forum’s members. They still have to be approved by the ECOSOC meeting (1-24 July 2002).

Matters calling for action by the Economic and Social Council
The Permanent Forum on Indigenous Issues, at its first session, recommends to the Economic and Social Council the adoption of the following draft decisions:

Draft decision 1: Establishment of a secretariat
The Economic and Social Council decides that a secretariat shall be established as a matter of urgency and that, given the broad mandate of the forum, the secretariat shall be located in New York and be attached to the secretariat of the Council. The secretariat will be designated as the secretariat for the Permanent Forum on Indigenous Issues and will comprise five professionals and two administrative staff, with due consideration being given to qualified indigenous persons. The secretariat will assist the members of the Permanent Forum to fulfil their mandate by implementing the approved programme of activities, including the organization of meetings; undertaking research projects and preparing the annual report to the Economic and Social Council; raising awareness and promoting the integration and coordination of activities relating to indigenous issues within the United Nations system; and preparing and disseminating information on indigenous issues. These activities are to be funded from the regular budget. An oral statement of programme budgetary implications and the draft decision was made by the secretariat. It stated that the Secretary-General will study the recommendations regarding a core secretariat and will submit a formal statement of programme budget implications to the Economic and Social Council. In regards to what might be supported from the regular budget and specific costs to be proposed, it is pointed out that such matters fall outside the purview of the ECOSOC and its subsidiaries. These matters are the responsibility of the Secretary-General and of the General Assembly in its role under the Charter as regards to administrative and budgetary matters.

Draft decision 2: Summary records of the public meetings of the Permanent Forum
The Economic and Social Council, bearing in mind the special nature of the Permanent Forum, the diversity of the participation and the breadth of its mandate, decides exceptionally to authorize the provision of summary records for the public meetings of the Permanent Forum.

Draft decision 3: Venue and date of next session of the Permanent Forum
The Economic and Social Council decides to hold the second session of the Permanent Forum in the period April – May 2003 at the United Nation Headquarters in New York.

Draft decision 4: Additional meetings
The Economic and Social Council decides to authorize an informal inter-sessional meeting of the Forum members for five working days prior to the next session of the Forum for the purposes of strategic planning. It also decides to authorize a meeting of the Forum members in the three working days prior to the second session of the Permanent Forum.

3. COMMISSION ON HUMAN RIGHTS
58th session, 18 March-26 April 2002

The Commission receives the first report by the Special Rapporteur on the situation of human rights of indigenous peoples, urges the States to ratify ILO Convention 169 and to fulfil the commitments made at the Durban Conference. It requests the High Commissioner for Human Rights to consult with governments, NGOs and indigenous organizations with a view to convening a seminar on treaties, agreements and other constructive arrangements between States and indigenous populations.

Resolutions and decisions concerning indigenous peoples (highlights)

Human rights and indigenous issues
Resolution 2002/65
The Commission:
- **Welcomes** the first report of the Special Rapporteur (SR) on the situation of human rights and fundamental freedoms of indigenous people (E/CN.4/2002/97), submitted pursuant to Commission resolution 2001/57, especially the outline of his future programme of work;
- **Encourages** the SR to continue to examine ways and means of overcoming existing obstacles to the full and effective protection of the human rights and fundamental freedoms of indigenous people, in conformity with his mandate as contained in Commission resolution 2001/57;
- **Requests** the SR in performing his work, to consider the recommendations of the World Conference against Racism on matters concerning his mandate;
- **Also requests** the SR, in carrying out his mandate and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, to request, receive and exchange information on violations of the human rights of indigenous people, wherever they may occur, from Governments, UN human rights treaty bodies, specialized agencies, special mechanisms of the Commission and Sub-Commission on the Promotion and Protection of Human Rights, as well as from intergovernmental organizations, other relevant organizations of the UN system and civil society, including indigenous organizations, and to respond effectively to such information;
- **Further requests** the SR to continue working on the topics included in his first report, in particular, those that impact on the situation of the human rights and fundamental freedoms of indigenous people, which may contribute to advancing the debate on fundamental issues of the "Draft United Nations declaration on the rights of indigenous peoples";
- **Invites** the SR, in carrying out his task, to take into account all the recommendations of the Permanent Forum on Indigenous Issues and of the Working Group on Indigenous Populations relevant to his mandate;
- **Requests** the Office of the UN High Commissioner for Human Rights to facilitate the attendance of the SR at the first annual session of the Permanent Forum on Indigenous Issues to be held at UN Headquarters from 13 to 24 May 2002;
- **Reiterates** the invitation to the SR to pay special attention to violations of the human rights and fundamental freedoms of indigenous children and women, and to take into account a gender perspective;
- **Requests** all Governments to cooperate fully with the SR in the performance of the tasks and duties mandated, to furnish all information requested and to react promptly to his urgent appeals;
- **Welcomes** the intention of the SR to conduct visits in the discharge of his mandate and encourages Governments to respond positively to a request to visit their country;
- **Encourages** the UN, including its specialized agencies, regional intergovernmental organizations, Governments, independent experts, interested institutions, NGOs and, in particular, indigenous people to cooperate to the fullest extent possible with the SR in the fulfilment of his mandate;
- **Urges** those States that have not yet done so to consider, as a matter of priority, signing, ratifying or acceding to the International Labour Organization Convention (No. 169) concerning indigenous and tribal peoples in independent countries of 1989;
• **Urges** all States, in this context, to fulfil the commitments relevant to this resolution made in the Durban Declaration and the Programme of Action adopted by the World Conference against Racism;

• **Requests** the SR to submit a report on his activities to the Commission at its fifty-ninth session;

• **Requests** the Secretary-General and the High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the SR for the fulfilment of his mandate;

• **Decides** to consider the follow-up to this question, as a matter of priority, at its fifty-ninth session, under the same agenda item.

**Working Group on Indigenous Populations and the International Decade of the World's Indigenous People Resolution 2002/63**

The Commission:


• **Urges** the WGIP to continue its comprehensive review of developments and of the diverse situations and aspirations of the world's indigenous people, welcomes its proposal to highlight specific themes of the International Decade of the World's Indigenous People at its future sessions, noting that at its 20th session the WGIP will continue to focus on the theme of “Indigenous peoples and their right to development, including their right to participate in development affecting them”;

• **Recommends** that the Economic and Social Council authorize the WGIP to meet for five working days prior to the 54th session of the Sub-Commission;

II. **International Decade**

• **Welcomes** the convening of the first annual session of the Permanent Forum on Indigenous Issues at UN Headquarters from 13 to 24 May 2002 and encourages all parties concerned, including all mechanisms, procedures and programmes of the UN concerned with indigenous issues, to secure, from within existing resources, an adequately funded and well-functioning Forum that reflects its broad mandate, including through the provision of adequate secretariat support;

• **Requests** the High Commissioner, in her capacity as Coordinator of the Decade, to submit an updated annual report reviewing activities within the UN system under the programme of activities for the Decade to the Commission on Human Rights at its 59th session under the agenda item entitled "Indigenous issues", in accordance with the request by the General Assembly to the Secretary-General;

• **Requests** the High Commissioner to ensure that the indigenous people's unit in the Office of the UN High Commissioner for Human Rights is adequately staffed and resourced to enable the activities of the Decade to be effectively implemented;

• **Recommends** that the High Commissioner, when developing programmes within the framework of the International Decade of the World's Indigenous People and the UN Decade for Human Rights Education, give due regard to the development of human rights training for indigenous people;

• **Takes note** of the report of the Special Rapporteur of the WGIP entitled "Study on treaties, agreements and other constructive arrangements between States and indigenous populations" (E/CN.4/Sub.2/1999/20) and requests the High Commissioner to seek information from Governments, NGOs and indigenous people's organizations on the report and the broader issues it raises, and to submit a report to the Commission at its 59th session on the views expressed as a basis for a decision by the Commission on a possible seminar;

• **Recommends** that the situation of indigenous people be taken into account in forthcoming UN conferences of relevance, including the special session of the General Assembly for the follow-up to the World Summit for Children, the World Conference against Racism and the World Summit on Sustainable Development;

• **Recalls** the recommendation of the World Conference against Racism that the Secretary-General conduct an evaluation of the results of the International Decade of the World's Indigenous People and make recommendations concerning how to mark the end of this Decade, including an appropriate follow-up, and requests the Secretary-General to begin the implementation of this evaluation;

• **Takes note** of Economic and Social Council decision 2001/316 of 26 July 2001 requesting the Secretary-General to seek information from Governments, NGOs, indigenous people's organizations, the Permanent Forum and all existing mechanisms, procedures and programmes within the UN concerned with indigenous issues, including the WGIP, as a basis for holding the review mandated in paragraph 8 of Council resolution 2000/22 as soon as possible and not later than the substantive session of 2003 of the Council.

**Working Group of the Commission on Human Rights to elaborate a draft declaration**
Resolution 2002/64
The Commission:
• Recommends that the working group meet for ten working days prior to the 59th session of the Commission;
• Invites the Chairperson-Rapporteur of the working group and all interested parties to conduct broad informal inter-sessional consultations with a view to facilitating progress in drafting a declaration on the rights of indigenous people at the next session of the working group;
• Encourages all interested States to participate in an informal inter-sessional meeting to consider the clusters of articles referred to in paragraph 83 of the report of the working group (E/CN.4/2002/98) and requests the Chairperson-Rapporteur of the working group to ensure that the outcome of this informal inter-sessional meeting is made available to all interested parties prior to the next session of the working group.

Ms. Erica-Irene A. Daes and the Permanent Forum on Indigenous Issues
Decision 2002/108
The Commission decided to recommend that the Economic and Social Council invite the Chairperson-Rapporteur of the 19th session of the Working Group on Indigenous Populations, Ms. Erica-Irene A. Daes, in recognition of the high esteem in which she is held by the world's indigenous community, to attend, address and present her report to the first session of the Permanent Forum on Indigenous Issues in May 2002.

The Social Forum
Decision 2002/106
The Commission decided, by a recorded vote of 21 to 31, with 1 abstention, to endorse the Sub-Commission's request that the Economic and Social Council authorize the holding in Geneva of a pre-sessional forum on economic, social and cultural rights, to be known as the Social Forum, before the 54th session of the Sub-Commission, for two days, with the participation of 10 members of the Sub-Commission, taking into account regional representation, and to authorize the provision of all the necessary secretariat facilities for the reparation and servicing of the event.

Reports submitted at the Commission on Human Rights1
• Situation of human rights and fundamental freedoms of indigenous people - Selected summaries of communications examined by the Special Rapporteur: E/CN.4/2002/97/Add.1
• Implementation of the programme of activities for the International Decade of the World's Indigenous People: E/CN.4/2002/96
• Racism, racial discrimination, xenophobia and all forms of discrimination - Comments submitted by the International Labour Office (ILO): E/CN.4/2002/2

1 These reports are available at http://www.unhchr.ch/huridoca/huridoca.nsf/FramePage/Subject+indigenous+En?OpenDocument

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4. WORKING GROUP ON THE DRAFT DECLARATION
Geneva, 7th session, 28 January to 8 February 2002

The organization of work promoting informal meetings among governments was questioned by the indigenous delegations who recommended that the Working Group deal with the articles concerned with self-determination as a fundamental right of “all peoples”. The articles on freedom of religion (13), the right to peace (6), against genocide and ethnocide (7), on the right to belong to an indigenous community or nation without discrimination (9), and against the forcible removal of indigenous peoples (10) were discussed.

Organization of work
Mr Luis Enrique Chávez (Peru) was re-elected Chairperson-Rapporteur for this session. After some negotiations on the organization of work, the participants agreed on the following work plan: (1) General debate on indigenous peoples’ participation and the procedure; (2) Collective rights; (3) Land and natural resources; (4) Discussion of articles 13, and 6 to 11. In the end, articles 8 and 11 were not discussed due to time constraints. While the indigenous representatives wanted a debate on self-determination, the governments preferred to leave the theme for next year, arguing that they wanted a thorough debate in order to find a solution to this issue. On the other hand, MEXICO said that it was time to address the more substantive issues in order to negotiate the articles at the next session.

A discussion took place on the exceptional issue of a co-chair due to Mr. Chávez’s return to Peru before the end of the session. Called back to Lima by his Ministry, he was replaced by Mr. José Valencia (Ecuador) during the second week of the session. Mr. Chávez explained that he would remain the Chairperson-Rapporteur throughout the session and be responsible for the report. The indigenous representatives expressed their concerns about this new situation, fearing that their proposals would not be included in the report. Mr. Chávez stressed that the situation was exceptional and did not constitute a precedent.

Mr Chávez decided to follow the same method of work as in previous years, opting for informal sessions and calling for formal sessions only when a consensus could be reached. Governments continued to hold separate meetings to discuss the articles and re-draft them. As the indigenous participants reiterated their opposition to government meetings taking place during the time allotted to the session, the governments invited them to their informal meetings as observers. The Indigenous Caucus refused the invitation, as they did not wish to divert time, attention and resources away from the plenary session.

As regards the next session, the Indigenous Caucus issued a statement recommending inter alia that the working group focus on Articles 3, 31 and 36: “…the whole UN Declaration on the Rights of Indigenous Peoples must be viewed from Article 3, our right to Self-Determination. Articles 31 and 36 are related articles that help clarify this fundamental right of ‘all Peoples’”.

General debate

Participation and procedure
MEXICO suggested establishing an “extended bureau/facilitation mechanism” to facilitate broad consultations, in order to adopt the Declaration on the Rights of Indigenous Peoples by the end of the International Decade (2004). The current Chairman-Rapporteur, a governmental Vice-Chair, and two Coordinators representing the organizations of indigenous peoples would compose this bureau. Its mandate would consist in conducting broad and open consultations during and between the sessions of the working group with a view to facilitating progress in relation with the Draft Declaration (DD). While the indigenous representatives considered the Mexican proposal a creative and positive idea, this initiative was not supported by the governments (explicitly VENEZUELA, AUSTRALIA, GUATEMALA, FRANCE).

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2 This report is based on written and oral statements, as well as on draft report E/CN.4/2002/WG.5/CRP.1 to CRP.4. Given the informal nature of the debate, it cannot be exhaustive, but aims to provide an overview of the progress made.

MEXICO said that it could adopt the DD in its current text. All the indigenous participants reiterated their support to the DD as adopted by the Sub-Commission in 1994 and presented arguments to explain how this Declaration contained minimal standards for their survival as distinct peoples.

ITC/MJ/AN/CTS/FN/CV/ECMI expressed their sincere appreciation for MEXICO’s intervention. They shared MEXICO’s serious concern about both the implications and results of the separate private sessions, which have been organized by some States in order to draft alternative texts. These sessions have been carried out without the participation of indigenous peoples’ (IPs) representatives, and even without their prior knowledge of a meeting organized by the government of Canada which produced the so-called “non-paper” with heavily bracketed revisions of articles 6-11 (also Indigenous Caucus). The Indigenous Caucus expressed concern about the lack of Russian translation of governments’ written proposals, which prevents direct participation of Russian IPs.

Eastern Door also expressed concern about the difficulties met by the indigenous delegations to participate in meetings, as, in this particular case, the working group was postponed several times and took place at the same time as another important meeting on biodiversity. They further insisted that any restriction to IPs’ participation should be removed. Several other indigenous organizations also complained that this working group was delayed.

Other indigenous organizations took the floor: IOIRD, IMTA, NKIKLH, CAPAJ, SC, ILRC, IPNC, CC, ICC, GCC, FPCI, and COTU.

Summarizing the debate on procedural matters, the Chairperson-Rapporteur said that the apparent lack of progress was due to a lack of political will and not to the procedure used by the working group until now. He explained that the written proposals were a point of departure and not the outcome of negotiations.

Collective rights

While some government delegations stressed that collective rights must not conflict with individual rights (RUSSIAN FEDERATION, CANADA, AUSTRALIA, NEW ZEALAND), all recognized their existence. PERU acknowledges that collective rights are inherent to IPs.

As signatories of ILO Convention 169, NORWAY, ECUADOR and VENEZUELA recognize collective rights such as land rights. ECUADOR also recognizes intellectual property rights and the right to bilingual education and VENEZUELA the right to health. FINLAND and PERU stated that cultural and linguistic rights could be exercised collectively. SPAIN and SWITZERLAND recognize the existence of collective rights to identity (also GUATEMALA), language, and culture. SWITZERLAND supports the right to self-identification and the term “peoples”. GUATEMALA said that the Declaration is meant to combat discrimination and that there is collective discrimination. Issues of self-determination, the concept of “indigenous peoples”, lands and natural resources as collective rights must be formally discussed. The RUSSIAN FEDERATION and CANADA recognize collective rights for IPs in their respective Constitutions. CANADA further affirms the Aboriginal and treaty rights, many of those rights being held by the collective. Supports the inclusion of collective rights to land or self-government in the DD, where those rights are of fundamental significance to IPs, do not deny individual or third party rights, and can be expressed clearly enough to result in practical and identifiable rights and obligations. Collective rights in the DD should be considered on an article by article basis. Balancing of collective rights and individual rights must be achieved in a manner that would respect the obligations of States both to indigenous collectivities and to indigenous individuals.

AUSTRALIA appreciates that human rights are usually individual rights. Within Australia certain rights may be exercised both individually and/or collectively, such as those contained in the Native Title legislation. Religious and language rights and right to freedom from racial vilification are both collective and individual rights. The conflict between collective and individual rights needs to be examined. NEW ZEALAND recognizes group rights in the Treaty of Waitangi, which must not be detrimental to the enjoyment of individual rights.

All indigenous representatives strongly underscored the significance of the collective dimension of their social, cultural, economic and political rights and in particular, the right to self-determination. Many indigenous representatives noted that the right to self-determination is recognized under international law as a collective right -a right of peoples- and that indigenous title and other rights to lands, territories and resources are collective and communal or group rights.

According to PCG, few States have recognized IPs as distinct peoples and individual rights are too limited to recognize and protect group identity. All rights of IPs relating to their lives, cultures, languages, customs, traditions, beliefs, and laws derive from self-determination, a collective right. The right to land is collective and invasion is an attack on their life as their identity is linked to their ancestral lands. Collective rights are a reality exercised by the
IPs, but IPs are not subjects of international law (IMTA). The use of the term “peoples” in the Declaration is the clearest reflection of collective rights (AN). The basis of collective rights is self-determination and land for IPs’ survival (FOAG). The right to self-determination is a collective right, which exists in international conventions and in the UN Charter but is ignored by the governments (IPAAC). Collective human rights are still not recognized in the UN system. It is urgent to improve the UN human rights system to cover IPs’ necessity to live in accordance with their ancestral ways of life (CAPAJ).

The importance of collective rights was underscored because of the denial of IPs’ identity as peoples, with distinct languages and cultures. Denial of Jumma collective rights is still being perpetrated by acts of external and internal colonization. It is of fundamental importance that IPs’ collective rights including their right to identity, languages, cultures and means of subsistence are recognized under international law (PCJSS). Language rights are an integral part of IPs’ collective rights, which are vital to their integrity as peoples. In Bangladesh these rights continue to be denied a place in the national Constitution (CP). Collective rights are the continuation of the inherent individual rights of the indigenous persons or individuals. The only basis for discrimination or extermination was that IPs had some collective identity and collective interests, which were an obstacle for the colonizers. Therefore restoration of their community rights is the first step for recognition and against discrimination (MCTP).

The Aymara people want to be considered as “collective subjects with rights to be recognized and returned”. Their situation of extreme poverty is ignored and they are the victims of exclusion and racism. They have been forced to give up their languages, religion, culture and identity in order to be assimilated as individuals in a market system. As a collectivity their rights are under attack (THOA). Governments of South Asian countries do not want to recognize collective rights of IPs on their resources. IPs have the collective right to live in freedom, peace and security as distinct peoples (BIPF).

IPs’ survival can occur as long as they maintain their mutual obligations to their social concepts, their spiritual world –for Aboriginal peoples it is the ‘Dreamtime’ – and their own broad and extended view of the ‘self’. Indigenous rights, as collective rights, extend to issues of governance, development and cultural survival (FAIRA). For IPs of the Pacific the cultural, economic, social, and religious aspects, as well as conflict resolution, are dependent upon the preservation of collective rights and collective decisions. Hawaiian IPs have no protection for their collective land rights (NKIKLH).

The existence of IPs is not recognized in the African continent. As marginalized peoples, IPs’ cultures and languages have disappeared and they are losing their identity. Their right of self-determination and community rights are denied and policies are implemented without consulting their communities (AIWO/IIN). UDME reported on the situation of the Batwa people of Congo, who are considered as sub-humans suffering discrimination and human rights violations.

ILRC presented the Case of the Awas Tingni vs. Nicaragua, where the Inter-American Court of Human Rights affirmed that IPs have, as a matter of international law, collective rights to the lands and natural resources that they have traditionally owned and occupied. The Court further stated that governments violate the human rights of IPs when they fail to take affirmative legislative or administrative measures to protect and enforce these property rights and when they authorize access to indigenous lands and resources without consulting with IPs or obtaining their consent. The decision established an international precedent in a case that directly addressed the property rights of IPs. The Court found that the government of Nicaragua violated the property rights of the indigenous community when it granted a concession to a foreign company to log on the community’s traditional lands without consulting with the community of obtaining their consent. The Court ordered the government to delimit, demarcate, and title the Awas Tingni traditional lands.

TAR informed about the Machu Picchu Act, which was signed by five Andean countries and is aimed to ensure IPs’ active participation in all areas of the Nation’s life. They consider this Act as the beginning of the re-foundation of the Latin-American Republic-States.

The Chairperson highlighted that the existence of collective rights is not questioned. However, there is no agreement on which rights are collective and which rights are individual. He noted that governments are ready to consider specific articles of the DD dealing with collective rights.

**Land, territories and natural resources**

Although the governmental delegations had concerns about the provisions contained in the Draft Declaration (DD) concerning lands and resources, they all recognized the special relationship between IPs and their traditional lands. CANADA recognizes the collective nature of the interest of IPs in lands and resources and that IPs have the right to own, control, develop and use their lands and resources. The difficulty is to find terminology that would balance the interests of IPs and the sovereignty and obligations of States. The Declaration needs to draw a clear distinction...
between the terms “lands” and “territories”. In Canada, there are lands over which Aboriginal people have recognized ownership and other lands which they do not own but which they have the right to use for traditional activities. The Declaration needs to distinguish between these different types of rights. Its language is too absolute. Australia considers as problematic articles 26 and 27 which provide for exclusive rights to all land and resource and constitute a denial of third party rights (supported by France). Retrospective application of indigenous rights should not be contemplated as compensation for colonization, which happened a long time ago. France recognizes collective rights to land use on dominial lands for forest dwellers in French Guiana. Article 26 must not conflict with environmental protection with regards to the management of strategic resources. The concept of “compensation shall take the form of lands, territories and resources” in articles 27 and 28 raises a number of questions. New Zealand said that governments must balance return of land where possible with managing natural resources on a national level.

All indigenous representatives emphasized the critical importance of their relationship with their lands, territories and resources for their survival, their spiritual, economic, social and cultural well-being, and the effective exercise of indigenous self-determination. They underscored the unique spiritual nature of this relationship, which is very different from the Western concept of land ownership, and which extends to the surface and subsurface, inland waters and the sea, renewable and non-renewable resources, and the economies based on these resources. They affirmed their permanent sovereignty over natural resources as a principal of international law and essential aspect of self-determination.

As Chairman-Rapporteur of the UN workshop on “Indigenous peoples, private sector, natural resources, energy, and mining companies and human rights” which was held in Geneva on 5-7 December 2001, Wilton Littlechild of IOIRD presented the conclusions and recommendations of this workshop. He said that a good exchange of views took place on themes such as consultations, free, prior and informed consent, benefit-sharing and conflict resolution. Referring to the ongoing process of revision of the World Bank’s Indigenous Peoples’ Policy (O.D. 4.20), IPs have said that this new draft (OP 4.10, BP 4.10) would weaken their land and resource rights: ownership rights have not been acknowledged clearly; the principle of free and informed consent has been ignored; strengthening of IPs’ laws and institutions is non-obligatory (CP).

Permanent sovereignty over natural resources is a principle of international law that has become a central principle of decolonization. There is a growing and positive trend to extend the concept and principle of self-determination to peoples and groups within existing States (ILRC). Permanent sovereignty over natural resources constitutes the cornerstone of the right to self-determination. The unconditional giving away of wealth, minerals and energy resources to powerful holdings constitutes a serious challenge to the sovereignty of the Bolivian people (IMTA).

Collective rights are directly linked to the right to self-determination and to IPs’ distinct rights to lands, territories and natural resources. IPs cannot sustain or maintain their cultures and societies without these basic rights, which are fundamental to their existence as peoples. It is essential that these basic collective rights be guaranteed both nationally and internationally, so that IPs control their own economic, social, cultural and political development (ICC supported by SC). The right to practice one’s traditional culture collectively to protect all aspects of one’s cultural identity in relation to one’s lands and territories is vitally important. Collective recognition is also important for economic stability (IPNC/CVT). Denial of self-determination is essentially about power and greed (JOHAR). SC urged all participants to examine carefully the Human Rights Committee’s recent concluding observations on Canada, Mexico and Norway (UN Document CCPR/C/79/Add. 112, CCPR/C/79/Add. 109 and CCPR/C/79/Add. 105), which assert that the right to self-determination also applies to IPs, including land and resource rights. GCC reported on the Agreement in Principle which was signed by the Cree People of Eeyou Istchee and the Government of Quebec to implement the recommendations of the Royal Commission on Aboriginal Peoples (RCAP). This Agreement represents the only instance in Canada of a governmental authority recognizing and implementing the operating principles of self-determination. Unfortunately the government of Canada has not, to date, implemented the key recommendations of the RCAP, neither has it taken any action to implement the recommendations of the Human Rights Committee.

NN’s two fundamental principles are the preservation of Navajo culture, tradition and language, and the preservation, protection and enhancement of their sovereignty, including the right of self-determination. NN is endowed with numerous natural resources and could therefore be self-sufficient. They have implemented laws to manage natural resources, however inherent sovereignty is impeded by the US. They support the DD because they are at risk of policies that could terminate their existence as a Nation and as a people. IWA said that in the US IPs’ right to self-determination under international law is denied by domestic law and policy. IPs live as prisoners on their
own homelands, being controlled by a foreign colonial government. Their struggle is to recover their rights to full sovereignty over their people, land and natural resources.

In over 30 years since the Haudenosaunee have sought resolution of land claims, not one single settlement has been reached. They consider the DD as a critical step towards the resolution of Haudenosaunee Land Claim (HD). The Haudenosaunee have the mandate to maintain and secure land and life for future generations (AILA). FOA requested that IPs’ collectivities be associated with the settlement of land issues. This is essential not only to the survival of IPs, but also to peace as the land issue is at the root of more and more violent conflicts. CAPAJ demands the right for the Aymara people to continue to live in their ancestral territory without being disturbed by the States of Peru and Bolivia who dispossess them of their waters for purposes contrary to the sustainable conservation and use of their ecosystems. For THOA it is urgent that IPs’ own authorities control the territory and land distribution in Bolivia. OTM, COTU/CPMAgua want to recover their Mother Earth, and value and promote indigenous cultures. Collective rights to territories as habitats where peoples freely develop and strengthen their material and spiritual ways of life must be recognized. To deny these rights in the Declaration would be an act of discrimination (COCEI). There is no national or international law to protect IPs whose rights and survival are threatened with the imposition of unsustainable development and loss of land. To recognize rights to lands, territories and natural resources would be a step to remedy racial discrimination (IITC/MJK/FPCI/CTSFN/CVTC).

Many indigenous delegates pointed out the link between loss of land and poverty (KIKLH, THOA) and loss of culture (KYC) and distinct identity (AIMPO). National development and the so-called free trade cannot justify the destruction of IPs, their lands, territories and natural resources. The issue of land rights is not limited to issues relating to title, as it must include the rights to access, control and development. Under western legal trust law, the Hawaiians are the largest landowners, but continue to be the greatest number of homeless in Hawaii (KIKLH). The abolition of the traditional system of collective land rights impacted massively over the Limbu, now one of the poorest communities in Nepal (KYC). Rights of ownership and compensation should not be an issue of controversy in the Declaration. IPs have the right to develop economically through the use of their lands and resources. Sea rights should not be distinguishable from land rights (FAIRA/NAILSS/NSTSIO).

Situations of eviction were reported, such as in Kenya where the postcolonial regimes carried over the colonial land policy system. The government declared IPs’ lands (Ogiek and Maasai) as national parks and government forests through legislation. Indigenous forests were opened up for logging and flower plantations for European markets, resulting in the eviction of the Ogiek hunter-gatherer community (OPNA/IIN/IPACC). AIMPO reported that the Batwa people of the Great Lakes Region of Africa were evicted from their forests in the 1970s as the governments created national parks for tourists on their lands. APB said the Batwa are considered as underdeveloped people, are not included in decision-making processes concerning their own development and control over their resources. As long as their land rights are not recognized, they will be treated as refugees on their own land and without land rights and the right to self-determination they will be exterminated. They said that the absence of African governments in this working group reflects a racist and discriminatory attitude. OSILIGI said that globalization, or neo-colonialism, marginalizes and destroys IPs’ heritage and their ongoing struggle. Their heritage is threatened with wild life conservation, military exercises, and the destruction of indigenous resources, eco-tourism, massive logging and sport hunting. African IPs called upon the African governments to play an active role in the DD process by supporting IPs’ collective rights.

In summarizing, the Chairperson noted that there was broad recognition and respect for the particular relationship between IPs and their lands. He further noted that some States remained concerned about balancing indigenous rights to land and natural resources with national interests and third party interests. There were also concerns about retrospective application of rights to land. He believed that land, territories and resources are fundamental and central issues in the DD and said dialogue would continue when specific articles dealing with lands and resources are discussed.

Discussion of articles

For each article under discussion, the governments put forth proposals for alternate language in writing. The new texts contain a number of brackets and comments for further discussion, which reflect the lack of consensus among the States. Some States can accept the articles as currently drafted, while other are still unable to do so. The explanatory note on the term “indigenous peoples” was maintained, as some States cannot accept the use of the term “peoples”. These proposals will be included as an annex to the report. Most of the States provided their individual proposals and comments in writing, which are summarized hereunder.
The indigenous delegations reiterated their strong opposition to focusing discussion on specific articles other than the original text of the declaration, as approved by the Sub-Commission. However, they were willing to consider only the proposals that strengthen the text. They justified their position in written statements, which are summarized hereunder, considering the DD as minimum standards to ensure their survival as distinct peoples. Referring to concerns expressed by some States, they said that the issue of third party rights and individuals’ rights—which are addressed in other human rights instruments— is not the subject of the DD. The DD aims to protect IPs’ rights as distinct peoples and collectivities. Once again they firmly opposed the bracketing of the term “peoples”. No consensus on any of the articles under discussion was reached. Therefore, the Chairperson proposed coming back to them at a later stage.

**Article 13**

“Indigenous peoples have the right to manifest, practise, 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 ceremonial objects; and the right to the repatriation of human remains. States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.”

**MEXICO, GUATEMALA, NORWAY and PERU** can accept article 13 as originally drafted. **GUATEMALA** said that it was unacceptable to refer to domestic law in the Declaration. They proposed to have a general clause on third party rights in order to make progress (supported by NORWAY, PERU, NEW ZEALAND and USA). **PERU** supports the use of the term “indigenous peoples”.

**NEW ZEALAND** can accept the use of the term “indigenous peoples” in article 13. They consider that the right to freedom of religion is a fundamental human right. Traditions, customs and ceremonies, however, would need to be in accordance with the State meeting its international human rights obligations. They have concerns regarding the need to balance third party rights or public interest rights with the rights of IPs (also **CANADA, AUSTRALIA, UNITED KINGDOM**).

**CANADA** strongly supports article 13. Like **AUSTRALIA**, they support the insertion of the words “subject to domestic law”. They proposed to put together articles 12 and 13 in order to avoid overlapping. **AUSTRALIA** stated that they have legislation and policies to protect cultural artefacts and heritage sites and to facilitate the return of indigenous human remains and significant cultural property to indigenous communities. **USA** strongly supports freedom of religion as a basic human right of all persons. Like **AUSTRALIA**, they quoted the limitations allowed in other international instruments such as the Universal Declaration: the right to freedom of belief is subject “only to such limitations as are determined by law and are necessary to protect public safety, order, health, or morals, or the fundamental freedoms of others.” Under U.S. law third party rights are applicable to everyone. Supports the continued bracketing of “peoples” in the DD as a standard UN convention when States disagree on language, noting that negotiations are far from concluded. The **UNITED KINGDOM** said that the term “peoples” must remain in brackets, as human rights are individual rights.

Many indigenous organizations voiced their firm opposition to the inclusion of the “discussion paper” which was tabled by some States and presented as a basis for discussion on article 13, based on the following concerns: the document is anonymous, it contains 25 separate sets of brackets rendering the text incomprehensible, it has not been translated into all the working languages (ITC/MJK/AN/CTSFN/GCC/ECMI/COCEI/CVTC/COPMAGUA/MPTN, ICC). They further expressed their concerns about assuring full participation by indigenous representatives and said that they were prepared to discuss proposals of States that are aimed in good faith at reaching consensus (NN/HD/SC/ILRC/AITPN/ATSIC/MN). It is not appropriate for States to address theirs concerns in this Declaration. IPs are required to exercise their basic rights through court intervention, or are simply denied these rights. States have obligations to safeguard and promote these rights (AIPP). **IOIRD/Cree Nation** said that Part III, including article 13, is considered as the least problematic part of the DD and asked the Chairman to call for consensus to adopt this article in its current form.

Many indigenous delegations reiterated their firm opposition to the bracketing of IPs (ATSIC/FAIRA/NAILS/S/NSTSIO, AIWO/OPNA/IIN) and to the unacceptable reference to domestic law (also NIPDISC/TDPAN), stating that their religious traditions and ceremonies cannot be subjected to domestic laws (also EMCI) or be limited because of public safety, order, health or morals (NIPDISC/TDPAN). **AIWO/OPNA/IIN** supported the statements presented by **GUATEMALA** and **NORWAY**. The reference to “make best efforts” to replace
“take effective measures” represents an unacceptable weakening (ATSIC/FAIRA/NAILSS/NSTSIO). The only proposal that strengthens the text is the inclusion of “and associated funerary objects” (ICC, HD).

Indigenous delegations were not in favour of drafting of language to safeguard third party rights in the context of this Declaration, as the subjects of the Declaration are IPs and the rights contained in the Declaration are not absolute. Other instruments affirm the rights of third parties (ICC, ATSIC/FAIRA/NAILSS/NSTSIO).

ECMI supported the original text as an act of redress for all the damage and prejudice perpetrated against their peoples during colonization until the present time. It is necessary to support IPs’ culture to strengthen nation states.

MCTP said that formulas that would only fix the results of the colonial rule over the IPs should be avoided. PCG stated that the government of Bangladesh uses Islam as an instrument to expand and consolidate its colonial footing in their homelands, the Chittagong Hill Tracts. Article 13 is very important to IPs of Africa (AIWO/OPNA/IIN), IPs’ fundamental rights are denied in Nepal, a “Hindu Kingdom” according to the 1990 Constitution (NEFEN). In Indian legislation practices, Advisors’ religions are ignored. Religion and faith are rooted in the earth, their homelands and territories. To respect them implies to refrain from disturbing their sacred sites (JOHAR).

HD stated that their spiritual and religious traditions, and their sacred ceremonies have been an integral part of their communities since time immemorial, which cannot and must not be held accountable to any man made laws, regulations or sanctions.

The Chairperson said that there was no support to governments’ proposals. As there was still no consensus on the text, he proposed to come back to it a later stage.

Article 6

“Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext.

In addition, they have the individual rights to life, physical and mental integrity, liberty and security of person.”

FINLAND, MEXICO, NORWAY, GUATEMALA, DENMARK, PERU, SWITZERLAND, and CHINA stated that they could accept article 6 as is.

MEXICO said that the majority of States could support article 6 as currently drafted and proposed to adopt the second paragraph of the article. They requested States to present their proposals in writing.

NORWAY, NEW ZEALAND, AUSTRALIA, CANADA and SWEDEN support the proposal of a separate article on the rights of the child.

SWEDEN supports both terms “peoples” and “collective” in paragraph 1, although they believe that human rights are individual rights, which can be exercised in community with others.

NEW ZEALAND can accept the reference to a collective right as it refers to genocide, a collective issue. A “collective right to live in freedom, peace and security” should seek to achieve a balance between a government’s right to govern and the indigenous right to maintain a living culture. They support the use of the language of the Genocide Convention for a specific reference prohibiting the removal of indigenous children from their families and communities. The terms “mental integrity” (also AUSTRALIA, CANADA, USA) and “distinct peoples” are unclear.

AUSTRALIA is of the opinion that the alternate language developed by States sets higher standards. The reference to the Convention on the Rights of the Child (CRC) and the Genocide Convention improves and strengthens the text, for instance for the protection of the best interest of the individual child (also CANADA). CANADA also said that the right to live in peace did not exist in international law.

USA does not support the separate article on the rights of the child as proposed by some States, as they are not party to the CRC. JAPAN is not convinced about the collective right to live in peace and prefers the alternate text.

The Indigenous Caucus stated that the governments’ paper was a compilation of proposals. They wanted governments to justify the proposed changes in the plenary. IOIRD suggested considering the cluster of articles 6-11 as a whole in order to save time.

ECMI requested the States not to support the alternate text, while IMTA proposed its own version of the article. Like all indigenous representatives, COIPITA urged the working group to adopt article 6 without any amendments.

TKM said that the DD shall acknowledge the collective rights of IPs, as the Declaration is a challenging progressive document, not a restatement of what is but what ought to be. They opposed references to the Genocide Convention and the CRC. Such references are illogical and unnecessary (ATSIC/NAILSS/FAIRA/NSTSIO) and weaken the text (NKIKLH).
The right of IPs to live without fear of persecution and to decide the fate of their children is a sovereign right that must be protected (NN). CAPAJ said that non-removal of children from their families and communities is a collective right, as well as prohibition of genocide. They reported on the recent massive sterilization of IPs in Peru as a contemporary form of genocide. The proposed removal of the phrase “the removal of indigenous children from their families and communities under any pretext” represents a serious weakening of the current text (ATSIC/NAILSS/FAIRA/NSTSIO).

NKIKLH noted that States agree to prevent collective genocide but are not willing to support collective human rights. IPs have the collective right to live in peace and freedom (Yachay Wasi). ATSIC/NAILSS/FAIRA/NSTSIO believed that the substitution of the language “full guarantees against genocide” with “shall not be subjected to any act of genocide” represents a fundamental diminution of the original text. The right of indigenous individuals to choose integration is already adequately guaranteed. JOHAR suggested removing the proposal on integration from the alternate text.

In summarizing, the Chairperson said that there appears to be four principal issues in discussion, on which there is still no consensus: the issue of collective rights; the appropriateness of the reference to and interpretation of “genocide” with proposals to refer to the Convention on Genocide; and the legal nature of terms such as “physical and mental integrity”, “violence” and “distinct peoples”. Lastly, further discussion is needed on a new article on the rights of indigenous children. No global agreement was found.

**Article 7**

“Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including 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 population transfer which has the aim or effect of violating or undermining any of their rights;
(d) Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;
(e) Any form of propaganda directed against them.”

MEXICO approves article 7 as originally drafted. NORWAY supports the underlying principles of the article. SWITZERLAND said that article 6 is not sufficient to prevent genocide. Exclusion must be prevented but is not included in article 7. Article 6 of the Rome Statute for the International Criminal Court may be useful to the drafting of article 7, as it goes beyond physical genocide and makes reference to ethnocide. The language found in the Rome Statute and its Elements of Crime provide a comprehensive definition (CANADA).

CANADA stated that the language regarding a prohibition on “integration” needs to be examined further, as the concept differs from other harmful concepts such as “assimilation”. The term “right to integrity” must be clarified.

Many indigenous representatives stressed that land is a key component of indigenous culture and dispossession of land is paramount to ethnocide. They noted that globalization, neo-colonization and militarization make this article particularly relevant because of their multiple negative effects including dispossession of land, forced relocation, population transfer and cultural genocide.

ICC said that the concept of cultural genocide was formulated in light of past and contemporary actions suffered by IPs and must remain an integral part of the present Declaration. They stated that in many instances, acts of cultural genocide have preceded or accompanied acts of genocide. It is unacceptable that the US, who has committed acts of cultural genocide or genocide against IPs, is now seeking to undermine the provision on cultural genocide in the DD and that some States do not wish to refer to the right contained in article 7 as a collective right. The DD should not mention the Genocide Convention, which has been inoperative since its inception. CVTC said that the US is trying to take away IPs’ rights to be distinct and independent political communities qualified to exercise self-government. They stressed the importance of article 7.

Article 7b does not aim to create a new right exclusive to IPs, but to protect IPs’ survival collectively and guarantee their continuity (CAPAJ/PPQA/CDRA). BHHTSN/TO cannot accept the proposed additional language to article 7b which states that IPs cannot be dispossessed of their land unless “in accordance with the principles of due process of law and appropriate compensation”, thus permitting the theft of IPs’ land.
HD strongly encourages States to include the use of the terms “ethnocide” and “cultural genocide” in their revision process. The Haudenosaunee have experienced various acts of ethnocide. ECMI/ANIPA are concerned about the loss of IPs’ own values and claim the right to diversity. TKM referred to the loss of Maori lands, population transfers, transfer or displacement of economic wealth of IPs through States entering free trade agreements, and genetic engineering as forms of cultural genocide. BIPF referred to population transfers in India, Pakistan and Bangladesh so that IPs become minorities and said that States should recognize the collective and individual right of IPs to maintain and develop their distinct identities. IMTA suggested amendments to article 7, including i.a. protection against any act of genocide and evangelization.

In his closing remarks, the Chairperson said that the debate on article 7 would resume at the next session of the working group.

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 disadvantage of any kind may arise from the exercise of such a right.”

FINLAND, NORWAY, MEXICO, DENMARK, GUATEMALA, SWEDEN, and SWITZERLAND can accept article 9 in its current form.

CANADA does not recognize that a “right to belong” exists in international law and therefore supports the formulation “may belong”. This language reflects the concept that indigenous peoples and individuals are free to belong to an indigenous community or nation. They support the proposal to delete the second sentence of article 9.

USA supports the alternative text of article 2, which also addresses membership and freedom from adverse discrimination, “the right to be free from any kind of adverse discrimination, in particular that based on indigenous origin or identity”, and a reference to the Convention on the Elimination of All Forms of Racial Discrimination.

AUSTRALIA had specific concerns about the second sentence of the article with regards to the limits to the extent to which governments can provide against some of the adverse consequences of people’s individual life choices. They were concerned that articles 2 and 9 should not preclude the ability of the State to adopt special or other reasonable measures for the benefit of IPs. They said that the term “nation” conflicts with territorial integrity. NEW ZEALAND can accept the term “nation” if it means “nation within the State”.

NN addressed the question of the meaning of belonging to a nation. Indian nations are a government with inherent sovereign powers. The US domestic law recognizes Indian tribes as political entities with inherent powers of self-government, but there are many tribes who are not federally recognized (such as in Hawaii, NKIKLH). They strongly supports non-interference of States with preferences of indigenous peoples and individuals regarding their belonging to indigenous nations and communities.

For BHTSN/TO the point of article 9 is to provide IPs with the right to self-identity. Many IPs are nations with a defined territory, language, culture and government. One of the tools which was used by the US in maintaining its control over Native American nations has been their definition of who and who is not Indian. For instance, blood quantum determined who could and could not hold land. It has been a way of dividing the people and weakening the traditional government led by their elders (NKIKLH). NKIKLH said that three bills have been put into US Congress to recognize Hawaiian sovereignty.

Replying to AUSTRALIA, TKM said that the identification of IPs as nations is established in other countries and must be recognized in the DD. Replying to CANADA, they stated that the right to belong to a nation must be established (also BHTSN).

MJK/IITC said that the amendments proposed by some States deny IPs’ right to live in accordance with their traditions and customs. Article 9 does not constitute a threat to Nation States (CC). The approval of article 9 would help resolve the problem of discrimination (ECMI/ANIPA).

The Chairman summarized the debate by stating that agreements need to be found on three issues: (1) if belonging to a nation/community constitutes a right or an option; (2) the implications of the term “nation” in international law; and (3) if the notion of “positive discrimination” or “disadvantage” is ambiguous. More discussion is still required to build a consensus.
**Article 10**

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

**FINLAND, NORWAY, MEXICO, GUATEMALA, CUBA and SWITZERLAND** can accept article 10 as originally drafted. **FINLAND** emphasized the significance of article 10 for the existence of the IPs and the maintenance of their cultural base. **NORWAY** addressed the issue of compensation in light of the particular value and significance such lands and territories might have for the IPs concerned (supported by ICC). **GUATEMALA** said the purpose of article 10 is to recognize a collective right to prevent the forced removal and relocation of IPs from their lands and territories. The intent of the article is not to deal with emergency situations (supported by ICC). **CANADA** can accept the principle that indigenous peoples and individuals shall not be removed arbitrarily from their lands (also JAPAN and RUSSIAN FEDERATION). **CANADA** and **AUSTRALIA**. However, there may be situations where removal is required for reasons of health or safety. In these cases, the article should reflect that where removal is required, this would occur after consultation and on the basis of just and fair compensation. It is appropriate to include specific reference to indigenous individuals as well. This article should be reviewed together with articles 7b, 11c, and 25 to 28 dealing with relocation and lands and resources.

**USA** believes the issue of land and territories would be best dealt with in Section VI of the DD (also RUSSIAN FEDERATION). The article should leave open the possibility of removals in the context of disasters (also JAPAN) and other emergencies, acquisitions of land for public purposes, and in situations of armed conflict (also AUSTRALIA).

**NEW ZEALAND** said it is unclear whether the article addresses the issue of temporary or permanent removal. **AUSTRALIA** cannot support the requirement for “free and informed consent” before any relocation can occur, for example in case of emergency or natural disaster. Neither can they support the requirement for agreement in relation to compensation.

Referring to the situation of IPs in Colombia, **CIT** illustrated the necessity of articles 7 and 10. IPs can be the military target of any party to the armed conflict, suffering such abuses as murders, massacres by the paramilitary with total impunity, land dispossession, forced disappearances of traditional leaders, recruitment of indigenous youth, contamination of lands with chemicals, and displacement. IPs are affected by the Plan Colombia, and are threatened with ethnocide, genocide, and ecocide because of political violence. **HD** referred to dispossession of their lands for hydroelectric projects without free and informed consent, nor fair and just compensation. None of their nations have benefited from these projects. They cannot support the word “arbitrarily” in the proposed text. Replacement of the term “forcibly” with “arbitrarily” weakens the true significance of this article (SGC). **SGC** gave the example of the Ainu who were forcibly removed from their land by the Japanese government who built a dam.

**THOA** said that IPs’ present situation of poverty and exclusion is the results of colonization policies. Land dispossession led to genocide. Article 10 as originally drafted contains a minimum standard. **CVTC** said that the land settlement passed in 1971 with the IPs of Alaska did not obtain their consent. IPs were deprived of their land and resource rights. **ICC** addressed the forced removal and relocation of the Inughuit of the Thule District of North Greenland. They are extremely alarmed by **CANADA’s** and **AUSTRALIA’s** omission of the critical principle and right of IPs to consent to any and all matters concerning their land rights.

The **Chairman** took note of the general agreement on the inclusion of a provision to prevent the removal of IPs from their lands. However, he said that there were still questions on the meaning of “lands and territories”, “forcibly”, “consent” and “compensation”. He noted that the term “redress” instead of “compensation” received positive support.

**List of abbreviations**

AILA: American Indian Law Alliance  
AIMPO African Indigenous and Minority Peoples Organization  
AIPP: Asian Indigenous Peoples Pact  
AITPN: Asian Indigenous and Tribal Peoples Network  
Work plan for the 8th session of the Working Group on the Draft Declaration, scheduled to take place from 11 to 22 November 2002

1. Articles 3, 31, 36 on self-determination
2. Articles 25 to 30 on lands, territories and resources
3. Articles 7, 8, 11 on ethnocide, distinct identity, and armed conflicts
5. WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT
Johannesburg, 26 August - 4 September 2002

Priorities For WSSD-An Overview Of The Regional Preparatory Meetings

Five regional inter-governmental preparatory meetings, including a number of sub-regional, for the World Summit on Sustainable Development were held from September-November 2001. The meetings addressed a wide array of issues ranging from region specific to general global actions. However, some areas of common concern or priority issues for the Summit did emerge from these meetings. Just before the Conference, it seems useful to summarize these priorities as developed at the regional level.

Almost all the regional meetings have underlined five things.
1. This is a solution-finding phase. The international community should, therefore, concentrate on expeditious implementation of Agenda 21.
2. Integration of the three pillars of sustainable development.
3. There are new realities like globalization that should be addressed to promote equity and inclusion.
4. The Summit should focus on certain key areas and on deliverables that can accelerate progress towards the realization of the goals of sustainable development. While doing so, it should build on the goals agreed at various UN Conference/meetings, particularly the Millennium Summit goals.
5. The need to strengthen international institutional arrangements for sustainable development.

While there are some differences in regional priorities, the following areas seem to be emerging as issues of common concern:


- Globalization: There are calls for making globalization equitable, sustainable and inclusive. The Summit should focus on ways and means of making globalization work for sustainable development. Some regions have mentioned specific initiatives in the areas of trade, finance, investment and technology, including information technology.

- Poverty eradication: The Summit is expected to contribute towards the realization of the Millennium Declaration goal of halving poverty by 2015. It is also expected to promote better understanding of linkages between environment, poverty, trade and human security.

- Sustainable Consumption and Production: Measures to encourage sustainable production and consumption, particularly increasing energy efficiency. Decoupling of economic growth from pressures on the environment or natural resource base.

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• Management of Natural Resources: The Summit should develop specific initiatives in areas such as fresh water and sanitation, oceans and seas, coastal zones, mountains, land use, forests, biodiversity, desertification, minerals and metals. Some regions mentioned air quality and climate change with particular emphasis on implementation of international commitments.

• Agriculture and Food Security: Doubling agricultural production in Africa within five years. Some regions emphasised the need to promote sustainable agriculture and rural development (SARD).

• Energy: The Summit should deliver a deal that promotes global access to energy. Special initiatives for promoting the share of renewable and affordable energy should also be launched.

• Fresh Water and Sanitation: Achievement of the Millennium Declaration target on access to water and sanitation services. Measures to promote integrated water management.

• Sustainable Human Settlements: Initiatives on effective urban planning and management. Some regions referred to the issues of mega-cities.

• Health: Initiatives to strengthen health services should be part of the overall poverty reduction and sustainable development strategies.

• Human Development: Education, training, employment, gender mainstreaming and development of youth.

• Financing of Sustainable Development: Mobilization of all sources of finance; Developed countries should endeavour to meet the target of 0.7% of GNP as ODA as soon as possible; Cancellation of debt of the poorest countries; innovative sources of financing should be identified by the International Conference on Financing for Development.

• Trade and Market Access: Greater market access to developing countries’ products, particularly in the areas of agriculture and textiles; elimination of market distorting subsidies and export support measures; reduction of environmentally damaging subsidies.

• Transfer of Technology and Capacity Building: The Summit should foster the establishment of effective means of facilitating transfer of technology, and measures to promote capacity building.

• Governance/Institutional Structure for Sustainable Development: The Summit should discuss ways of improving institutional framework for sustainable development at the national, regional and international levels. Some regions emphasised the importance of national governance issues, including promotion of effective partnership arrangements. Peace and security were identified as a pre-requisite for sustainable development.

• Decision Making and Information Requirements: Need for further efforts in developing sustainable development strategies and policies, effective participation and development of measures for monitoring progress towards sustainable development.

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**Accreditation**

Deadline for the NGOs in consultative status with ECOSOC and on CDS list: **12 August 2002**. Send list of participants on organizational letterhead to:

Johannesburg Summit Secretariat, United Nations
Major Group Relationships
Two United Nations Plaza, 22nd Floor
New York NY 10017
Fax: +1-917-367-2341 or +1-917-367-2342
Email: summitregister@un.org
6. THE ORGANIZATION OF AMERICAN STATES AND THE AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

76 representatives of indigenous peoples and 5 experts discussed among other things multiculturalism, the rights of indigenous peoples to cultural integrity, health and the environment as well as the right to control their territories and to self-determination.

By Tomás Alarcón, Legal Committee for the Self-Development of Peoples of Andean Origin (CAPAJ)

The Special Session of the Working Group responsible for drawing up the Draft American Declaration on the Rights of Indigenous Peoples took place at the seat of the Organization of American States (OAS) from the 11th to the 15th of March, according to schedule. This year's session was called by Ambassador Eduardo Ferrero Costa, (Peru's representative at the OAS) in his role as Chair of the above-mentioned Working Group.

76 representatives of indigenous peoples and 5 experts were present at this special session. Also present to help the Chair in the Working Committee were Luis Toro (representing the Department of International Law), Alejandro Aristizabal (representing the Secretariat of the Permanent Advisory Commission) and Dr. Oswaldo Kreimer. In his inaugural speech, the Chairman stressed that governmental and indigenous participants had, since the previous year, been working at the same stage of the discussions and negotiations concerning the Draft Declaration - for the first time in the OAS's history.

On the first day of the Session, there were presentations by the invited experts. Dr. Benedict Kingsburel from New Zealand (a professor in the International Department of the University of New York) emphasized that the Draft Declaration's main focus should be on self-determination. Following this, Don Augusto Willemsen Diaz stressed that real legal pluralism is the solution in multiethnic and multicultural countries. He added that the right to self-determination is one of indigenous peoples' fundamental rights, and could be applied in many ways. Fergus Mackay, a specialist in International Law of Indigenous Peoples, explained that movement or relocation of indigenous peoples without their consent is a violation of human rights and should not be allowed - even if it is supposedly in the 'public interest'. Ana Valeria Araujo, an expert representing Brazil, stated that if the American Declaration were made dependent on international lawmakers its text would inevitably become less controversial. This would nullify the progress already made. The Canadian Wayne Lord pointed out that any process that encourages confidence between states and indigenous peoples would create respect and transparency, leading in turn to understanding and agreement.

After this introduction followed three days of productive debate and exchange of ideas on various themes that had been begun by the third Section of the Cultural Development Project - the right to cultural integrity, logical conceptions and education. The indigenous delegates stressed that with the granting of these rights, indigenous peoples must be given the right to self-determination and the control of their territories. The states that recognized these ideas were Panama, Mexico, Guatemala and Peru. They in turn backed the indigenous proposals.

Moving on to the theme of health and the environment, the states thought that the relevant principles should be redrafted in order to guarantee collective backing of these rights.

In an analysis of 'Organizational and Political Rights', all the indigenous delegates proposed that a specific article should be added on the right to 'self-determination' in place of 'internal self-government', as this latter term was not completely accepted by the states.

There was also a debate on indigenous law, and all agreed that indigenous peoples have their own legal systems and that these must be recognized by the states. Lastly the debate turned to 'Lands and Territories'. This final debate could not be concluded due to the conflicting viewpoints of indigenous peoples and states.

Parallel to the session, the indigenous peoples issued a joint declaration backing the creating of a Fund of Permanent Contributions in the OAS. It was proposed that this should have 7 members - 2 representatives from North America, 2 from Central America, 2 from South America and one state representative. They also requested that 'National Conferences' should be set up in the states, with the collaboration of the indigenous peoples.
7. OTHER MATTERS

Working Group on Indigenous Populations
Twentieth session, 22-26 July 2002

PROVISIONAL AGENDA

1. Election of officers.
2. Adoption of the agenda.
3. Organization of the work of the session.
4. Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people:
   Principal themes:
   (a) "The Working Group and indigenous peoples: achievements in the United Nations system and a vision for the future";
   (b) "Indigenous peoples and their right to development including participation in development affecting them".
5. Review of recent developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people:
   General statements, including on land issues, education and health.
8. Other matters:
   (a) Meeting and seminars;
   (b) Voluntary Fund for Indigenous Populations.
9. Adoption of the report of the Working Group on its twentieth session.

Third International Workshop on Indigenous Children and Youth

The Third International Workshop on Indigenous Children and Youth is being planned for July 17-19 2002 and will be held at the Palais des Nations in Geneva.
In addition to an update on international actions and activities that affect indigenous children (including the outcome of the UN General Assembly Special Session on Children) we hope to focus on educational challenges faced by indigenous peoples and their children.

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Indigenous Fellowship Programme

The Office of the High Commissioner for Human Rights is accepting applications for the 2003 Indigenous Fellowship Programme. The aim of the programme is to provide young indigenous peoples (between the ages of 25 - 35 years) with an orientation to international human rights and the United Nations system, with a specific focus on issues relating to indigenous populations. Based at the Office of the High Commissioner for Human Rights in Geneva, Switzerland, five fellows will be selected to participate in the five-month programme, which will run from April to September 2003. A stipend will be provided to cover costs for living and travel to and from Geneva.

For more information on the program, please visit our website at http://www.unhchr.ch/indigenous/fellowship.htm.

Please note that the deadline for the 2003 Fellowship Programme is **15 August 2002** and that applications must be sent by fax or post in order to be considered.

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The Global Alliance for Cultural Diversity

Joining together representatives from the public, private and civil society sectors who share an interest in fostering creative diversity, the Global Alliance for Cultural Diversity is an innovative UNESCO-sponsored initiative that is intended to promote the ability of developing and transitioning countries to produce and disseminate their creative products at both the local and international levels.

Global Alliance projects will contribute to the development of local creative industries, including those related to books, publishing, music, cinema, audio-visual and crafts, as well as encourage respect for copyright and piracy prevention. In this undertaking, UNESCO is working in collaboration with other international organizations in particular with UN members to promote multilateral partnerships amongst public, private and civil society sectors for ensuring a more diversified and equitable array of cultural goods and services worldwide. The Global Alliance activities will also be supported by a special extra-budgetary fund to provide accompanying measures for the projects in the concerned countries.

Through the Global Alliance, partners will become part of a strategic network committed to cultural and economic development, allowing them to benefit from the increased resources and profile at the local and international level. These partnerships will contribute to the development of cultural industries, rich in diversity.

For more information, please contact:
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