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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on the Promotion  
and Protection of Human Rights  
Working Group on Indigenous Populations  
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**Item 7a: Cooperation with other United Nations bodies**

**Intervention by Les Malezer  
Foundation for Aboriginal and Islander Research Action**

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Mr Chairperson, with your indulgence we would like to use the opportunity under this agenda item to include some discussion on issues which arise out of the Secretary General's Report, entitled "In Larger Freedom: towards development, security and human rights for all" and the General Assembly's resolution A/RES/59/291 establishing the processes convening a High-level Plenary Meeting on UN Reform. The proposal to establish a Human Rights Council carries compelling arguments for strengthening human rights capacity of the United Nations. For example the idea of a higher authority, with decision-making powers and capacity to influence the security and development agenda of the United Nations is applaudable. The concept of undertaking regular review of the human rights records of all States through an objective, rights-based and non-politicised body is what we all want. And the value of having a well-resourced Office of the High Commissioner on Human Rights with a responsibility and capacity to undertake follow-up activity to end human rights abuses by States, combined with the understanding that State sovereignty is insufficient protection from international scrutiny and intervention regarding human rights matters, is understood and quite acceptable from a civil society viewpoint. However the proposal is a big-picture presentation lacking the details and answers to important questions. Many interested parties are immediately nervous about unlocking the doors of the UN Charter at a time when the river of change might flow from the direction of the powerful States and corporate interests, through the corridors of the United Nations and under the very foundations of international governance. While the major changes can be logically accepted the Secretary General's proposal is perhaps too dismissive of the importance of the growth of associated organisms both inside and outside the structure of the United Nations. It overlooks the value of sixty years of development within the UN founded upon invaluable awareness, sensitivity and commitment that existed at the end of the world's greatest war. It does not explain the intricate linkages and synergy of the workings within the UN which most likely result in desired outcomes. For example this Working Group on Indigenous Populations is more than just a temporary standard-setting body, established to draft the Declaration on the rights of Indigenous Peoples. Whether you like it or not, it is the contact point at the UN for complaints of human rights abuses from Indigenous Peoples around the world. Last year, we recorded 44 cases of complaints of human rights abuses against Indigenous Peoples in the submissions made to this body. Most of these complaints do not make it to the Commission on

Human Rights, the treaty bodies or the agendas of the Special Rapporteurs. There are many reasons why that does not happen, many of them to do with the incapacities of Indigenous Peoples, but the point is, this Working Group is also a sponge for those complaints and the result is a more sensitive UN, a more committed UN, a better informed UN and, various 'soft' forms of redress such as thematic discussions and strategies, for example 'free, prior and informed consent'. Mr Chairperson, we note that the High Commissioner on Human Rights, in her document *The OHCHR Plan of Action: Protection and Empowerment*, does not make any proposal on the role of the Sub-Commission on the Promotion and Protection of Human Rights, but we understand there is the suggestion that this Sub-Commission and Working Groups should continue until the establishment of the Human Rights Council and then there should be a review of these structures by the functioning Council. Also we note that the High Commissioner envisages a more unified treaty body system which strengthens the crossflow of information and avoids duplication in considering country reports. The overlap between country reports to the treaty body system, and the concept of peer review of States by the Council remains unaddressed, but we can envisage the treaty body reports being incorporated into the Council reviews, interlinked with the proposed annual thematic reports from the OHCHR, can strengthen the capacity to end human rights abuses. Mr Chairperson, we are concerned about the lack of adequate involvement of the Indigenous Peoples in the UN reform discussions. This session of the Working Group provided one of the best opportunities for the High Commissioner to present her ideas and hear our responses. The High Commissioner has addressed two other meetings of civil society this week but seems to have by-passed this opportunity to engage Indigenous Peoples. When will we be engaged? The work of this Working Group must continue, but it should not be confined to standard-setting. If a Human Rights Council is established then there is a strong case to be made for the Council to establish a revised Working Group on Indigenous Peoples, giving consideration also to the Permanent Forum on Indigenous Issues which will not be able to fulfill its mandate on human rights while reporting to the Economic and Social Council and not having a functional (I believe the buzz-word is "organic") or administrative connection to the Human Rights Council. Rather than reporting to the Sub-Commission, the revised Working Group could and, in our view, should, report directly to the Human Rights Council with a clear procedure to contribute to the thematic discussions and the peer review system of the Council. The Working Group can continue to be a body able to greatly assist the work of the Special Rapporteur on Indigenous Issues, in the input to, and coordination of, the Special Rapporteur's work and in the follow-up actions, and therefore able to contribute to the Council's work. Further the Working Group should engage, in the appropriate way, with the work other Special Rapporteurs, on racism, health, extreme poverty etc, Country Rapporteurs and treaty bodies, all with the view to protect the human rights of Indigenous Peoples. While this proposal might seem like a bold move, I remind everyone that (a) Indigenous Peoples have very little capacity to engage with the Commission on Human Rights, relying mostly upon the reporting process from the Working Group to the Sub-Commission to the Commission, (b) should have better access to the mechanisms dealing with complaints of human rights abuses, and (c) must be able to contribute equally with civil society in the work of the Council. While we would like to elaborate more details it is more appropriate that our view be considered by everyone here, that other views are developed, and that we get some time and means to have a more robust discussion on the future involvement of Indigenous Peoples in the United Nations.

Thank you, Mr Chairperson.