

## STATEMENT

ON: Millennium Development Goals and indigenous peoples:

Re-defining the Goals-Reflections of the expert seminar  
on Indigenous Peoples' Permanent Sovereignty over  
Natural Resources and their Relationship to Land

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Distinguished Chairperson, distinguished members of the Permanent Forum,  
Distinguished representatives of the world's Indigenous Peoples ,  
Governments , Specialized Agencies , Non-Governmental organizations  
Ladies and Gentlemen ,

Madam Chairperson,

Within the framework of the special theme of the present session of the Permanent Forum , : “Millennium Development Goals and Indigenous Peoples :redefining the Goals, I would like first to present the “reflections of the international expert seminar on Indigenous Peoples’ Permanent Sovereignty over Natural Resources and their Relationship to Land” and secondly to make briefly some comments, related to the discussion took place yesterday.

The aforesaid expert seminar was of great importance both for the indigenous peoples and Governments. It was duly organized by the Office of the High Commissioner on Human Rights in accordance with Human Rights decision 2005/110, which was endorsed by the Economic and Social Council decision 2005/289. The seminar was attended by a number of indigenous

Elders, including 14 experts from different Member-States, representing different legal systems, some Governments representatives , indigenous and non-indigenous NGOs, UNITAR and others. Two very well-known I indigenous persons Mr. Tom Calma from the Human Rights and Equal Opportunity Commission in Australia and Mrs. Andrea Carmen , from the International Treaty Council , were elected Chairperson and Rapporteur correspondingly. The relevant report is contained in doc. E/CN.4/Sub.2 /AC.4 /2006/3 of 5 April 2006.

The main scope of the seminar was to reflect the importance of creating a space for a constructive dialogue that would allow governments and indigenous peoples to deepen their common understanding of land and natural resources rights and to analyze the meaning of certain relevant to the lands ,territories and resources concepts and terms . The basic documents for the discussion were the following two reports , which I have elaborated in my capacity as Special Rapporteur : “a) Indigenous peoples and their relationship to land” and b) “Indigenous people’s permanent sovereignty over natural resources”, which I had the honor to present to the Permanent Forum, at its previous sessions.

During a constructive exchange of views references were made, *inter alia*, to the colonial laws , which had been used to dispossess indigenous peoples of their ancestral land , territories and resources. The meaning of the concept of “permanent sovereignty” was duly discussed and , among others reference was made to the historic General Assembly resolution 1803 (XVII) 1962, that gave the principle permanent sovereignty momentum under international law in the decolonization process. In this resolution the General Assembly declared that “peoples and nations” had a right to permanent sovereignty over their natural wealth and resources and that violation of this right was contrary to the spirit and principles of the Charter and hindered the development of international cooperation and the maintenance of peace. This principle 1966 became a general principle of international law when it was included in common article 1 of both International Covenants on Human Rights. The right of permanent sovereignty over natural resources was recognized because , *inter alia*, it was understood early on that without it, the right of self-determination would be meaningless. After a considerable useful discussion the participants of the aforesaid seminar accepted that the meaning of the concept “sovereignty” in relation to the principle of permanent sovereignty

over natural resources can be generally stated as legal governmental control and management authority over natural resources, particularly as an aspect of the exercise of the right to self-determination. The

use of this concept in relation to indigenous peoples does not place them on the same level of States or place them in conflict with State Sovereignty.

Another term which was discussed and analyzed was the term “territories”. In this respect , it was clarified that this term should not be confused with the concept of territorial integrity in international law. It is not meant to imply a separation from the territory of the State as a whole, in political terms, for it is clear that an indigenous people , even in the exercise of its rights to autonomy or self-government, is still ordinarily connected with the political territory of the State. Rather , the term territory is used in the draft United Nations declaration on the rights of indigenous peoples as it is used in the ILO Convention 1989/169 on Indigenous and Tribal Peoples, to convey some notion of the totality of indigenous peoples’ relationship to the land and to all of its resources and characteristics. It is fundamental that this is more than simply a matter of *land ownership*, in the usual sense of private ownership by citizens, but a special and comprehensive kind of relationship that is historical , cultural , spiritual and collective.

Madam Chairperson,

At the aforesaid expert seminar was also emphasized that dispossession of indigenous lands and resources and the insecurity of land tenure in particular in e Africa, has increased poverty and hunger in their region. Further, mention was made to the importance of respecting treaties and agreements as a way of contributing to reconciliation. Furthermore, it was stated that indigenous peoples , when claiming there traditional lands , were often expected to show occupation from the time of sovereignty to the time of litigation , which constitutes an unfair burden of proof for indigenous peoples and poses serious problems to urban indigenous communities . Denial of equality in domestic courts also undermines the permanent sovereignty and autonomy of indigenous peoples.

During the developed dialogue , references were also made , on the positive developments and arrangements between ,for example, the Innu Nation and the Government of Canada. It was stated that education , and training , employment and business opportunities as well as revenue sharing with the Innu community were established through legally binding agreements with a mining company. Activities that helped achieve these results included the use of public opinion , lobbying and negotiations. This

is a positive example of arrangements between indigenous peoples , the private sector and the regional government based on the principles of equal participation in the negotiations , free , prior and informed consent and benefit sharing to ensure rights based development for the communities .

The experts and the participants in the abovementioned seminar concluded that indigenous peoples have the right to permanent sovereignty over their lands , territories and natural resources , especially those which they have traditionally owned , used or occupied . Also that the right to permanent sovereignty over natural resources is a collective right by virtue of which States are obligated to respect, protect and promote the governmental and property interests of indigenous peoples and their natural resources. Further , the experts underscore the importance of the draft United Nations Declaration on the Rights of Indigenous Peoples as a contribution towards the full recognition of these rights by States and emphasize that the development of international law in relation to indigenous peoples, including their rights to permanent sovereignty over their lands and resources, is an on-going process .

Madam Chairperson,

The conclusions and recommendations of the seminar are included in the abovementioned comprehensive report. Because of their great importance for both States and indigenous peoples, I would like formally to propose to be included in the report of the present session of the Permanent Forum.

Madam Chairperson,

Since we have agreed to have a dialogue at the present session of the Permanent Forum, I would like to be allowed to make some comments on a statement , delivered by the distinguished Representative of Australia on behalf of his Country, New Zealand and United States. First , I agree that the present draft declaration submitted by the Chairman of the ad hoc Working Group , is not perfect . It will be no perfect, regardless of its further elaboration. It is well-known that the most document of the UN are not perfect. In my opinion the original draft submitted by the Sub-Commission on the Promotion and Protection of Human Rights , was much more clear a better one in general than the draft submitted recently by the Chairman of the Working Group of the Commission on Human Rights. However, this is a draft document prepared after 12 years of consultations ,



hard work and with a lot of expenses by the United Nations, the Governments and the Indigenous Peoples . It contains a number of useful and important provisions which will contribute to the recognition of the rights of indigenous peoples , to the reconciliation with the States in which they live and to the creation of stability in the Countries indigenous peoples live and to the development better relations between indigenous and non-indigenous persons.

The indigenous peoples are the victims of discriminatory treatment within the political , economic, legal and social framework in many countries in which they live. The principle /right to self-determination, the concepts/terms of permanent sovereignty , of territories have been already duly analyzed by many governmental experts , international lawyers and in particular by a number of domestic supreme courts. In this respect, I would like to address respectfully in appeal to those who might have certain reservations , in connection with the meaning of the abovementioned concepts and terms, to study and implement the judgments, or decisions, of their domestic courts, in the cases, among others, Mabo case , the Wik Peoples v. Queensland , the Marshall decision of the United States Supreme Court and a number of *ad hoc* decisions and recommendations of

the United Nations Treaty Bodies and the relevant rules of international law and international customary law.

We must look ahead, not backwards to the past and we must have hope rather than a reiteration of the *status quo*.

Let us try to implement the new slogan of the Second International Decade for the World's Indigenous Peoples "Partnership for Action and Dignity " and to contribute to the achievements of the Millennium Goals.

Finally let us dare to be visionary,

Thank you for your kind attention,

Erica-Irene A. Daes.