INDIGENOUS PEOPLES’ CENTRE FOR DOCUMENTATION,
RESEARCH AND INFORMATION
doCip

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1. EDITORIAL
The results of the inquiry into Update have proven to be very positive for the editorial staff. Although the results have been known already for a few months, there was insufficient space to publish them in our last issue. The results showed that 75% of the people and organizations consulted, considered that Update completely fulfilled their needs, and 17% agreed that it fulfilled their needs but improvements could be made. Therefore, globally, the level of satisfaction is 92%.
The replies to the question of should we continue to summarize all the interventions voiced in UN forums dedicated to the indigenous peoples’ affairs have been more varied: 45% replied no and 25% replied yes. This compels us to modulate our new concept to take into consideration the importance of a strong minority.
Update is particularly used: (1) as a reference document or by indigenous peoples’ organizations to prepare their own publications and radio broadcasts, or are displayed in libraries; (2) as an educational tool in the framework of the capacity-building programs and (3) as an informational instrument for follow-ups at UN meetings.
The suggestions for improvements are diverse: we are asked at the same time to maintain the technical and exhaustive character of Update, to make it more topical, to partially transform it into an instrument of communication for indigenous people and to supply indigenous delegations the necessary elements for their future meetings. Update should also be published more frequently. The main criticism addresses the delays in publication, which we are the first to deplore.

We have started, little by little, to implement the new concept developed from this advice. This implementation will accelerate as soon as additional means are put at our disposal. For this edition certain events took place that have been of great help to us. Five conferences held between October and December 1999 that dealt with different levels on the topics related to the heritage of the indigenous peoples at UNESCO, WIPO, WHO and WTO gave rise to the declarations of the indigenous peoples, that are published here. To this we have to add the summary, conclusions and resolution of the ‘International Conference on Indigenous and Scientific Knowledge on the Sustainable Use of Plants’, which was organized at the occasion of the 20th anniversary of doCip. These conclusions and resolution are destined for the new Working Group on Traditional Knowledge of the Convention on Biological Diversity which will take place in Seville in March 2000.

doCip’s 20th anniversary celebrations benefited from the presence of twelve indigenous holders of traditional knowledge who came expressly from India, Borneo, Tahiti, Siberia, Arizona, Peru and Congo. Through songs, dances, presentations, therapeutic demonstrations, films and photos, they demonstrated to the local and the international population of Geneva, some of their knowledge and use of the vegetal realm. On this occasion, the State Representative for Geneva pronounced favorably and with vigor for the ratification by Switzerland of the ILO Convention169, a ratification that was at this time being discussed at the Federal Parliament. The event was well publicized though the press and several television programs, during which a representative from the City of Geneva and director of the Botanical Garden received respectively a root of ayahuasca from the Peruvian Amazon and cuttings of manioc from French Guyana.

In conclusion, let us note, that this overall theme on traditional knowledge was completed by a short preparation of the next Working Group on a Permanent Forum and a summary of the work accomplished during the last Working Group session on the Draft Declaration.

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2. CALENDAR OF UN HUMAN RIGHTS MEETINGS IN GENEVA FOR THE YEAR 2000

28 February - 1 March1
Workshop on the draft principles and guidelines for the protection of the heritage of indigenous people (1st session).

20 March - 28 April
Commission on Human Rights (56th session). The item on indigenous issues will probably be discussed on 13 April.

10 - 12 April
Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations (13th session).

13 - 14 April

22 - 26 May
Working Group on Minorities (6th session).

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1 The Workshop on the Draft Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples will be devoted to the discussion of the Principles and Guidelines for the Protection of the Heritage of Indigenous Peoples, which can be found in the annexes of the Report number E/ CN.4/Sub.2/1995/26 by the Special Rapporteur, Ms Erica-Irene Daes.

As it is a very specialized issue, it is recommended that the participants possess some expertise in the areas regarding heritage, intellectual property rights etc.

In order to prepare a list of participants, the High Commissioner would need a letter from the persons wishing to take part in the Workshop. They should include their name, organization and background on their expertise.

Please send the letter to Mr. Julian Burger, Office of the High Commissioner on Human Rights, Palais Wilson, rue des Pâquis 51, 1201, Switzerland.
24 - 28 July
Working Group on Indigenous Populations (18th session).

31 July - 25 August
Sub-Commission on the Promotion and Protection of Human Rights (52nd session).

16 - 27 October

COMMITTEES IN GENEVA

6 - 24 March
Committee on the Elimination of Racial Discrimination (56th session): Australia, Bahrain, Bangladesh, Denmark, Estonia, France, Ghana, Greece, Lesotho, Malta, Nepal, Qatar, Rwanda, Slovenia, Spain, Tonga, Viet Nam, Zimbabwe.

25 April - 12 May
Committee on Economic, Social and Cultural Rights: (22nd session): D. R. of Congo, Egypt, Georgia, Italy, Jordan, Portugal.

1 - 5 May (1st session)
Preparatory Committee, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

1 - 19 May
Committee against Torture (24th session): Armenia, China, El Salvador, Netherlands (Antilles and Aruba), Paraguay, Poland, Portugal, Slovenia, United States of America.

15 May - 2 June
Committee on the Rights of the Child (24th session): Cambodia, Djibouti, Georgia, Jordan, Kyrgyzstan, Iran, Malta, Norway, Suriname.

10 - 28 July
Human Rights Committee (69th session): Australia, Ireland, Kuwait, Kyrgyzstan.

31 July - 25 August
Committee on the Elimination of Racial Discrimination (57th session)

September
Committee on Economic, Social and Cultural Rights (extraordinary session)

18 September - 6 October
Committee on the Rights of the Child (25th session): Burundi, Central Africa, Colombia, Comoros, Finland, Marshall Islands, Slovakia, Tajikistan, United Kingdom (Isle of Man).

16 October - 3 November
Human Rights Committee (70th session): Argentina, Denmark, Gabon, Peru, Trinidad and Tobago, Uzbekistan.

13 - 24 November
Committee against Torture (24th session)

13 November - 1 December
Committee on Economic, Social and Cultural Rights (23rd session): Belgium, Honduras, Kyrgyzstan, Mongolia, Sudan.

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3. OPEN-ENDED INTER-SESSIONAL AD HOC WORKING GROUP ON A PERMANENT FORUM FOR INDIGENOUS PEOPLE - Geneva, 14-23 February 2000

Provisional agenda

1. Election of officers.
2. Adoption of the agenda.
3. Organization of work.
4. Proposals for the possible establishment of a permanent forum for indigenous people:
   (a) Mandate and terms of reference for the activities to be undertaken by the forum;
   (b) Membership;
   (c) Financial and secretariat implications;
   (d) The United Nations body to which the proposed forum would report;
   (e) Location of forum;
   (f) Name of forum;
   (g) Other matters.
6. Follow-up.
7. Report to be submitted to the Commission on Human Rights at its fifty-sixth session.


On behalf of the Nordic Countries, the Saami Parliaments and the Greenland Home Rule Government, DENMARK urged all parties to demonstrate a spirit of co-operation and participate actively in the second meeting of the Working Group on the Permanent Forum (WGPF). The forum can be established before the end of the Decade if there is will. Participants should focus on the proposals that already seem to gain considerable support. GUATEMALA strongly supports the establishment of the PF pointing out that its mandate should be as broad as possible.

In a joint statement, IOIRD, GCC, ICC, IITC, JD, TF, AITPN, AIPR, SN, CPA, SC, NLT, MLS, GNCSA, CCCI called for the swift establishment of a PF and the adoption of the Draft Declaration on the Rights of IPs, considered as the most important tasks for the UN in the forthcoming years. Congratulated the Chairman of the WGPF for his work for the WG was able to converge on a majority of outstanding issues, such as (1) the establishment of the PF, (2) with a broad mandate covering all issues affecting IPs, (3) organized as an open assembly, (4) including a core group composed of a limited number of members from governments and IPs on an equal basis, representing all regions of the world.

They are of the opinion that the representatives should act as full voting members. Participation should be free, regardless of consultative status with ECOSOC. Experts may be called upon if necessary. The forum should report directly to ECOSOC. Its mandate should include the full range of issues covered by the mandate of ECOSOC which are of concern to IPs. It could also submit proposals, recommendations and reports to ECOSOC, and coordinate all matters pertaining to IPs. The PF should be able to establish its own ad hoc working groups. It would be funded by the UN regular budget and have a new and separate secretariat. The office of the HCHR would not do because (1) the PF mandate would go beyond human rights, (2) administrative and political leadership of the OHCHR does not give indigenous issues the necessary priority in terms of human and financial resources, (3) the proposed option would increase the possibilities of indigenous persons being assigned to key positions. As for the WGIP, it should

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2 Working paper E/CN.4/AC.47/2000/2 by the Chairman of the first session of the Working Group on a Permanent Forum, Mr. Richard van Rijssen, is available in English, Spanish, French and Russian and will be posted on the Internet shortly. A new Chairman will be chosen during the present session. The western countries have already chosen their candidate.
continue to exist, though it cannot meet the needs of IPs as it is located at the lowest possible level of the UN system and IPs are subject to the views of individual experts, who are also government representatives, in the Sub-
Commission.

According to FOAG, the mandate should cover ESC rights, include coordination of UN instruments and action, drawing up of proposals and follow-up aimed at harmonizing State laws and standards with international law. The PF should be established before the end of the Decade. Recalled that IPs from French Guyana are not granted minimal provisions such as those included in ILO Convention 169. NIKIKLH stated that the PF should not replace the WGIP (also CTT, AIPR), which should be maintained under its current mandate -standard-setting and review of developments. Requested a separate geographic category for Oceania and the Pacific.

In a resolution calling for the establishment of a PF adopted on 19 March 1999 (E/CN.4/Sub.2/AC.41999/3) RAIPON stated the following: Its mandate should include all indigenous and ECOSOC issues. The PF should coordinate the activities relating to IPs, assist and advise governments and specialized agencies, draw up recommendations, and disseminate information on IPs. It should be able to make decisions and take steps with regards to the protection of IPs’ rights, i.e. in conflicts. It should also be able to call on experts and establish working groups. It should report to ECOSOC as an independent functional commission. The PF should be comprised of at least 20 members appointed by ECOSOC, with an equal number of indigenous and state representatives on an equal footing, with full right to vote. Members should be named according to a balanced geographical distribution, which differs from the five geopolitical regions established by the UN. Linguistic representation should also be taken into account. Indigenous members would first be elected by the indigenous groups, then the candidates would be presented to ECOSOC. Membership should be rotating every four year. A free participation of IPs’ organizations, State Members, specialized agencies, intergovernmental agencies, NGOs and experts, as observers, is requested. The PF should be located in Geneva, funded by the UN regular budget, with its own secretariat comprised of indigenous staff.

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4. FIRST MEETING OF THE WORKING GROUP ON TRADITIONAL KNOWLEDGE OF THE CONVENTION ON BIOLOGICAL DIVERSITY, MARCH 2000

At the third meeting of the Conference of the Parties to the CBD (COP 3), the Parties agreed on the need to “develop national legislation and corresponding strategies for the implementation of Article 8 (j) in consultation with representatives of their indigenous and local communities”, and also to establish “an intersessional process” to advance further work in this area (Decision III/14). Pursuant to this, the CBD Secretariat arranged a Workshop on Traditional Knowledge and Biodiversity, which took place in Madrid, Spain in November 1997. The Report of the Workshop (UNEP/CBD/TKBD/1/3) provided advice to the COP regarding:

- priorities for future work by Parties and by the COP;
- the development of a work plan;
- actions at the national and international levels;
- how the various organizations could provide guidance to governments on implementation and identification of any gaps in order to set future priorities; and
- the establishment of an open-ended intersessional working group or a subsidiary body to address the role of traditional knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles.

At COP 4, Parties to the Convention adopted Decision IV/9 on Implementation of Article 8 (j) and Related Provisions, which established an “Ad Hoc open-ended intersessional working group” to address the implementation of Article 8 (j) and related provisions to be composed of Parties and observers including, in particular, representatives of indigenous and local communities embodying traditional lifestyles.

The mandate of the working group contains the following five components:

1. To provide advice on the application and development of legal and other appropriate forms of protection for the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles.
2. To advise the COP in particular on the development and implementation of a program of work at national and international levels.
3. To develop a program of work, based on the structure of the elements in the Report of the Workshop held in Madrid.
4. To identify objectives and activities and recommend priorities taking into account other parts of the COP work program; identify issues to be addressed by the COP, SBSTTA and other international bodies and processes; and identify opportunities for collaborating with other international bodies and processes.
5. To provide advice to the COP on measures to strengthen international cooperation among indigenous and local communities embodying traditional lifestyles, and make proposals for the strengthening of mechanisms supporting such cooperation.

In preparation for the meeting, the CBD Secretariat has produced four documents:

- International Cooperation among Indigenous and Local Communities
- Legal And Other Appropriate Forms Of Protection For Knowledge, Innovation And Practices Of Indigenous And Local Communities Embodying Traditional Lifestyles Relevant For The Conservation And Sustainable Use Of Biological Diversity
- Synthesis Of Case Studies
- Elements Of A Program Of Work On Article 8 (j)

These documents and more information on the meeting are available from the CBD Secretariat:

Secretariat of the Convention on Biological Diversity
World Trade Center
393 St Jacques Street, Office 300
Montréal, Québec
Canada H2Y 1N9
Tel: +1-514-288-2220
Fax: +1-514-288-6588
Email: secretariat@biodiv.org
URL: http://www.biodiv.org

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5. CULTURAL CHALLENGES OF THE INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE

Indigenous/Tribal Peoples’ Recommendations to UNESCO

Paris, 20 October 1999

We, the indigenous/tribal participants to this meeting want to express and put forward the following resolutions:

1. Whereas the issue of indigenous/tribal people is a very important international and national issue and this importance will increase in the next millennium, particularly because of globalization,
2. Whereas the Hamburg Declaration on Adult Learning affirmed in Articles 15 and 18 the right to learn of indigenous/tribal people world-wide,
3. Whereas broadening the understanding and recognition of indigenous/tribal people’s rights is a dual responsibility of governments and indigenous/tribal people,
4. Whereas UNESCO’s own cultural policies beginning in the year 2000 state that the new program will be based on the “mobilization of expertise, networks and new knowledge through advocacy and partnership’’,
5. Whereas indigenous/tribal people have repeatedly stated their need for cultural projects, learning and training that is on-going and which incorporates their language, culture, learning styles and aspirations,
6. Whereas UNESCO deals with development in many different ways, such as human development, sustainable development and cultural development within its many different programs, this is creating confusion amongst
indigenous/tribal people in all countries, there is a need for greater coordination across all programs of UNESCO particularly with respect to indigenous/tribal people’s sustainable cultural development.

Whereas numerous UN organizations and donor agencies are developing indigenous/tribal people’s policies and programs and these are not being coordinated.

We therefore recommend to UNESCO’s General Conference:

1. That the International Decade of the World’s Indigenous People requires a mid-term evaluation to determine the real impact of the decade on the sustainable cultural development of indigenous/tribal people and to re-orient relevant activities for the period 2000-2004.
2. That UNESCO develop an indigenous/tribal people’s policy as well as appropriate plans of action and programs and that these plans of action and programs include those initiatives provided in the following recommended plan of action.
3. That UNESCO create and support a working-group comprised of indigenous/tribal and non-indigenous/tribal experts responsible for the preparation of UNESCO’s indigenous/tribal people’s policy, plan of action and programs.
4. That UNESCO undertake a program of advocacy and co-ordination on issues of indigenous/tribal people’s development with other UN agencies and member states.

Recommended plan of action:
The recommended plan of action invites UNESCO to rethink its policy on indigenous people from a holistic perspective reflecting the way indigenous people themselves conceive the world.

1. Establishment of a world data bank on indigenous people.
2. Research on areas of strategic concern which involve indigenous researchers in the work of UNESCO.
3. Development of ethical guidelines which ensure that projects and programs targeted at indigenous/tribal people meet the needs and aspirations of indigenous/tribal people and accommodate their culture, language and learning styles, taking into account other existing guidelines and codes of conduct.
4. Strengthening of the UNESCO Indigenous People’s Focal Point for the World Decade and communicate activities of this function and of the role and responsibility of the position to indigenous/tribal people on UNESCO website and by other means.
5. Promotion of the exchange of experiences and know-how between indigenous organizations and between universities and other institutions in different countries and regions of the world.
6. Conduct studies of exploitation of indigenous/tribal cultural artifacts and knowledge related to copyright questions and the removal of economic benefit from the original source.
7. Conduct studies on indigenous/tribal people’s tangible and intangible heritage and develop approaches to resolve conflicts associated with the use of this heritage in participation with indigenous/tribal people.
8. Organize and support workshops for indigenous/tribal cultural workers of different fields (writers, musicians, theatre workers, etc.) to exchange experiences, lessons learned and successes.
9. Support the development by and for the benefit of, indigenous/tribal people of banks of world indigenous art forms subject to their being adequately protected.
10. Conduct studies on the contribution of indigenous culture(s) to universal culture and civilization.
11. Conduct regular monitoring of the progress of cultural development within indigenous/tribal communities, in a multicultural context, and publish this information in the World Culture Report and other relevant UNESCO publications.
12. Conduct studies and evaluation of experiences with multicultural, bi- and multilingual education (“Best Practices”) and make relevant recommendations.
13. Conduct studies on how the real life, culture and heritage of indigenous/tribal people are reflected in national curriculae and teaching materials in education.
14. Develop programs designed to educate governments, academia and industry on the needs, traditions, knowledge and cultural heritage of indigenous/tribal people.
15. Conduct further surveys and disseminate information on the nature, scope, problems and issues related to indigenous/tribal people, education received currently, at the primary, secondary and tertiary levels.
16. Develop educational and training programs for indigenous people in relation to indigenous people rights, techniques of negotiation, and leadership skills.
17. Expand upon the activities in Africa of studies of language planning among indigenous/tribal people, especially with experiences in the development of written standards, for use by other regions’ indigenous/tribal people. This work should include transborder cooperation in language planning (Inuit, Quechua, Sami).
18. Support the development of indigenous/tribal media, in written and other forms. This could include support for the development of indigenous/tribal film and TV centres for training of journalists.

19. Conduct studies on the impact of development on indigenous/tribal people, with special focus on the Arctic region (Siberia), tropical rainforests and coastal marine zones.

20. Conduct studies on areas identified as biosphere reserves and protected areas and managed by indigenous/tribal people.

21. Elaborate a legal framework for indigenous/tribal people, providing specific expertise in order to ensure access to natural resources for the purpose of continuation and preservation of cultural traditions and medicinal practices.

22. Conduct studies to protect and further develop the knowledge generated and perpetuated by local communities through awareness-raising, training programs, international property rights arrangements, and validation procedures.

23. Conduct studies to document and analyze the ethical issues associated with indigenous/tribal people’s hunting and fishing practices and subsistence used in contrast to national and international regulations.

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6. INDIGENOUS PEOPLES’ CAUCUS STATEMENT AT WIPO
Presented at the “Roundtable on Intellectual Property and Traditional Knowledge”, World Intellectual Property Rights Organization
Geneva, 2 November 1999


Madam Chairperson,

This is a statement on behalf of the indigenous peoples who are present in this Roundtable. We met over the lunch break and agreed upon a common message to present to this body.

First of all we would like to thank WIPO for allowing us to participate in this meeting. We will present some comments and observations and at the end, some proposals which we hope the WIPO will take into consideration.

1. We take exception to the statement of Mr. Bo Jensehn of Novo-Nordisk, yesterday when he said there is no incompatibility between the CBD and the TRIPS Agreement of the WTO. We believe there is a serious conflict on the rights and obligations of member-states between the two treaties, particularly between Article 8j of the CBD and Article 27.3.(b) of the TRIPS Agreement. Article 8j calls on governments to respect, preserve, and maintain knowledge, innovations, and practices of indigenous and local communities in biodiversity conservation and encourage equitable sharing of benefits arising from the utilization of such knowledge.

2. On the other hand, Article 27.3.(b) of TRIPS legitimizes private property rights in the form of intellectual property over life and processes entailed in modifying life forms. But these are rights for individuals, corporations, and states, not for indigenous peoples and local communities. Governments are asked to change their national intellectual property rights laws to allow for patenting of micro-organisms and nonbiological and micro-biological processes.

3. Even many developing country governments recognize this incompatibility and in fact, they already tabled proposals on this which can be found in the Revised Draft of the Ministerial Text on the Preparations for the 1999 Ministerial Conference of the WTO. This is a document dated 19 October 1999 JOB (99) 5868/Rev. 1. Paragraph 22 (g) of this document:

“… Article 27.3.b. should be amended to take into account the Convention on Biological Diversity and the International Undertaking on Plant Genetic Resources. The amendments should clarify and satisfactorily resolve the analytical distinctions between biological and microbiological organisms and processes; that all living organisms and their parts cannot be patented; and those natural processes that produce living organisms should not be patentable.

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7 All the papers presented at the 2nd Roundtable of WIPO, as well as the report, are being posted on WIPO’s website: http://www.wipo.int in English and eventually in Spanish, French and Russian.
The amendments should ensure the protection of innovations of indigenous and local farming communities; the continuation of traditional farming processes including the right to use, exchange, save seeds, and promote food security.

4. The delegate of Brazil in his statement earlier referred to this need to harmonize CBD, FAO, and WTO, particularly TRIPS to guarantee protection of traditional knowledge.

5. We are concerned over the way in which this present Roundtable is organized. It seems that this was primarily organized to reinforce the mandate of WIPO to promote and implement the dominant intellectual property rights regime and to assert that intellectual property rights is the only viable path to protect traditional knowledge. We have heard many interventions from this meeting saying that intellectual property rights as embodied in the existing international conventions and the TRIPS of WTO may not be the adequate and appropriate mechanisms to protect indigenous and traditional knowledge.

6. We would like to remind this body that the Roundtable of WIPO and Indigenous Peoples which was held in July 1998 came up with conclusions and recommendations which should have been presented in this present Roundtable in order to build upon it. As it is, it seems the efforts of WIPO are fragmented and results of earlier dialogues with indigenous peoples are wasted.

7. We reiterate that any discussion on traditional and indigenous knowledge should always refer to the articles on the Draft Declaration on the Rights of Indigenous Peoples, particularly Articles 24, 25, 26, and 29. These articles clearly establish that our rights to our indigenous knowledge, innovations, and practices, which are referred to as intellectual and cultural heritage, cannot be discussed in isolation from our rights to our indigenous territories and resources.

8. We see a problem in the fact, that while on one hand there are many years spent in evolving international standards for the protection of indigenous peoples in the UN, resulting to Draft Declaration on the Rights of Indigenous Peoples, particularly Articles 24, 25, 26, and 29. These articles clearly establish that our rights to our indigenous knowledge, innovations, and practices, which are referred to as intellectual and cultural heritage, cannot be discussed in isolation from our rights to our indigenous territories and resources.

9. So the picture is not very good for indigenous peoples struggling to have their rights to their indigenous knowledge and cultural heritage because powerful economic and political interests are behind the efforts to undermine our rights.

10. In this context, we believe that the challenge for WIPO and governments, as well as other international multilateral organizations, is to maintain an open mind and be more daring in exploring ways and means to protect and promote indigenous and traditional knowledge outside of the dominant IPR regimes. WIPO should not insist in imposing that the IPR regime it is implementing, particularly patents, is what should be used to protect traditional knowledge. Other forms of protection should be explored and developed in partnership with indigenous peoples and other traditional knowledge holders. Any effort to negotiate a multilateral framework to protect indigenous and traditional knowledge should consider indigenous practices and customary laws used to protect and nurture indigenous knowledge in the local, national, and regional levels.

11. The call of indigenous peoples all over the world against patenting of life-forms and life-creating processes should not be diminished nor trivialized. We are appending to this statement an important document which we came up with last July 1999, which is entitled “No to Patenting of Life: Indigenous Peoples’ Statement on the TRIPS of the WTO”. This statement contains our proposals for the review of Article 27.3.b. of TRIPS which echoes some of the proposals of the African Countries, Cuba, Honduras, Paraguay, Venezuela (WT/GC/W/329, 22 Sept. 1999) Bolivia, Colombia, Ecuador, Nicaragua and Peru (WT/GC/W/362, 12 October 1999), and also the Draft Ministerial Declaration we quoted earlier.

12. Finally, we are presenting the additional following proposals:

1. That WIPO undertake studies, in collaboration with other relevant international organizations, in order to make recommendations on the most appropriate means of recognizing and protecting traditional knowledge, medicinal plants, seeds, and expressions of folklore of indigenous peoples and local communities. These studies should build upon Madame Erica Daes’ work on the “Protection of Cultural and Intellectual Heritage of Indigenous Peoples.”
2. With regards to program of WIPO on technical assistance we propose that indigenous peoples and traditional knowledge is by enabling knowledge holders to become the main trainers and awareness-raisers. We also propose that indigenous peoples organizations and communities should be provided resources from WIPO to undertake their own capacity-building efforts to protect and promote their knowledge.

3. Prior Informed Consent should be the common thread among all the proposals being brought forth to protect indigenous knowledge, whether these are intellectual or non-intellectual property rights protection. PIC is defined to mean that indigenous peoples and local communities will be consulted, informed and their full consent obtained before any appropriation or research of their knowledge is undertaken.

4. There should be a list of all the knowledge, genetic resources, medicinal plants, seeds, etc. which have been stolen from indigenous peoples and some form of indemnification may be given to those who own and developed this knowledge.

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7. INTERNATIONAL CONSULTATION ON THE HEALTH OF INDIGENOUS PEOPLES
WORLD HEALTH ORGANIZATION (WHO), 23-26 NOVEMBER 1999

7.1 GENEVA DECLARATION ON THE HEALTH AND SURVIVAL OF INDIGENOUS PEOPLES

Preamble
We, the representatives of indigenous communities, nations, peoples and organizations attending the International Consultation on the Health of Indigenous Peoples, held in Geneva from the 23-26 November 1999, and organized by the World Health Organization, reaffirm our right of self-determination and remind States of their responsibilities and obligations under international law concerning health, including the health of Indigenous Peoples.

Concerned that the health of Indigenous Peoples in every region of the world is acknowledged to be in a poor state due to the negation of our way of life and world vision, the destruction of our habitat, the decrease of biodiversity, the imposition of sub-standard living and working conditions, the dispossession of traditional lands and the relocation and transfer of populations;

Welcoming the initiative of the World Health Organization for convening this International Consultation with Indigenous Peoples;

Recalling United Nations General Assembly resolution 48/163 proclaiming the International Decade of the world’s Indigenous People (1995-2004), resolution 50/157 establishing the Program of Activities for the Decade, as well as the World Health Assembly resolutions WHA47.27, WHA48.24, WHA49.26, WHA50.31 and WHA51.24, with a view “to strengthening international co-operation for the solution of problems faced by Indigenous Peoples in areas such as human rights, the environment, development, education and health”;

Calling on the various institutions of the United Nations to act in partnership with Indigenous Peoples’ communities, nations and organizations, to recommend to governments that they address the particular needs of Indigenous Peoples who experience disproportionate poverty, illness, social exclusion, habitat destruction and oppression and to develop policies which will enhance the health and survival of Indigenous Peoples worldwide to reverse this disparity;

Believing that a partnership between Indigenous People and the World Health Organization in co-ordination with other specialized agencies and bodies within the United Nations system plays an essential role with respect to the promotion of the health of Indigenous Peoples and our health systems;

Considering the non-recognition of the health knowledge and practices of Indigenous Peoples, and the limited access to health services, both of which we condemn as expressions of discrimination and intolerance;

Believing that the leadership of Indigenous Peoples in all aspects of development and implementation of health programs is essential for the health needs of Indigenous Peoples;

Acknowledging that Indigenous Peoples have developed effective and viable scientific knowledge and systems of health that have contributed, and continue to contribute, to the health and survival of all humanity;

Reaffirming our commitment to our civil, political, economic, social and cultural rights, including the right to benefit from our own resources and our right to develop them;

Reminding the international agencies and other bodies of the UN system of their responsibility, and the obligation of States, towards the promotion and protection of Indigenous Peoples’ status and rights, and that a human rights approach to indigenous health and survival is based on the said international responsibility and obligation to promote and protect the universality, indivisibility, interdependence and interrelation of the rights of all peoples; and finally;
Reaffirming the indivisibility of human rights with regard to the health and survival of Indigenous Peoples as essential to an effective and meaningful response to the health needs of Indigenous Peoples.

**Part I: Rights and Interests of the World's Indigenous Peoples**

Considering that the rights, philosophy and principles contained in the United Nations Draft Declaration on the Rights of Indigenous Peoples and all existing international instruments dealing with human rights and fundamental freedoms are essential for the attainment of the health and survival of Indigenous Peoples;

We hereby solemnly declare, affirm and assert that Indigenous Peoples are equal in dignity and in rights to all other peoples and, as such, have the right of self-determination;

In accordance with the status and rights of Indigenous Peoples, we:

- Affirm the right to control preventive and curative health systems and programs in our own communities and the means to train and involve indigenous personnel in all facets of health;
- Affirm the right to the highest attainable physical, mental, social, cultural and spiritual health and survival, commensurate with Indigenous Peoples’ definition of health and well-being;
- Call on Governments to recognize the sciences, systems of knowledge, sacred and ceremonial sites, doctors, medicine people and practices of Indigenous Peoples in health and medicine;
- Insist on free access to quality and culturally appropriate health care according to our needs, funded by the State without discrimination, that extends to support services, and to ensure accessibility of services for all Indigenous Peoples, including those in isolated, marginalized and remote regions and communities;
- Call for urgent and decisive actions to protect and preserve the integrity of indigenous territories, to stop environmental degradation and to ensure access to healthy and safe traditional food sources;
- Call for the promotion of adequate nutritional programs and to support the campaign against substance abuse;
- Call on governments where Treaties, agreements and other constructive arrangements exist, that the original spirit and intent of these international agreements be honored, respected and implemented;
- Call on the World Health Organization to make a substantial contribution within the context of the International Decade, in the form of a special study on the health of Indigenous Peoples, with the coordination, collaboration and participation of the Indigenous Peoples; and finally;
- Invite all Indigenous Peoples to support and promote this Declaration and to consider it as part of a global campaign, to obtain the largest possible participation of Indigenous Peoples in the elaboration of future documents and strategies on the health and survival of the Indigenous Peoples.

**Part II: Indigenous Peoples Concepts of Health and Survival, Expressions of Culture and Knowledge Essential to the Health and Survival of Indigenous Peoples**

Indigenous Peoples’ concept of health and survival is both a collective and individual inter-generational continuum encompassing a holistic perspective incorporating four distinct shared dimensions of life. These dimensions are the spiritual, the intellectual, physical and emotional. Linking these four fundamental dimensions, health and survival manifests itself on multiple levels where the past, present and future co-exist simultaneously.

For Indigenous Peoples, health and survival is a dynamic equilibrium, encompassing interaction with life processes and the natural laws that govern the planet, all life forms, and spiritual understanding.

Expressions of culture relevant to the health and survival of Indigenous Peoples includes, but is not limited to, individual and collective relationships, family and kinship systems, social institutions, traditional justice, music, dances, ceremonies, ritual performances and practices, games, sports, language, narratives, mythology, stories, names, land, sea and air and their resources, designs, writings, visual compositions, permanently documented aspects and forms of Indigenous culture including scientific and ethnographic research reports, papers and books, photographs, digital images, film and sound recordings, burial and sacred sites, human genetic material, ancestral remains, and artefacts.

**Part III: Policies, Strategies and Mechanisms of Action**

While there are some policies and legal frameworks in the national and regional contexts, which address the health needs of Indigenous Peoples, there is still an enormous gap between policy and action. This gap is mainly caused by a lack of political will on the part of governments to implement existing policies. It also stems from the failure to recognize Indigenous Peoples’ rights to self-determination, and to adhere to the principles of holism, meaningful participation, mutual respect and reciprocity, and to recognize the validity and revitalization of indigenous cultures and institutions.

Existing appropriate policies on health are also threatened by some programs and activities of the World Bank, International Monetary Fund, and the World Trade Organization which often have negative impacts on the health of
Indigenous Peoples. The WHO must take responsibility for engaging these institutions to rectify their policies and programs and the imbalances and inequities in the World Trade Organization Treaties which have adverse health impacts. This would include overview of regional trade agreements such as the North American Free Trade Agreement and MERCOSUR.

Policies and programs should be formulated in the following areas:
1. Capacity building through human resource development and empowerment strategies.
2. Research programs designed for indigenous health with the leadership of Indigenous Peoples.
3. Education programs for health professionals and others involved in health services to make their practice more culturally appropriate.
4. Proposals to rectify the inequities and imbalances in globalization.
5. Increased funding and resources for Indigenous Peoples’ health.
7. Ensuring participation of Indigenous Peoples at all stages of policy development and implementation.

As an example of a successful policy, Indigenous Peoples welcome the recent establishment of the Circumpolar Co-operative Program, “Health and Environment of Indigenous Peoples”, conducted in partnership between Indigenous Peoples, the Arctic Monitoring and Assessment Process, the United Nations Environmental Program (UNEP) and the WHO.

Indigenous Peoples urge the implementation of the following mechanisms of action:
• Constitutional and legislative mechanisms that oblige national governments to recognize Indigenous Peoples and to fulfill their health needs based on their own specific priorities and aspirations.
• Constitutional and legislative mechanisms that oblige national governments to abolish harmful practices and stop all programs and research activities that are conducted without the free prior and informed consent and the meaningful participation of Indigenous Peoples.
• Mechanisms to monitor and evaluate the implementation of policies, in order to identify the gaps between policy and effective action.
• Mechanisms for complaints, arbitration, redress and remedial measures.

Part IV: Broad Determinants on the Health and Survival of Indigenous Peoples
The health of Indigenous Peoples is overwhelmingly affected by determinants outside the realm of the health sector, namely social, economic, environmental and cultural determinants. These are the consequences of colonization, and are amenable to intervention to protect and improve the health of Indigenous Peoples. As a means of achieving this, we call on the World Health Organization and other United Nations institutions, along with their member states, to act in partnership with Indigenous Peoples to address, among others, the following:
• The loss of identity due to removal from family and community, displacement and dispossession of lands, resources and waters, and the destruction of Indigenous Peoples’ languages and cultures, all of which have impacted the ability of Indigenous Peoples to be productive, contributing members of society;
• The impact of environmental degradation caused by mega-projects, extractive industries, and toxic waste disposal including trans-boundary contaminants.
• The need to promote sustainable forms of development rather than promote this type of industry;
• The need for community development as a participatory process;
• The limited choice and accessibility to professional care, including the lack of culturally appropriate healthcare provision, that reflects our values, beliefs and traditions;
• The effects of war, declared or undeclared, conflicts and vigilantism.

In order to be intellectually rigorous, scientifically sound, socially just and morally defensible, indigenous health strategies require concerted action on the part of governments and responsible agencies in relation to the social, economic and cultural determinants of the health of Indigenous Peoples. They should adopt a precautionary principle when working on development with Indigenous Peoples and act in good faith by being transparent in their dealings with Indigenous Peoples.

Part V
Nothing in this Declaration shall be construed as diminishing or extinguishing existing or future rights Indigenous Peoples may have or acquire.
Appendix one
Relevant international resolutions which support the claims of Indigenous Peoples to enjoy good health WHA51/24 - WHA47.27 - WHA48.24UNGA48/163 International Decade of the World’s Indigenous People UNGA 50/157 Program of Activities for the International Decade of the World’s Indigenous People Commission on Human Rights Resolution 1995/32 United Nations Draft Declaration on the Rights of Indigenous People

Appendix two
“Health and Environment of Indigenous Peoples” the Arctic Monitoring and Assessment Process, the United Nations Environmental Program (UNEP) and the WHO.

Appendix three

Appendix four
Berlin Agenda, 5 November 1999

7.2 DECLARATION OF INDIGENOUS DELEGATES FROM CENTRAL AND SOUTH AMERICA.

Considering the existence of PAHO’s Initiative on the Health of Indigenous People of the Americas, approved by resolution number CD 37/20RV in 1993.
Recognizing that this resolution constitutes an expression of commitment on the part of the Governments of the region to implement measures to ensure health and well being for Indigenous Peoples (IP) in the region.
Recognizing that the implementation of this initiative has not reached until the present time the level of implementation expected and required by the dreary condition of health of IP.
Recognizing the need to establish an effective Indigenous leadership and representation within these processes, we request that governments, institutions, and agencies working on behalf of the health of IP take into account this new form of relationship to ensure the success of actions involving IP.

Hereby we establish the Commission Regional de Enlace de Centro y Sud América (Regional Liaison Commission of Central and South America) with the purpose of:

• Promoting and implementing in coordination with the regional governments, PAHO’s Initiative on the Health of Indigenous People of the Americas
• Promoting the leadership of Indigenous Peoples and communities in the region, in this process
• Facilitating information dissemination and communication regarding this process

We request from WHO:

To request that WHO country offices in the region support and facilitate the implementation of the Initiative and the actions initiated by committee members in their countries
To support and facilitate the establishment of multisectorial committees in the countries of the region for the implementation of the Initiative
To maintain direct communication and facilitate access to information by members of the committee
To secure funding to be used in the process of expanding membership of the regional commission, the creation of multisectorial national committees and other processes to ensure wide social participation
To secure funding for the implementation of regional actions such as:
• Development of culturally appropriate health indicators
• Epidemiological and sociocultural research to assess the health condition of IP in the region
• Transfer of knowledge and cooperation among Indigenous communities to promote self-development

The members of this commission are:
• Jaime QUISPE CALLISAYA (Aymara, Querubn QETA (Cofan, Colombia).
• Sebastian JANSASOY (Cofan, Colombia).
• Letty VITERI (Jibara, Ecuador).
• Felipe MORALES (Quiche, Guatemala).
• José Carlos MORALES (Brunca, Costa Rica).
• Wara ALDERETE (Calchaqui, Argentina).

Geneva, 26 November 1999

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8. ON THE OCCASION OF THE THIRD MINISTERIAL MEETING OF THE WORLD TRADE ORGANIZATION
30 November - 3 December 1999.

INDIGENOUS PEOPLES’ SEATTLE DECLARATION

We, the Indigenous Peoples from various regions of the world, have come to Seattle to express our great concern over how the World Trade Organization is destroying Mother Earth and the cultural and biological diversity of which we are a part.

Trade liberalization and export-oriented development, which are the overriding principles and policies pushed by the WTO, are creating the most adverse impacts on the lives of Indigenous Peoples. Our inherent right to self-determination, our sovereignty as nations, and treaties and other constructive agreements which Indigenous nations and Peoples have negotiated with other nation-states, are undermined by most of the WTO Agreements. The disproportionate impact of these Agreements on our communities, whether through environmental degradation or the militarization and violence that often accompanies development projects, is serious and therefore should be addressed immediately.

The WTO Agreement on Agriculture (AOA), which promotes export competition and import liberalization, has allowed the entry of cheap agricultural products into our communities. It is causing the destruction of ecologically rational and sustainable agricultural practices of Indigenous Peoples.

Food security and the production of traditional food crops have been seriously compromised. Incidents of diabetes, cancers, and hypertension have significantly increased among Indigenous Peoples because of the scarcity of traditional foods and the dumping of junk food into our communities.

Small-scale farm production is giving way to commercial cash-crop plantations further concentrating ancestral lands into the hands of few agri-corporations and landlords. This has led to the dislocation of scores of people from our communities who then migrate to nearby cities and become the urban homeless and jobless.

The WTO Forests Products Agreement promotes free trade in forest products. By eliminating developed country tariffs on wood products by the year 2000, and developing country tariffs by 2003, the Agreement will result in the deforestation of many of the world’s ecosystems in which Indigenous Peoples live.

Mining laws in many countries are being changed to allow free entry of foreign mining corporations, to enable them to buy and own mineral lands, and to freely displace Indigenous Peoples from their ancestral territories. These large-scale commercial mining and oil extraction activities continue to degrade our lands and fragile ecosystems, and pollute the soil, water, and air in our communities.

The appropriation of our lands and resources and the aggressive promotion of consumerist and individualistic Western culture continue to destroy traditional lifestyles and cultures. The result is not only environmental degradation but also ill health, alienation, and high levels of stress manifested in high rates of alcoholism and suicides.

The theft and patenting of our biogenetic resources is facilitated by the TRIPs (Trade-Related Aspects of Intellectual Property Rights) of the WTO. Some plants which Indigenous Peoples have discovered, cultivated, and used for food, medicine, and for sacred rituals are already patented in the United States, Japan, and Europe. A few examples of these are ayahuasca, quinoa, and sangre de drago in forests of South America; kava in the Pacific; turmeric and bitter melon in Asia. Our access and control over our biological diversity and control over our traditional knowledge and intellectual heritage are threatened by the TRIPs Agreement.

Article 27.3b of the TRIPs Agreement allows the patenting of life-forms and makes an artificial distinction between plants, animals, and micro-organisms. The distinction between “essentially biological” and “non-biological” and “microbiological” processes is also erroneous. As far as we are concerned all these are life-forms and life-creating processes which are sacred and which should not become the subject of private property ownership.
Finally, the liberalization of investments and the service sectors, which is pushed by the General Agreement of Services (GATS), reinforces the domination and monopoly control of foreign corporations over strategic parts of the economy. The World Bank and the International Monetary Fund impose conditionalities of liberalization, deregulation and privatization on countries caught in the debt trap. These conditionalities are reinforced further by the WTO.

In light of the adverse impacts and consequences of the WTO Agreements identified above, we, Indigenous Peoples present the following demands:

We urgently call for a social and environmental justice analysis which will look into the Agreements’ cumulative effects on Indigenous Peoples. Indigenous Peoples should be equal participants in establishing the criteria and indicators for these analyses so that they take into consideration spiritual as well as cultural aspects.

A review of the Agreements should be done to address all of the inequities and imbalances which adversely affect Indigenous Peoples. The proposals to address some of these are as follows;

(1) For the Agreement on Agriculture
a. It should not include in its coverage small-scale farmers who are mainly engaged in production for domestic use and sale in the local markets.
   b. It should ensure the recognition and protection of rights of Indigenous Peoples to their territories and their resources, as well as their rights to continue practicing their indigenous sustainable agriculture and resource management practices and traditional livelihoods.
   c. It should ensure the food security and the capacity of Indigenous Peoples to produce, consume and trade their traditional foods.

(2) With regard to the liberalization of services and investments we recommend the following:
   a. It must stop unsustainable mining, commercial planting of monocrops, dam construction, oil exploration, land conversion to golf clubs, logging, and other activities which destroy Indigenous Peoples’ lands and violate the rights of indigenous peoples’ to their territories and resources.
   b. The right of Indigenous Peoples to their traditional lifestyles, cultural norms and values should likewise be recognized and protected.
   c. The liberalization of services, especially in the areas of health, should not be allowed if it will prevent Indigenous Peoples from having access to free, culturally appropriate as well as quality health services.
   d. The liberalization of finance services which makes the world a global casino should be regulated.

(3) On the TRIPs Agreement, the proposals are as follows:
   a. Article 27.3b should be amended to categorically disallow the patenting of life-forms. It should clearly prohibit the patenting of micro-organisms, plants, animals, including all their parts, whether they are genes, gene sequences, cells, cell lines, proteins, or seeds.
   b. It should also prohibit the patenting of natural processes, whether these are biological or microbiological, involving the use of plants, animals and micro-organisms and their parts in producing variations of plants, animals and micro-organisms.
   c. It should ensure the exploration and development of alternative forms of protection outside of the dominant western intellectual property rights regime. Such alternatives must protect the knowledge and innovations and practices in agriculture, health care, and conservation of biodiversity, and should build upon indigenous methods and customary laws protecting knowledge, heritage and biological resources.
   d. It should ensure that the protection offered to indigenous and traditional knowledge, innovation and practices is consistent with the Convention on Biological Diversity (i.e., Articles 8j, 10c, 17.2, and 18.4) and the International Undertaking on Plant Genetic Resources.
   e. It should allow for the right of Indigenous Peoples and farmers to continue their traditional practices of saving, sharing and exchanging seeds, and cultivating, harvesting and using medicinal plants.
   f. It should prohibit scientific researchers and corporations from appropriating and patenting indigenous seeds, medicinal plants, and related knowledge about these life-forms. The principles of prior informed consent and right of veto by Indigenous Peoples should be respected.

If the earlier proposals cannot be ensured, we call for the removal of the Agreement on Agriculture, the Forest Products Agreements and the TRIPs Agreement from the WTO.
We call on the member-states of the WTO not to allow for another round whilst the review and rectification of the implementation of existing agreements has not been done. We reject the proposals for an investment treaty, competition, accelerated industrial tariffs, government procurement, and the creation of a working group on biotechnology.

We urge the WTO to reform itself to become democratic, transparent and accountable. If it fails to do this we call for the abolition of the WTO.

We urge the member nation-states of the WTO to endorse the adoption by the UN General Assembly of the current text of the UN Declaration on the Rights of Indigenous Peoples and the ratification of ILO Convention 169.

We call on the peoples’ organizations and NGOs to support this “Indigenous Peoples’ Seattle Declaration” and to promote it among their members.

We believe that the whole philosophy underpinning the WTO Agreements and the principles and policies it promotes contradict our core values, spirituality and worldviews, as well as our concepts and practices of development, trade and environmental protection. Therefore, we challenge the WTO to redefine its principles and practices toward a “sustainable communities” paradigm, and to recognize and allow for the continuation of other worldviews and models of development.

Indigenous peoples, undoubtedly, are the ones most adversely affected by globalization and by the WTO Agreements. However, we believe that it is also us who can offer viable alternatives to the dominant economic growth, export-oriented development model. Our sustainable lifestyles and cultures, traditional knowledge, cosmologies, spirituality, values of collectively, reciprocity, respect and reverence for Mother Earth, are crucial in the search for a transformed society where justice, equity, and sustainability will prevail.


Indigenous Peoples’ Organizations participating in the Seattle WTO that signed on to this Declaration are listed below:

- Nilo Cayuqueo, Abya Yala Fund, USA
- Victoria Tauli-Corpuz, Indigenous Peoples Network for Policy Research and Education, Philippines
- Tom Goldtooth, Indigenous Environmental Network, USA/Canada
- Antonio Gonzales, International Indian Treaty Council, International
- Margarita Gutierrez, Social Commission for The Development of The Nanhu, Mexico
- Debra Harry, Indigenous Peoples Council on Biocolonialism, USA
- Clemencia Herrera Nemarayema, National Indigenous Organization of Colombia, South America
- Chief Johnny Jackson, Klickitat Band of Yakama, Elder Committee of Indigenous Environmental Network, USA/Canada
- Carol Kalafatic, International Indian Treaty Council, International
- Dune Lankard, Eyak Alaska Preservation Council, USA
- Chief Arthur Manual, Interior Alliance of First Nations, Canada
- Alvin Manitopyes, Cree Strong Heart Environmental and Wellness Society, Canada
- Jim Main Sr., Gros Ventre White Clay Society, USA
- Jose Matos, Indigenous Alliance Without Borders, USA/Mexico
- Esther Nahgahnum, Anishinabeg Treaty 1854 Committee, USA
- Chris Peters, Seventh Generation Fund, USA
- Priscilla Settee, Indigenous Women’s Network, USA/Canada
- Taita Stanley, Movimiento de la Juventad Kuna, Panama
- Chaz Wheelock, Great Lakes Regional Indigenous Environmental Network, USA/Canada
- Clemente Ibe Wilson, Movimiento de la Juventud Kuna, Panama

Other Indigenous Peoples’ Organizations, NGOs and individuals who wish to sign on to this statement, send email to ien@igc.org or tebtebba@skyinet.net.
9. ON THE OCCASION OF THE 20TH ANNIVERSARY OF DOCIP
Three days of exercises and exchange on the theme of traditional learning and scientific knowledge for sustainable development

The spiritual heads and the indigenous traditional practitioners sang, danced and explained their traditional knowledge to Geneva’s local and international population.

During a manifestation under the direction of a Committee of Honor presided over by Mrs. Ruth Dreyfuss, the president of the Swiss Confederation, and comprised of other personalities such as Mrs. Mary Robinson, High Commissioner for Human Rights, and Mrs. Henrietta Rasmussen of the ILO, doCip celebrated its 20th Anniversary on the 8th, 9th and 10th of October at the Botanical Garden in Geneva. Present were the shamans and representatives of indigenous peoples from all over the world.

These days were inaugurated by Counselor Robert Cramer representing the state of Geneva and a Meitei priestess from the state of Manipur in India, Mra. Oinamongbi Dhoi, who was accompanied by the traditional musician, Mr. Mahesh Meitei Heikhujam.

An international conference, uniting indigenous and scientific experts made clear the actuality of common knowledge shared by indigenous peoples from diverse regions of the world.

Below we have reproduced the conclusions and the resolution which were produced at this conference. They will be presented to the Working Group on Traditional Knowledge at the next conference of the Convention on Biological Diversity in March 2000 in Sevilla (Spain).

International Conference on Indigenous and Scientific Knowledge on the Sustainable Use of Plants: Conclusions

1. Traditional knowledge of plants and its use spring from community elders, who are the traditional holders of knowledge. The study of plants cannot be undertaken without consulting the elders. It is therefore of utmost importance to preserve traditional cultures through education in order to ensure continuity in the transfer of traditional knowledge from one generation to another, for the benefit of humankind.

2. Individual and collective relationships, family and kinship systems, social institutions, traditional justice, music, dances, ceremonies, ritual performances and practices, games, sports, language, narratives, mythology, stories, names, land, sea and air resources are intrinsically connected to nature, which reveal human beings’ relationship with plants and animals. Their relationship extends not only to their physical environment but also to the cosmic universe. Such relationship is expressed, among others, in traditional rituals using plants and animals as an offering to the cosmic universe to preserve nature and man.

3. Nature is an expression of being and the medium of communication between the Creator and the creature. In many indigenous societies, the specific name of a plant itself encompasses a whole belief and value system. In order to preserve traditional knowledge of plants, it is important to engage the international and scientific community to work together with indigenous peoples in cataloguing their plants.

4. On the use of scientific knowledge of the use of plants, indigenous and local communities know exactly how to discriminate between which methodology is useful and that which is destructive for them. This skill emanates from their capability to recognize natural life cycles. The civil society must therefore remain watchful that science and big business do not endanger these natural cycles.

5. Traditional knowledge is part of traditional culture, and plants represent a basic element of the ecosystem. When biodiversity is threatened or destroyed, then plants are clearly affected. Such destruction eventually destroys traditional knowledge and in the end, humankind itself.

6. Today, the international community recognizes the role and importance of traditional knowledge and traditional management practices in the achievement of sustainable development. Some international instruments, e.g. Convention on Biological Diversity (CBD) and Ramsar Convention on Wetlands, have set a framework to consider traditional management practices and the participation of indigenous, local and coastal communities in resource management.

7. It is important for indigenous organizations and other non-governmental organizations to make use of existing international instruments. New proposals are needed to preserve wildlife, plants and species and to protect holders of traditional knowledge.
Specific recommendations for action

1. Introduce the study of a number of plants every year in the school curriculum starting from primary up to secondary school.

2. Enhance exchange of information on the use of plants through the use of modern communication technology, e.g., creation of Web sites, use of the clearing-house mechanism within the Convention on Biological Diversity.

3. Support existing networks created by and/or for indigenous peoples that seek to prevent the loss of biodiversity.

4. Develop international instruments to protect holders of traditional knowledge and traditional resource use.

5. Support the creation of an international volunteer cooperation program that will assist in the scientific study of plants among indigenous communities.

6. Support the creation of a “cultural memory bank” by or in partnership with indigenous peoples.

7. Conduct educational seminars at the national level to identify useful traditional and scientific knowledge with or in partnership with indigenous peoples.

8. Lobby the international community to provide new financial resources to help preserve traditional knowledge and traditional management practices.

9. Identify new approaches and strategies to support the work of ongoing international processes, e.g., CBD, Ramsar Convention.

Resolution

Remembering that this year is the mid-point of the UN International Decade of the World’s Indigenous People, and noting with appreciation that much has been done to further the cause on which the Decade was founded, but that much more remains to be done,

Referring to the Draft Declaration on Indigenous Peoples, a fundamental document for the protection, preservation and promotion of indigenous knowledge, which is still under discussion in the UN Commission of Human Rights,

Referring also to the ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries, which contains important provisions relevant to indigenous knowledge and natural resource management, and noting with concern that it has been ratified only by a small number of governments,

Noting that the Convention on Biological Diversity and other international treaties and agreements concerning the sustainable management of natural resources increasingly recognize the importance of respecting the rights of indigenous peoples to the sustainable use of those resources and to the conservation and protection of their traditional ecological knowledge,

Noting with apprehension that the degradation of the environment has resulted not only in the loss of natural resources, but also in the erosion of traditional ecological knowledge and the loss of traditional management practices that helped maintain many of the most valuable ecosystems of the Earth,

Thanking doCip for the opportunity of bringing together indigenous experts on plant-related knowledge with scholars and academics of the Western disciplines, in order to find a common ground and mutual exchange of knowledge for the survival of indigenous knowledge and the enhancement of cooperation,

We, participants at the International Conference on Indigenous and Scientific Knowledge on the Sustainable Use of Plants, recommend unanimously that:

1. All necessary legal measures be urgently developed, promoted and instituted at global and national levels to ensure the survival and protection of indigenous knowledge systems and traditional management practices, as part of the inalienable heritage of humanity, and in particular to provide adequate legal protection to the rights of indigenous peoples in relation to their knowledge systems;

2. The inextricable link between the survival of traditional ecological knowledge and the rights of indigenous peoples to their lands and resources be recognized, and appropriate measures be taken to ensure full respect for those rights and security of land tenure and access to resources;

3. Appropriate programs and institutional facilities at global, national and local levels, in partnership with indigenous peoples and institutions, be developed and put in place to encourage and support the preservation and revitalization of indigenous institutions relevant to the conservation of traditional knowledge, including the founding of clearing-house mechanisms or cultural memory banks of indigenous knowledge;
4. Dissemination of indigenous knowledge in partnership with indigenous peoples in indigenous and mainstream fora and processes, including research, school and university education and curricula, seminars, conferences, mass media and other exchange platforms, and that the decisions to disseminate indigenous knowledge be taken up at program level;

5. The conclusions and recommendations of this Conference, as contained in the attached Summary of the Proceedings, be forwarded to all relevant international institutions and fora, for consideration and inclusion as appropriate in programs of action and relevant decisions.

The indigenous delegates who shared doCip’s 20th Anniversary with the population of Geneva at the Botanical Gardens were:

- Priestess Oinamongbi Dhoni Leiphrakpam and traditional musician Mahesh Heikhujam, pertaining to the Meitei people from Manipur/India who danced and played some parts of the Lai Haraoba or “Gods’ Celebration”, a participating re-creation of the cosmos, the earth and humanity.

- The traditional practitioner from Tahiti, Vaihere Bordes, who alleviated mothers and children through her massages and explained to them the signification of her practice.

- The ethno-botanist, Benedict Topin of the Kadazanduzun people, who described the role of the purification of several plants used for the wedding ceremonies in his community in Borneo/Malaysia.

- The young spiritual leader and member of CONAP Joel Jahuanchi from the Wachipaeri people of the Amazon Basin/Peru, who brought his testimony on the powers of Ayahuasca or Banisteriopsis caapi and the flower Jayapa or Floripondio.

- The President of the Programme for Development and Integration of the Pygmy Peoples of the Democratic Republic of Congo, Kapupu Diwa Mutimanwa, who explained the use of the plant Mushubya as a remedy against infections, inflammations, bad spirits and others such as when a new king is enthroned.

- Ethnologist from Chukotka/Russia Galina Diachkova, who spoke about the importance for food, and the cosmology of her people, of several plants from the region of the Bering Strait, knowledge principally held by women.

- A traditional musician of the Yoeme or Yaqui people of Arizona, Felipe Molina, who is also Coordinator of a project on diabetes, who showed the medicinal, spiritual and practical use (I don’t understand this phrase) Hu’upa or Proposis velutina as well as reed-canes Vaaka ou Arundo donax.

- Shaman Victor Kilinan and his fellow the community leader François Alphonse from the Kariñ’a people, who built two ritual seats in mahogany woods. They were accompanied by Frank Apollinaire, a young representative of the Federation of the Amerindian Organizations of French Guyana.

- Finally, the traditional healer Germaine Cousin from Valais/Switzerland presented the virtues of several medicinal plants of the Alps.

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10. WORKING GROUP ON THE DRAFT DECLARATION
Geneva, 5th session, 18-29 October 1999

10.1 Organization of work
Under the leadership of a newly elected Chairman-Rapporteur, Mr. Luis Chávez (Peru), this fifth session was attended by 42 indigenous organizations. Mr. Chávez proposed the following workplan which was accepted: (1) a general debate including the general aspects of the process as well as the issues of self-determination, land rights and natural resources, as requested by the Indigenous Caucus; (2) discussion on articles 15-18, with of view towards adoption; and (3) discussion on articles 1, 2, 12, 13, 14, 44, and 45. However, the indigenous representatives strongly
opposed the inclusion of a daily session for “informal consultations” between the Chairman and the States, as proposed by the Chair. Mr. Chávez argued that such a procedure would help overcome differences and increase the possibility of getting articles approved. The indigenous delegates replied that these informal meetings usually turned into drafting sessions and that they would not support a proposal that would exclude them while taking time which should be allotted to formal sessions, as they had already worked hard to have their voice heard in the proceedings (IITC). The institutionalization of informal meetings as a way to avoid having governments’ views appear on the record was rejected by AN. Some indigenous organizations then requested to be able to witness these debates (SC).

The Indigenous Caucus put forward a counter-proposal requesting that the “informal consultations” be removed from the work plan and that any informal meeting be held with the full participation of indigenous delegates. The governments replied that they would allow a small group of indigenous delegates to their consultations as observers only. The U.S. supported such consultations as a way to create a “more concise text” of the Declaration, thus confirming IPs’ fears. NEW ZEALAND broke the impasse by moving that the “informal consultations” be removed from the work plan, provided that consultations could be called for during the course of the session. During the whole session “informal meetings” took place between governments and IPs without the Chairperson.

10.2 Education, media, labor (Articles 15-18)
See the annexes contained in E/CN.4/1999/WG.15/CRP.3 for the proposed amendments to these articles by governments, and the Indian Movement “Tupaj Amaru”; E/CN.4/1999/WG.15/CRP.2 for the draft report by the Chairperson on the debate.

Article 18
The debate on article 18 opened with a written proposal by governments, a “discussion paper”, which reads as follows: “[Indigenous peoples] shall enjoy fully all rights established under applicable international and national labor law. States should take immediate and effective measures to ensure that indigenous children are protected from the worst forms of child labor...” A new element was introduced in the text with reference to ILO Convention 182, which was adopted in June 1999. CANADA, AUSTRALIA, U.S. and U.K. endorsed the revised text and justified the bracketing of “indigenous peoples” as a way to move forwards. CANADA said that proposal retained the spirit of the article and added a little extra with the child labor clause. Replacing the word “legislation” with “law” strengthened the text by including other sources of law. Supported the terms “indigenous individuals” in this article. AUSTRALIA agreed with the insertion of the word “applicable” which would better reflect the situation that domestic law took precedence, since Australia was not party to some of the international labor instruments. The child labor clause was a significant improvement. For the U.S. it was important to stress that “indigenous persons” have the right to all rights. The word “applicable” was appropriate, since laws came from treaties to which individual states were party. The child labor clause strengthened the protections of the article. Stated that there was no consensus on the term “indigenous peoples”. For the U.K the paper is not a consensus, but a useful basis for moving forward. Was pleased to see drafting suggestions.

BRAZIL supported the new text as a constructive contribution. ARGENTINA stressed that it was necessary to make progress at this session. Wanted a text to protect the labor rights of indigenous Argentineans, which should also be universal. There should be some changes. GUATEMALA suggested that the governments’ proposal on Article 18 be an annex to the report as it was a non-consensus paper. Also proposed to discuss Articles 15-18 as a cluster. Justified the bracketing of IPs as non consensus.

NEW ZEALAND could still accept Articles 17 and 18 as currently drafted, but were prepared to consider constructive suggestions to strengthen the text (supported by NORWAY who pointed out that the paper on Article 18 was not adopted). Article 18 aimed to improve Maori achievements in employment. In the interest of making progress, it was important to look at the center of the article and discuss the question of “peoples” later. Supported the bracketing of the term “indigenous peoples”. In paragraph 2, the article could be strengthened to include affirmative action and respect for indigenous employment. Obligatory language might not be needed in an aspirational document.

VENEZUELA welcomed the pace of work which was between dialogue and negotiation.

AN recalled that it had been agreed that there would be a general discussion about the article and no drafting exercise. Putting the term “indigenous peoples” in square brackets implied that the text was being negotiated. The paper also mentioned the international implications of this term. KLH said that to be consistent with UN practice there should be bracketing only in drafting sessions. It was difficult to move on when there was no firm idea of whom these international rights apply to. The working group should deal with contentious language so that progress could be made on the whole article. Asked CANZUS states to work in good faith with other states and IPs.
MCTP said that the discussion of the Declaration should lead to pragmatic deliberations on the real rights of IPs. Debate should be on the concept of IPs and why this concept should be defined. No progress would be made if they kept discussing whether IPs exist as peoples or not. DM encouraged governments to reach consensus on the fundamental aspects of the Declaration. The Draft Declaration was for discussion and the text submitted by governments should be put into an annex for later consideration to allow progress. For ANCAP the bracketing of the term “IPs” reflected their marginalization. The child labor clause refers to texts that only a few countries have ratified. Further stated that informal meetings should not be included in the final report. IPs from Chile stated that the paper should not be negotiated, but rather placed as an annex. Urged the participants to move on to a wider discussion of Articles 15-18 as a whole (also KLH, IPs from Guatemala, CISA). CISA said that focusing on one article drawn up by a few states gives a higher priority to one group over others and that the working group should not do this.

During the discussion on these articles, MLS submitted a proposal for discussion in the Indigenous Caucus which reads:

“Since the establishment of the WGIP in 1982, indigenous representatives have consistently asserted the importance of using the term ‘indigenous peoples’ in the work of the UN. The term ‘indigenous peoples’ is fundamental to our right to self-determination in all its collective, political, economic social and cultural dimensions. We have constantly asked that the UN apply its own standards universally and equally, that it accord us the same rights as other peoples in the world, that it act without prejudice and without discrimination. Accordingly, we cannot agree, now or at any future time in consideration of the Draft Declaration on the Rights of Indigenous Peoples to any qualification, explanation, definition, bracketing, parenthesizing of footnoting of ‘indigenous peoples’. The international community, including this Commission on Human Rights Working Group, must recognize and respect our rights and status as distinct peoples – as indigenous peoples.

The Draft Declaration must be approached on the basis of a very high presumption of the integrity of the existing text. In order to rebut this presumption, any proposal must satisfy the following criteria: (1) it must be reasonable; (2) it must be necessary; (3) it must improve and strengthen the existing text. In addition, any proposal must be consistent with the fundamental principles of (1) equality, (2) non-discrimination, (3) the prohibition of racial discrimination.”

Consultations were held with both groups –IPs and governments– on the proposal. Guatemala asked MLS to state if there was a negotiation process as the working group was still not ready to get into such a process. Mexico shared the view reflected in MLS proposal. Said they were ready to adopt two articles as currently worded (in informal sessions). France said that all governments could endorse MLS paper. Governments are open to change. The text could be improved and strengthened. Endorsed governments’ paper. Supported the statements by Guatemala and the U.K. Brazil endorsed the views reflected in MLS paper. Thought that the wording proposed by governments improved the text and affirmed the principles given by MLS. Said that there was a procedural problem in the MLS paper. An explanation precedes the principles, which is contrary to ECOSOC and the WG rules of procedure, as the explanation goes beyond the scope of this WG and the scope of Declaration.

The Indigenous Caucus/Kahnawake Mohawk people found MLS proposal interesting. Reiterated that the WG was at a discussion stage, and not in a negotiation or a drafting process (supported by IITC). ITC said that governments should look carefully at the wording for it gave criteria for proposals that sought to challenge the integrity of the text. The Chairman summarized the debate on Article 18: (1) Governments were trying to reduce their differences, as there were fewer brackets; (2) governments need to reflect on the value of brackets; the inclusion of new concepts were proof of their desire to improve the text and be flexible; for instance, few states are parties to ILO Convention 182. There was not really a consensus, but opinions were brought closer together. Agreed that Article 18 should be considered with other articles. Stressed the willingness to talk, citing MLS proposal which sets out criteria and principles. Reiterated that the WG was not in negotiations. Consensus was almost reached on MLS in the Indigenous Caucus. Governments did not object to the inclusion of this document in the annex of the final report.

**Article 16**

Indigenous representatives supported the original text of Article 16. They stated that the governments’ proposal weakened the text, i.e. the deletion of the words “have the right” and the replacement of “to eliminate prejudice” with “to combat prejudice”.

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BRAZIL said that the new wording improved protection for States. BRAZIL and GUATEMALA had no problem with the original form of the article. For GUATEMALA the changes retained the original intentions of the text. Square brackets had been explained in a previous note and the term needed to be put aside so that the important issues of preservation of culture and combating discrimination could be addressed.

FINLAND found that the bracketing of the term “IPs” with an explanatory note was a good solution, as the issue could not be solved in this session. Could accept Article 16 without amendments (also MEXICO, CANADA), but could support the new text if a consensus on the new proposal meant real improvement. Would take into account the criteria included in MLS proposal.

CANADA stated that the revision made the article clearer. The U.S. also supported the changes as reflecting the underlying principles of the Article. Said that the first part of the Article was an aspiration, not a right.

GCC stated that the revision of Article 16 took away a right, that of dignity. Other peoples had the right to dignity, diversity of culture, histories, traditions and aspirations. It was a step backwards to use brackets for the term “IPs” (also IOIRD). Supported the original text (also Latin American indigenous delegates, ILRC, IOIRD, MOSOP).

ILRC raised the issue of the explanatory note because it applied to Article 16 by default and wondered whether this note would remain in the annex. Expressed concern that the note was not drafted in a neutral fashion and did not reflect the debate in the WG. More discussion was necessary on the right for indigenous perspectives to be accurately reflected in education and public media, and on the obligations of states. IITC further stated that the issue of “IPs” in square brackets must be addressed in order to proceed to a discussion of substance. As five or six states could accept Article 16 in its original form, proposed that the WG move to its adoption. The Chairman replied that consensus was still not reached.

IWA called for the adoption of Article 16 in its original form. Brackets were not a good solution for dealing with the term “IPs”. Replying to the comment made by the U.S., IOIRD said that the new wording “strengthened” the article, but from the state perspective. MOSOP said that the Article was “mutilated” with the changes, giving states an excuse not to work against discrimination and prejudice.

**Article 15**
Indigenous delegates stressed that there was no need for changes. The main difficulty was the balance between autonomy and respect for differences vs. equality of opportunity so that education measures did not become a means of discrimination.

**Article 17**
Indigenous representatives wanted to keep the article in its original form, stating that the additional text was equivalent to the original text, therefore unnecessary.

Sources: Netwarriors’ report

### 10.3 General debate

**General aspects**
Government representatives were unanimous in considering that the draft Declaration was a good basis for negotiation, either explicitly (CUBA, CHINA), or implicitly by referring to the draft in general (SWITZERLAND) or to specific articles. Particularly articles 15 - 18, which are presently discussed, were said to be a “solid basis for progress” (AUSTRALIA) and “offered most potential to achieve consensus” (NEW ZEALAND). While recognizing that the elaboration of international standards in the field of human rights was a slow and complex process, NEW ZEALAND nevertheless considered it crucial that tangible progress were made in this year’s session. SWITZERLAND recalled the urgent need for the adoption of a substantive declaration, observing that an insignificant text would be useless.

Indigenous representatives were unanimous in calling upon the Working Group to recommend a speedy adoption of the draft declaration as elaborated by experts of the Sub-Commission (COPMAGUA). IWA referred to the Sub-Commission resolution 1999/09 which appealed to the Commission on Human Rights to consider ways and means to accelerate the work on the draft. Some organizations handed over documents testifying that a large number of nations, communities and organizations endorsed the Declaration as it stood and demanded its adoption without further delay (TSNTC: resolution of the Seventh Generation Fund Gathering, September 1999; ANCAP: petition signed by 430 organizations). As in previous sessions, indigenous representatives said that the draft declaration was regarded as containing minimum standards for the protection and promotion of the fundamental rights and freedoms...
of IPs. Human rights should be applied universally, according to the fundamental principles of equality and non-discrimination (IITC, ILRC). MNC emphasized the importance of recognizing collective rights, reiterating that group rights were not in opposition nor a threat to individual rights.

Recalling that the Working Group should contribute to the progressive evolution of international human rights standards as they apply to IPs, ILRC urged governments not to use domestic legislation to limit the draft declaration or international law in general. The rights embodied in the draft were aspirational and represented a similar challenge to States than the Universal Declaration on Human Rights fifty years ago. Governments were asked to reconcile their views with the evolution observed in the framework of other UN human right bodies, such as HRC or CERD (CIN).

IWGIA pointed out that the issue was not whether the rights of IPs were already recognized by international law or not, but that they have been denied. This amply justified the elaboration of this declaration. IITC observed that there was no legal basis to the attempts made in 1998 by the USA - and echoed by Japan- to challenge the applicability for IPs of the internationally recognized right to SD. The reluctance of certain States to recognize IPs as “peoples” was perceived as racial discrimination and as an “affront to... (their) basic human dignity”.

As the Chairman-Rapporteur noted in his conclusions, all the participants, government and indigenous representatives, were fully committed to the process of drafting a substantive, effective and universal declaration, based upon the principles of equality and non-discrimination. There were still several contentious issues, as to the definition and the use of the term “peoples”. In order to achieve progress and build consensus in other less controversial areas, he suggested that consideration on these issues should be deferred to a later date and be approached through informal consultations.

**Self-determination**

For the first time, the discussion on the principle of self-determination (SD) as enshrined in art. 3 was included in the general debate and figures as such in the Draft report of the Working Group established in accordance with Commission on Human Rights resolution 1995/32 elaborated by the newly elected Chairperson-Rapporteur, Mr. Luis-Enrique Chávez (Peru). This summary is based on the above mentioned report, on the netwarrior report and on written statements which are available at doCip.

Among the government representatives who took the floor, the degree of acceptance of the IPs right to SD ranged, as in previous sessions, from the full support for upholding article 3 in its current wording - as PAKISTAN did - to a conditional acceptance of article 3, provided it did not imply territorial dismemberment of sovereign States - a position hold by the overwhelming majority of States. Only one State, AUSTRALIA, declared to be unable to accept the inclusion of the right of SD in the draft, because the term SD was understood by many people to imply the right to establish separate nations and laws. Nevertheless, this government recognized the intention of article 3 to enunciate legitimate aspirations of IPs to enjoy more direct and meaningful participation in decision-making and political process and greater autonomy over their own affairs.

This broad categorization shows that the extreme positions tended to disappear to the profit of the group of States which were ready to accept the inclusion of the right of SD to certain conditions. It confirms the conclusion of the Chairman Rapporteur according to which the positions of the participants have moved closer, particularly with respect to the acknowledgment of the evolving nature of self-determination (explicitly CANADA, BRAZIL, NEW ZEALAND, USA) and of the corresponding distinction that can be drawn between the internal and the external aspects of this right. With respect to this crucial issue, most delegations agreed upon the fact that there was a need for further clarification. The extent of the latter can be measured when considering the scope of interpretations given to the meaning of SD in general and in the indigenous context specifically, whereby many delegates referred to the concept of SD and corresponding practice in domestic jurisdiction (BRAZIL, COLOMBIA, ECUADOR, FRANCE, GUATEMALA, NEW ZEALAND, USA).

CANADA defined SD as a continuing right in terms of participation in the decision-making process in the framework of democracy. SD is intended to promote harmonious arrangements for self-government which enable IPs to have greater control over their own affairs, over their own culture and language and over their lands, as well as to use their own institutions. Prescriptive solutions should be avoided in order to allow the right of SD to be implemented flexibly through negotiations between governments and IPs.

FINLAND fully supported the acceptance of the term “SD” in the Declaration, “provided that the passage in the Declaration concerning self-government or autonomy will be formulated in the manner proposed in article 3l, that is to say that it applies to internal and local affairs”.

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4 Cf. E/CN.4/WG.15/CRP.1
GUATEMALA fully subscribed to the interpretation of SD contained in the Explanatory note submitted by Mrs. Daes5, which also refers to the limitations of the exercise of this right in conformity with the clause of reservation contained in the 1970 Declaration on Friendly Relations.

SWITZERLAND referred, as in previous sessions, to the principle of subsidiary as a means to implement SD by giving local autonomy to indigenous communities.

NORWAY stressed that to SD was firmly established and accepted in international law and applied to “all peoples”, including IPs. The right of SD as enshrined in article 3 should be exercised within existing independent and democratic states. It included “the right of indigenous peoples to participate at all levels of decision-making in legislative and administrative matters and in the maintenance and development of their political and economic systems.”

MEXICO gave a restrictive interpretation of SD by referring to ILO Convention 169 and its limited meaning of the use of the term “peoples”, underlining that SD could only be exercised in the national context.

BRAZIL stated that the concept of SD referred to the participatory rights of IPs in the decision-making process over matters that affect them directly.

COLOMBIA observed that in its Constitution, SD was a pillar of foreign policy and pointed out that the measures taken in the domestic context to meet the needs of IPs, specially by granting self-government and broad autonomy, could not be interpreted as synonymous of SD.

ECUADOR said that in the framework of the draft, the concept of SD provided for the matrix of preserving indigenous cultures and communities. Except the few necessary adjustments necessary to secure the conformity of the Declaration with the fundamental principles of international law, the final text should differ as little as possible from the draft submitted by the Sub-Commission.

Two States which had formerly strongly opposed the inclusion of the right of SD in the draft declaration reviewed their position and opened the path for dialogue: FRANCE said that, while it recognized the principle of SD in its domestic law, there still remained difficulties linked with the contemporary evolution, because some classical principles associated with statehood were affected. Welcomed the clarifications given by indigenous representatives as constructive elements for further consideration. The USA stated that notwithstanding the distinction established by his government between international SD -recognized to entire peoples of States or peoples entitled to statehood- and SD as used in the domestic context, his government was ready to reconsider its position in the light of the recent evolution of the concept of SD.

There was a broad agreement in recognizing that SD was a key component of the Draft Declaration (explicitly CANADA, FINLAND, FRANCE, GUATEMALA, NEW ZEALAND, NORWAY, SWITZERLAND). Nevertheless, there still remained differences as to the content and to the formulation of the conditions, according to the interpretation given to the concept of SD. Whereas some governments (NORWAY, RUSSIAN FEDERATION, SWITZERLAND, VENEZUELA) did not oppose the inclusion of the right of SD as it stood, provided article 3 was understood as referring exclusively to the internal aspect of the right of self-determination and was implemented without threatening political, constitutional and territorial integrity of democratic States, others advocated in favor of or demanded explicitly to add corresponding qualifications (ARGENTINA), to redraw art. 3 in order to make it acceptable to all participants (FRANCE, GUATEMALA, VENEZUELA) or to introduce a clause of protection as enclosed in other international human rights instruments (CANADA, FINLAND, BRAZIL, NEW ZEALAND).

Furthermore, few government representatives (NEW ZEALAND, MEXICO) stressed that SD could be included in the draft only insofar as it was consistent with domestic jurisdiction.

Many indigenous delegates underlined the crucial importance of SD as the key component of the draft Declaration. They also reiterated that the recognition of the right of SD to IPs was a question of equality and non-discrimination (ATSIC/FAIRA/IWAC/NAILSS, ILRC, JOHAR, IAITPTF)-, insofar as this right had been recognized to “all peoples” by virtue of the UN Charter and of art. 1 of both Covenants on Human Rights. CIN pointed out that according to the observations addressed by the Human Rights Committee to the government of Canada with regards to the implementation of the ICCPR, SD in fact already applied to IPs. A policy depriving IPs of their means of subsistence had therein been characterized as a violation of their right to SD as enshrined in art. 1.

With regards to the concerns expressed by some government representatives, several indigenous observers gave clear assurances and reiterated that they were not seeking to disrupt national unity or territorial integrity (AIPNSFE, ICHRDD, LMPF). SC and MNC pointed out that government fears of secession or dismemberment were groundless- or ill-conceived and without foundation (NAILSS)- given that international law had provisions governing the exercise of SD. But what governments had to understand was that the Western nation-state model was

not compatible with the lives of many IPs. The MNC reminded that “international law protects the integrity of States that respect human rights and international law, including the right of self-determination, so the recognition of the right of self-determination as an aspect of international law can not constitute the kind of threat (against territorial integrity of nation-States) being proposed in the argument”. Affirming that the right of SD was, like all rights, not absolute in its nature, the MNC stated that this right “must be exercised with due regard and respect for the equal rights of all other peoples”. As some delegates pointed out, SD would on the opposite enable IPs to participate on an equal footing with other peoples to nation-building and therefore contribute to strengthen national unity. AIPRSFE underlined that the recognition of SD to IPs was a “matter of strategic importance for the integrity” of State and that it was in the interest of their governments to do so. This view was strengthened by conclusions of the UNESCO expert meeting hold in Barcelona in 1998 who stressed the fundamental role of SD in the peaceful settlement of disputes (SC, IWGIA, IITC).

The same manner to overcome artificial contradictions was applied in analogy to the issue of compatibility between individual and collective rights: instead of upholding the one against the other, MNC stressed their complementarily and mutual reinforcement, SD being a prerequisite for the respect of individual human rights and freedoms. Whereas the distinction between internal and external aspect of self-determination did no more give rise to any particular comments, attention focused on the fact that some governments had stated that they accepted article 3 provided it was consistent with their domestic jurisdiction: “To limit an international Declaration to the domestic legal regime of any one State is in direct conflict with the purpose of international human rights standard setting and is contradiction with the principle of good faith...if the Declaration was to be limited to existing domestic legal regimes then there would be no point in participating in this meeting, because it would add nothing to the rights that we supposedly enjoy in our domestic settings.” (MLS), NN observed that the continued resistance of certain States to the concept of SD created an artificial barrier between domestic legal practice and international law.

Indigenous delegates defined the content of SD in terms of self-governance, of control over their own destiny and over their means of subsistence in order to protect their existence as distinct peoples. THOA stated that SD was a key to resolve extreme poverty, illiteracy, malnutrition, and political subjugation and meant respect of diversity in the framework of equal societies, and therefore the right to administration of our resources and territories”. MRTKL stated that SD must reflect diversity of peoples and is in contrast to the standardization and homogenization that is the legacy of colonialism. However, FOAG criticized the fact that cultural rights were used to counterbalance the exclusion of IPs from politics.

Some indigenous representatives focused on the concept of responsibility: TSN stressed the need for remembering that SD meant primarily responsibility, not just to the people, but to the earth and future generations, a responsibility which could be “characterized as a determination to preserve land, culture and laws” (AFN).

The tension between the need for their right to SD be recognized by the international community on one hand, and self-assertion on the other hand was reflected in the variety of interpretations given to the concept of SD. Several indigenous representatives stressed the importance of SD for their very survival, calling it a “tool for survival” (YMUSC; in the same sense LMPF). IPNC stated: “When law and order inhibits the ability of peoples to survive, IPs law must replace it - this is the heart of SD.” ILRC underscored the link between the Declaration and survival of IPs, wherein self-definition was an important part (see also AIPNSFE), as was the external recognition of their existence as peoples. The latter introduced a change in the way IPs are perceived as social, political and economic entities (IAITPF). Nevertheless, it was up to IPs to define SD since it was their SD being discussed: the concept could not be defined by governments and could not be isolated from the web of rights embodied in the Declaration (Haudenosaunee).

SD was needed by oppressed peoples to enact all their other rights (ANCAP). IMT urged governments to see SD positively, not as usurpation of sovereignty, but to recognize them as IPs collectively. Several indigenous representatives referred to the evolving nature of SD. Governments should to be open to normative changes as law was not static, but subject to historical processes which should not be denied (CTT). The implementation of the right to SD should be considered as an ongoing process rather than a predefined outcome (SC, Haudenosaunee). Some advocated in favor of the adoption of a document which would strengthen the emerging right of SD in terms of autonomy within sovereign States (COJPTTA).

As in previous sessions, indigenous representatives opposed any dilution of their right to SD (for example: ICHRDD, IAITPF). Some delegates pointed out that it was not a matter of granting, but rather of recognizing a pre-existing right (CAPAJ). They argued that the concept of SD was not new for IPs: THOA noted that in spite of the policies of extermination, IPs of Bolivia continued to organize themselves socially, economically and politically along the indigenous model of the ayllu.
Only few particular new cases have been mentioned. AIPNSFE called the attention to the extreme social marginalization of IPs and alarming health situation, life expectancy of IPs being almost 20 years shorter than average. Many statements referred to the general debate as it currently took place and indigenous representatives underlined the importance of an open dialogue and welcomed the remarkable change of attitude towards more openness taken by the USA (IITC/KYM).

The former proposals brought forth in 1997 to include the reached consensus in the final report (KLH, SC, IOIRD) were met by the Chairman-Rapporteur. In his conclusions, he defined SD as “the right to respect and conserve the identity of indigenous peoples”. In order to have a more constructive and focused debate on this matter in the future, he proposed to take following three premises as a basis for future negotiations:

1. the right of SD does not include the right to secession;
2. the formulation of the rights of SD should not be in contradiction with guiding principles of the UN as embodied in the Charter;
3. the universally accepted International Covenants on Human Rights with their common article 1 recognizing the right of SD could be taken as a common basis.

Land rights, natural resources

In spite of the fact that all governments recognized the importance of the issue of land and resources, the degree of acceptance of the corresponding provisions varied considerably. The particular relationship of IPs to their ancestral lands was generally acknowledged and many governments illustrated their efforts in that field by referring to the recognition of native titles - including collective rights of ownership - in their domestic jurisdiction (AUSTRALIA, DENMARK, GUATEMALA, MALAYSIA, NEW ZEALAND, DENMARK, USA). The discussion on the rights relating to natural resources resulted to be more controversial. CANADA, DENMARK, GUATEMALA and THE RUSSIAN FEDERATION supported -either explicitly or implicitly- the principle that IPs rights of ownership, control, development and use extended also to their resources. AUSTRALIA declared that the ownership of minerals, petroleum and certain other resources was vested in the Crown and that the exploitation and use of such resources was governed by legislation. NEW ZEALAND stated that legislation governing the management of resources recognized the traditional cultural relationship of the Maori with their lands, water, sites, but underscored that the right to maintain and strengthen this relationship had to be balanced by the need of governments to own or regulate resources in the interest of all citizens.

Some governments explicitly said that the provisions of the draft declaration had to be consistent with their domestic law and practice (AUSTRALIA, NEW ZEALAND, VENEZUELA).

For some governments, the language used in the draft was too wide-ranging (MALAYSIA) and potentially far reaching in its effects (NEW ZEALAND). Canada, as well as the USA, opposed the broad formulation “lands traditionally owned, or otherwise occupied or used”, asking a reference to be made to existing rights: “This would be consistent with the principles in international law that instruments do not generally apply retroactively”. Several government representatives evoked the question of the use of the terms “land” and “territory” (CANADA, GUATEMALA, VENEZUELA). CANADA proposed following distinction: to use the term “lands” as for “areas which IPs may own or have exclusive use of” and the term “territories” for “areas which IPs do not own and do not have exclusive use of, but where they may conduct their traditional lifestyle, in accordance with domestic law”. Constructive proposals were made to expand article 27 with a separate provision providing adequate processes for dealing with land claims and related resource issues (CANADA).

Indigenous representatives unanimously urged governments to adopt the relevant articles as drafted without delay. IPs stressed that the issue of land and resources was closely interrelated with SD (ASP, AFN, IITC, CISA, NN). Addressing Canada (see above), the Human Rights Committee had emphasized that “the right of SD requires...that all peoples must be able to freely dispose of their natural wealth and resources and that they may not be deprived of their own means of subsistence” (quoted by CIN, AFN). The recognition of their rights to land and resources formed the basis of their existence as IPs (ANCAP) and of their very survival. As illustrated by numerous concrete examples, the policy of dispossession of traditional lands and resources was an ongoing process in many parts of the world. The Canadian reference to the principle of non- retroactivity was therefore sharply criticized. In its Concluding observations on Canada’s report (ref. art. I6 &I7), the Committee on Economic, Social and Cultural Rights established a direct connection between this process and economic marginalization of IPs (AFN). NN introduced the concept of self-reliance, which is based upon the responsible use of lands and resources.

In many countries of Africa, IPs were not even recognized (Maasai in Tanzania and Kenya- IMKT), they were denied access to their sacred sites (PFT); some IPs (Batwa- ADRB; Pygmy of south Kivu -FAAP) had been forcibly removed, victims of wars in the region of the Grand Lakes and of deforestation; in Namiba, Nama were dispossessed.
of their lands (NFIFN/IWGIA); in Nigeria, Ogoni people (MSOP/IWGIA) suffered from environmental deprivation due to petroleum extraction run by multinational companies. The far reaching effects of economic development and structural adjustment policies were illustrated with numerous concrete examples. In French Guyana, even IPs who had maintained their autonomy due to geographic isolation were now threatened by economic expansion (FOAG).

The overall situation was best resumed in the joint statement presented by IITC (DF/CCA/KYM): “For IPs around the world, violations of their human rights as a result of imposed development, destruction and contamination of their traditional homelands and theft of their natural resources continue to be rampant, brutal and pervasive. In the current era of globalization, multi-national corporations impose extraction and commercialization of the natural resources found on IPs’ lands and ecosystems on a massive scale. There currently exists little or no protection or redress for IPs within state systems for such violations of their human rights and fundamental freedoms.”

Faced with these hard facts, the question relating to the specific relationship to land, waters and resources appeared to be rather marginal. Several IPs argued that their relationship could not be expressed in economic terms only, as it determined the whole social and cultural system and was invested of spiritual significance. NKIKLH stated that the Second progress report on IPs and their relationship to lands submitted in July 1999 by Mrs. Daes represented an excellent basis to understand what is at stake. YMUSC exposed different measures taken by the US government-ex. Dawes Allotment Act 1887- to eradicate Indian collectivism.

In response to limitations invoked by some governments, MLS reiterated that domestic law could not be invoked to limit development of international standards (IWA/ NAILSS/ ATSIC/FAIRA). With respect to the distinction between “lands” and “territories”, several organizations expressed concerns that it might be an attempt to limit their right of SD and the scope of their rights to land and resources. On the other hand, AFN focused on positive developments and mentioned as example the Delgamuukw decision, in which the Supreme Court had recognized aboriginal title as a property right in Canadian common law.

In his conclusions, the Chairman-Rapporteur suggested that the link between land rights and SD be reflected in the final version of the draft.

11. ABBREVIATIONS

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<tr>
<th>Abbreviation</th>
<th>Complete Name</th>
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<tr>
<td>ADBR:</td>
<td>Association pour le Développement global des Batwa du Rwanda</td>
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<td>AFN:</td>
<td>Assembly of First Nations</td>
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<td>AIPNSFE:</td>
<td>Association of IPs of the North, of Siberia and of the Far East</td>
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<td>AIPR:</td>
<td>Association of Indigenous Peoples in the Ryukyus-Okinawa</td>
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<td>AITPN:</td>
<td>Asian Indigenous and Tribal Peoples Network</td>
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<td>AN:</td>
<td>Asociación Napguana</td>
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<td>ANCAP:</td>
<td>Association nouvelle de la culture et les arts populaires Amazigh - Tamaynut</td>
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<td>ASP:</td>
<td>Association for the Shor People</td>
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<td>ATSIC:</td>
<td>Aboriginal and Torres Strait Islander Commission</td>
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<td>CAPAJ:</td>
<td>Legal Committee for the Self-Development of Peoples of Andean Origin</td>
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<td>CCA:</td>
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<td>CCCI:</td>
<td>Chirapaq Centro de Culturas Indígenas-Peru</td>
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<td>CIN:</td>
<td>Conseil des Innu du Nitassinan</td>
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<td>CIAA:</td>
<td>Indian Council of South America</td>
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<td>COIPITA:</td>
<td>Comisión Jurídica de los Pueblos de Integración Tawantinsuyana</td>
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<td>COPMAGUA:</td>
<td>Coordinación del Pueblo Maya de Guatemala</td>
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<td>CPA:</td>
<td>Cordillera Peoples Alliance</td>
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<tr>
<td>CTT:</td>
<td>Consejo de Todas las Tierras Mapuche</td>
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<td>DM:</td>
<td>Defensoría Maya</td>
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<td>FAAP:</td>
<td>Fédération africaine des autochtones pygmées</td>
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<td>FAIRA:</td>
<td>Foundation for Aboriginal and Islanders Research Action</td>
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<td>FOAG:</td>
<td>Fédération des organisations amérindiennes de Guyane</td>
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<tr>
<td>GCC:</td>
<td>Grand Council of the Creees</td>
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<tr>
<td>GNCSA:</td>
<td>Grigua National Conference of South Africa</td>
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<tr>
<td>IAITPTF:</td>
<td>International Alliance of Indigenous Tribal Peoples of the Tropical Forests</td>
</tr>
<tr>
<td>ICC:</td>
<td>Inuit Circumpolar Conference</td>
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<tr>
<td>ICHRDD:</td>
<td>International Centre for Human Rights and Development of Democracy</td>
</tr>
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<td>IIITC:</td>
<td>International Indian Treaty Council</td>
</tr>
<tr>
<td>ILRC:</td>
<td>Indian Law Resource Center</td>
</tr>
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<td>IMKT:</td>
<td>Indigenous Maasai from Kenya and Tanzania</td>
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</table>
International Maasai Tanzania (Orkonerei Integrated Pastoralist Survival Programme)

Indigenous Peoples and Nations Coalition - Alaska

International Organization of Indigenous Resource Development / Four Cree Nations of Hobbema

Indigenous World Association

Indigenous Woman Aboriginal Corporation

International Working Group for Indigenous Affairs

Jumuna delegation

Jumuna/Chittagong Hill Tracts

Jharkandis Organization for Human Rights

Ka Lahui Hawai’i

Kenya Pastoralists Forum

Kuna Youth Movement

Lumad Mindanaw Peoples Federation

Mejlis Tatar of the Crimean People

Maori Legal Service

Metis National Council

Movement for the Survival of Ogoni People

Movimiento Revolucionario Tupaj Katari de Liberación

National Aboriginal and Islanders Legal Services Secretariat

Nama First Indigenous Forum Namibia

Na Koa Ikaika o Ka Lahui Hawai’i

Ngativa Lands Trust

PINGOS Forum Tanzania

Russian Association of Indigenous Peoples of the North

Saami Council

Siiksika Nation

Tebtebba Foundation

Taller de Historia Oral Andina

Teton Sioux Nation Treaty Council

Yellow Medicine Upper Sioux Community

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