

Working Group on Indigenous Populations
XIII Session

Item 5 of the agenda: Review of developments

Statement by the Observer Delegation of Brazil

As in previous sessions of this Working Group, my delegation is pleased to provide updated information on the activities carried out by the Brazilian Government on behalf of indigenous people. Let me take this opportunity to clarify also some of the points raised by other speakers on the situation of indigenous people in Brazil.

2. First of all, as reiterated by my delegation on previous sessions, demarcation of indigenous land constitutes our main priority, as a means of guaranteeing land rights and enjoyment of other basic rights by our indigenous populations. The irregular situation affecting many indigenous lands is the main reason for local disputes between indigenous communities and non-indigenous groups. At present, 280 indigenous areas (approximately two thirds of all indigenous areas) have been physically demarcated. Last month, for instance, 8 indigenous lands have been ratified by the President, which alone amounts to over 200 thousand hectares.

2. These efforts are undertaken despite the great financial constraints faced by the Federal Government after steep budget cuts. Nevertheless, the process of land demarcation planned for the next years - from 1996 to 1999 - will cover 223 indigenous lands, at a cost estimated at R\$ 283.190.986 (roughly US\$ 300 million). In the year 2000, 25 other lands shall be demarcated, with international assistance from the Pilot Programme for the Amazon Region financed by the G-7 countries.

3. Several of these initiatives to legalize indigenous lands have been questioned in court by people who have had their interests affected, and some of these cases have been brought to the attention of our Supreme Court, on the grounds that the regulations in force do not provide for the hearing, during the administrative proceedings which lead to the decision of demarcation, of dissenting arguments by those concerned. For this reason, the Federal Government is examining the need to review the Presidential Decree nr. 22/91, which constitutes at present the legal framework for the administrative procedures for demarcation.

4. Secondly, by Presidential Decree nr. 1141 (19 May 1994), an inter-agency commission comprised of Government officials and

representatives of non-governmental indigenous organizations was set up to consider programs and projects in the areas of environmental protection, health, and productive activities of the indigenous communities to be implemented during the International Decade and beyond. Activities approved by this body are carried out by the Federal Government, in cooperation with indigenous and non-governmental organizations, under the coordination of the National Indian Foundation (FUNAI) and with the participation of the indigenous communities concerned. Many of these activities are financed by private sources and State enterprises, such as the Companhia do Vale do Rio Doce - a large mining company - and several hydro-electric companies (ELETRONORTE, CHESF, ITAIPU, CESP), and they benefit indigenous communities in Rondônia, the Xicrim, the Parakatejê and the Parakanã (in Pará), the Waimiri-Atroari (in Amazonas), the Ofayé-Xavante (in Mato Grosso do Sul), the Tuxá (in Bahia), the Avá-Guarani from Ocof (in Paraná). Moreover, with the technical and financial cooperation of the German Government (which has accorded a grant of about R\$ 20 million), land demarcation and its surveillance by the indigenous community itself is being executed in the Waiãpi indigenous land (in Amapá), as well as in several others in the Amazon Region.

5. The Ministry for the Environment and the Amazon Region has also initiated several projects in collaboration with FUNAI. These projects are aimed at rehabilitating the environment in indigenous lands and promoting sustainable development of indigenous communities based in their traditional knowledge and life-styles. Some of these projects, for example, are in support of the cultivation of Mate by the Guarany-Kayowá (in Mato Grosso do Sul), rubber collection by the Parecis (in Mato Grosso), sustainable management of the cashew fruit by the Kiruri from Mirandela (in Paulo Afonso, Bahia), and surveillance of the territory in the State of Acre where an indigenous community who has not been contacted by western civilization is believed to exist (known as the Maimã).

6. Thirdly, as you are aware, a new Federal Law is under the consideration of the National Congress to replace the Statute of Indigenous Populations which dates back to 1967. This bill was introduced by the Executive, after consultation with indigenous people and non-governmental organizations. It aims at updating domestic legislation to bring it in line with the Federal Constitution and some of the principles enshrined in the ILO Convention nr. 169. The new legislation will promote the participation of indigenous citizens in the decision-making process in matters which affect

them, as well as recognize the right of indigenous communities to benefit from the exploitation of natural resources in their lands, including by regulating mining activities on them. It also dedicates a whole chapter to the protection of intellectual property rights of the traditional knowledge of indigenous communities, an innovative and significant approach that will provide the legal framework for economic compensation and sharing of benefits arising from the sustainable utilization of that indigenous heritage. This bill is presently under the consideration of the National Senate for final adoption.

Madam Chairperson,

7. Let me now turn to a particular situation that has been brought to the attention of the Working Group: that of the Yanomami. I wish to express to those who have addressed the difficult situation of the Yanomami that the Brazilian Government is firmly committed to bettering the fate of this particular group, undoubtedly one of the most fragile and endangered among Brazilian indigenous communities. Let me also express our gratitude to the positive remarks made this morning by the Indian Law Resource Centre.

8. The Brazilian Government has proceeded, as in previous years, with the removal, from the Yanomami land, of illegal invaders, mainly gold tappers, who repeatedly come back to this remote region of our territory. During the period of April 1994 to April 1995, 1,382 intruders were expelled. It is still believed that some 200 of them may have escaped extensive surveillance carried out by the Federal Police with the help of three aircraft. Since these invasions occur mainly in small aircrafts, it is necessary to control air-traffic over the Yanomami land, as well as over the entire Amazon region. The Brazilian Government is putting in place an extensive surveillance system which will help prevent invasion of indigenous lands by the *garimpeiros*. It should also be acknowledged that the invasion of these lands by people fleeing from poverty and unemployment in the hinterland constitutes a structural problem that can only be tackled by long-term solutions aimed at eradicating their root causes.

9. Madam Chairperson, I wish to confirm the information that the Interamerican Commission on Human Rights has been invited to pay an *in loco* visit to Brazil, in order to know, first hand, the overall situation of human rights in Brazil. Indeed, the Chairman of that body had already visited Brazil in December 1993, as had already been reported to this body last year.

10. In view of the lack of time, I cannot expand my comments on other issues, but my delegation is open to anyone who may wish further information on specific cases. I wish, finally, to refer to the constructive and

positive information concerning the Tremembé of Almofala contained in document E/CN.4/Sub.2/AC.4/1995/4. That report of the recent evolution of the situation of this community shows the true spirit of partnership upon which the objectives of the International Decade will be pursued.