

Thank you Mdm Chairperson,

My name is Les Malezer, Chair of the Indigenous Caucus on the UN Declaration on the Rights of Indigenous Peoples. This intervention is made on behalf of the following indigenous organizations: *[names]*

Mdm Chairperson,

Last year, the UN General Assembly – upon the request of the African Group – decided to defer consideration on the UN Declaration on the Rights of Indigenous Peoples, to facilitate for further consultations on the Declaration. The UNGA further proclaimed, however, that the Declaration process should be finalized before the end of the its 61<sup>st</sup> session.

On Tuesday May 17, the African Group presented to the President of the General Assembly their proposed avenue for successfully concluding the Declaration process during the UNGA's 61<sup>st</sup> session. The African Group's proposal constitutes a revised version of the Declaration, as adopted by the Human Rights Council. The proposal amends more than 30 of the provisions in the Declaration. Among other things, it suggests that it is up to states to define – without any regard to international law – what groups constitute indigenous peoples. The African text further entirely removes the right to self-determination from the Declaration. The proposal also renders more than ten of the rights contained in the Declaration subject to national legislation – including indigenous peoples' rights to lands, territories and natural resources – the theme of this Permanent Forum session.

Mdm Chairperson,

The African proposal is no longer a Declaration on the Rights of Indigenous Peoples. The African text does not even aspire to affirm our most basic human rights. On the contrary, it violates and undermines our rights. The African Group has not attempted to improve one single provision in the Declaration. Rather, the African text undermines the most fundamental indigenous peoples' human rights.

To render human rights subject to national legislation is unheard of in a human rights instrument adopted by the UNGA. As one would have hoped should be self-evident to everyone, the very essence of human rights is to establish limitation as to what national laws can stipulate – not the other way around. To suggest that indigenous peoples' human rights should be subject to national legislation, when no one else's is – is discriminatory, if not even racist. Further, all indigenous peoples have repeatedly underlined, and all states that take indigenous rights seriously have recognized, that the two most fundamental rights in the Declaration are the right to self-determination and the right to lands, territories and natural resources. Yet the African proposal deletes both these rights, one explicitly and one by rendering it subject to national legislation. Finally, with regard to the few rights that remain in the Declaration after the African Group has put down the chainsaw, the proposal also render these diluted rights subject to the will of the state, by authorizing the states to arbitrarily decide what groups within their borders constitute indigenous peoples, and hence fall under the scope of the Declaration. Again, this introduces a discriminatory double

standard, in that non-indigenous peoples are defined by international law, whereas – according to the African group - indigenous peoples' status as peoples shall be made subject to the good will of the state.

In conclusion, Mdm Chairperson, the African proposal is not only offensive to indigenous peoples. Frankly, for the reasons just stated, it does not come across as serious. It is obvious that deliberations based on the African proposal will never result in a Declaration acceptable to indigenous peoples that can be adopted by the UN. Indeed, it is crystal clear that the African proposal will not advance the Declaration process at all.

Hence, it is self-evident that the alternative road forward submitted on Thursday May 10 by Mexico on behalf of the co-sponsor group, constitutes the only way towards an adoption of the Declaration during the UNGA's 61<sup>st</sup> session. The undersigned indigenous organizations consequently reiterate our call for an adoption by the UNGA of the Indigenous Declaration as agreed on by the Human Rights Council. Even though we are sensitive to some of the concerns of the African Group, we do concur with the co-sponsor group that these concerns can be catered for through other means than amendments to the actual Declaration text. We urge the PGA to facilitate a process to adopt the Declaration based on the co-sponsor group's proposal. We hope – and trust - that this is the last time we will have to comment on the African proposal.

Thank you Mdm Chairperson.