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## STATEMENT OF TEBTEBBA FOUNDATION

Permanent Forum on Indigenous Issues 2004

EZO-G-400 DEVT

Agenda Item 4 (d) ~~HUMAN RIGHTS~~

Mr. Chairperson,

Under the theme of human rights, Tebtebba Foundation wishes to highlight the serious violations of human rights of indigenous peoples by corporations, particularly transnational corporations.

The UN Permanent Forum in its previous session made recommendations on mining and mineral extraction (para 51 E/C.19/2003/22). Since then a number of significant developments relating to corporate accountability and their human rights obligations of corporations have taken place.

1. Last year, the UN Sub-Commission on Human Rights adopted the UN Norms on the Responsibilities of Transnational Corporations (TNCs) and Other Business Enterprises with Regard to Human Rights ( E/CN.4/ Sub 2/2003/12 Rev2 ). Drawing on a broad array of legal norms, voluntary codes of conduct, labour practices and NGO Guidelines, the norms set out legal norms and obligations which TNCs are expected to promote. Respect and protect, including: the international bill of human rights; security of persons; rights of workers; international and national environment, health and safety agreements; national sovereignty and local communities; not use forced or child labour. These norms do not cover some of the specific concerns of indigenous peoples, for example, the principle of free, prior and informed consent, and there is need for further standard-setting on this theme.

**We call on the Permanent Forum, through ECOSOC, to enjoin the UN Working Group on Indigenous Populations and the UN Sub-Commission on Human Rights to continue their important standard-setting work on norms and responsibilities of corporations, with a focus on the human rights of indigenous peoples.**

2. Earlier this year, the Report on World Bank's Extractive Industries Review was completed by the Eminent Person Dr. Emil Salim, who made significant recommendations relevant to indigenous peoples, including that the World Bank Group recognize and respect the right of indigenous peoples' to free, prior and informed consent. The findings of the independent EIR Report corroborate the concerns that indigenous peoples have raised about World Bank-assisted extractive industry projects and their negative impacts on our territories, well-being and livelihoods. The UN Special Rapporteur, Dr. Rudolfo Stavenhagen also states that extractive industries are "one of the major human rights problems faced by (indigenous peoples) in recent decades". In our experience, extractive industries are not sustainable and create or exacerbate poverty for indigenous peoples rather than alleviate it.

The EIR report also recognizes that the present World Bank policies on indigenous peoples do not provide adequate safeguards and are inconsistent with our internationally guaranteed rights. The EIR report recommends that indigenous peoples' customary land, territory and natural resource rights be recognised prior to the development of extractive projects in indigenous lands and territories, and that project financing not proceed without the Free, Prior and Informed Consent of the indigenous peoples concerned.

**Tebtebba Foundation, underlines that it is timely for the UN Permanent Forum to collaborate with the Office of the High Commissioner on Human Rights to organise a follow-up seminar on Indigenous Peoples, Natural Resource Corporations and Human Rights, to further elaborate the rights-based framework of development, and to continue the dialogue with extractive industries corporations to respect the rights of indigenous peoples.**

May I take this opportunity to announce a side-event on this theme, at lunchtime in Conference Room 6.

Mr. Chairperson,

3. We are alarmed by trends which show that the rights-based framework to development is being undermined within the UN, the very body which created this framework and is supposed to champion it. Now it is being said that an interest-based framework, or a demand-driven approach should guide the United Nations.

**We strongly urge the Permanent Forum to be vigilant in ensuring that the rights-based development framework will not be watered down or undermined within the United Nations, and that all future work on Free, Prior and Informed Consent, further elaborate ways to operationalize the protection and promotion of indigenous peoples' rights in the development process.**

Thank you Mr. Chairman, for this opportunity to speak.