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Agenda item 3 of the provisional agenda*

Special theme: "Territories, lands and natural resources"

Recommendations on the special theme: Territories, lands and natural resources

1. The elements of the special theme of the Permanent Forum for its sixth session: "Territories, lands and natural resources", of fundamental importance to indigenous peoples since they constitute the basis of their life, existence and economic livelihood, and are the sources of their spiritual, cultural and social identity.
2. Land is the foundation of the lives and cultures of indigenous peoples all over the world. It is clear therefore that their right to lands, territories and natural resources is a key demand of the international indigenous peoples' movement and of indigenous peoples and organizations everywhere. It is also clear that most local and national indigenous peoples' movements have emerged from struggles against policies and actions that have undermined and discriminated against their customary land tenure and resource management systems, expropriated their lands, extracted their resources without their consent and led to their displacement and dispossession from their territories. Without access to and respect for their rights over their lands, territories and natural resources, the survival of indigenous peoples' particular distinct cultures is threatened.
3. Land rights, access to land and control over it and its resources, are central to indigenous peoples throughout the world. Indigenous peoples depend on it for their material and cultural survival. In order to survive as distinct peoples, indigenous peoples and their communities need to be able to own, conserve and manage their territories, lands and resources.
4. The Permanent Forum recognizes the fundamental importance of indigenous peoples' security of land use and access, and the importance of land rights for broader processes of poverty reduction, good governance and conflict prevention and resolution.

* E/C.19/2007/1.



5. It is against this background that the Permanent Forum strongly believes that the following principles should underpin the administration and regulation of lands, territories and natural resources of indigenous peoples. We also reiterate the relevant articles in the Declaration on the Rights of Indigenous Peoples:

(a) That indigenous peoples are entitled to effectively participate in drafting policies and laws related to resources management and development processes. It is well established that effective participation includes the right to receive information and communications in language that the relevant indigenous peoples use and understand (article 14);

(b) That indigenous peoples have a central role in decision-making and implementation of lands and resources-related projects. Such projects shall not be implemented without the free, prior and informed consent of indigenous peoples (article 28);

(c) That indigenous peoples shall have a central role in the dispute-solving arrangements over lands, territories and natural resources (article 26);

(d) States have an obligation to protect indigenous peoples' lands, territories and natural resources from infringement by any institutions, companies and individuals. There must be penalties for those who carry out harmful activities on indigenous peoples' lands and territories. Indigenous peoples shall be entitled to compensation for such activities (article 30);

(e) States have the obligation, in cooperation with indigenous peoples, to identify the lands indigenous peoples traditionally use and occupy, and to provide specific legal protection for the rights of ownership over those lands in accordance with indigenous customs and laws (article 26, para. 3).

6. The Permanent Forum endorses the conclusions and recommendations contained in the report on the expert seminar on indigenous peoples' permanent sovereignty over natural resources and their relationship to land (E/CN.4/Sub.2/AC.4/2006/3). It is noted that the report endorsed two studies by the Special Rapporteur, Erica-Irene A. Daes, Indigenous peoples and their relationship to land (E/CN.4/Sub.2/2001/21) and Indigenous peoples' sovereignty over natural resources: Final Report (E/CN.4/Sub.2/2004/30 and Add.1).

7. Recalling the Johannesburg Declaration, in which world leaders reaffirmed the vital role of indigenous peoples in sustainable development, the Permanent Forum urges non-governmental organizations, indigenous peoples and their organizations to actively raise awareness of indigenous issues at the annual meetings of the United Nations Commission on Sustainable Development. The Permanent Forum appoints [] as special rapporteurs to elaborate papers on indigenous peoples and relevant thematic issues on sustainable development (for example, sustainable agriculture, land, rural development, drought and desertification), for consideration by the Commission on Sustainable Development and for submission to reports of the Secretary-General and to represent the Permanent Forum in the Commission's interactive dialogues with United Nations agencies. The Commission is urged to invite a member of the Permanent Forum to attend the annual sessions of the Commission.

8. Recalling the Kimberley Declaration of 2002 and the Indigenous Peoples' Plan of Implementation on Sustainable Development, the Permanent Forum calls upon

indigenous peoples to actively participate in the annual meetings of the Commission on Sustainable Development, to submit case studies and to highlight their perspectives, priorities, policy recommendations, actions, obstacles and challenges in implementing sustainable development at local, national, regional and international levels. In this regard, the Permanent Forum reiterates its recommendation, contained in its report on the Forum's fifth session, calling upon donor agencies to provide financial support for the representation and participation of indigenous peoples at the sessions of the Commission on Sustainable Development. The Permanent Forum calls upon the Partnership for Indigenous Peoples and Environment, which was launched in 2003, to take the lead in revitalizing the effective participation of indigenous peoples at the sixteenth session of the Commission and future meetings by, inter alia, organizing national and regional preparatory meetings, side-events, partnership fair activities and other learning and action events.

9. Acknowledging that the report entitled "Oil palm and other commercial tree plantations, monocropping: impacts on indigenous peoples' land tenure and resource management systems and livelihoods" raised important issues and recommendations, the Permanent Forum recommends that further analysis be undertaken to include information received and gathered from Governments, the logging and plantation sectors and their networks, indigenous peoples, non-governmental organizations and intergovernmental bodies such as the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and the United Nations Forum on Forests. The Permanent Forum reappoints Victoria Tauli-Corpuz to continue as the Special Rapporteur to draft the follow-up report, using existing resources, to be presented at the 2008 session of the Permanent Forum.

10. The Permanent Forum requests the secretariat to ensure wide circulation of the above-mentioned report and invites States, members of the Inter-Agency Support Group on Indigenous Issues, non-governmental organizations and the private sector, the secretariats of the United Nations Forum on Forests and the United Nations Framework Convention on Climate Change to provide comments and additional information and data to both the Special Rapporteur and the secretariat. The contributions can include existing policies, projects and funding related to plantations and forestry, implementation of policies and case studies of good practices.

11. The Permanent Forum notes the conclusions and recommendations of the first United Nations Expert Seminar on Treaties, Agreements and other Constructive Arrangements between States and Indigenous Peoples, held in Geneva from 15 to 17 December 2003.

12. The Permanent Forum notes the conclusions and recommendations of the second United Nations Expert Seminar on Treaties, Agreements and Constructive Arrangements hosted by the Maskwacis Cree First Nations in Treaty 6 Territory, held in Hobbema, Canada, from 14 to 17 November 2006.

13. The Permanent Forum recognizes that that past and present generations of indigenous peoples have been disproportionately affected by international nuclear and power industries. The nuclear fuel chains has poisoned indigenous peoples and their lands and waters and threatens the existence of future generations and nuclear

energy development and international agreements often violate indigenous peoples' rights and endanger their cultures and physical and spiritual well-being.

14. The Permanent Forum believes there are clear linkages between lands, territories and natural resources and the protection of traditional knowledge and traditional cultural expressions against misappropriation and misuse, and stresses that they cannot be discussed in isolation, a perspective widely shared.

15. The Permanent Forum encourages analysis by States, the specialized agencies, academics, indigenous peoples and their organizations of the implementation of free, prior and informed consent principles and mechanisms regarding projects on indigenous lands and territories, and encourages them to submit such analyses to the Permanent Forum for consolidation and to identify good practices and barriers.

16. The Permanent Forum recommends that information be coordinated within State ministries and United Nations agencies that have responsibilities and mandates relating to indigenous peoples' access to lands, territories and natural resources.

17. The Permanent Forum recommends that all States Parties to International Labour Organization (ILO) Convention No. 169 implement it by training their leading public officials/civil servants to respect and fulfil its provisions. It is crucial that indigenous peoples be fully informed of the consequences of the use and exploitation of natural resources in their lands and territories through consultations, under the principle of free, prior and informed consent, with indigenous peoples concerned. Through free, prior and informed consent, future conflicts can be avoided and the full participation of indigenous peoples in consultation mechanisms, environmental impact assessments and sociocultural impact assessments can be ensured.

18. The Permanent Forum recommends that States take effective measures to halt land alienation in indigenous territories, for example, through a moratorium on the sale and registration of land, including granting of land and other concessions in areas occupied by indigenous peoples, and also assist indigenous communities, where appropriate, to register as legal entities.

19. The Permanent Forum recommends that States, in consultation with the indigenous peoples concerned, provide financial and technical assistance for indigenous peoples to map the boundaries of their communal lands, finalize the legal and policy framework for the registration of collective title as a matter of urgency and support indigenous peoples in preparing their claims for collective title.

20. The Permanent Forum notes the initiative of the International Organization for Migration (IOM) to provide legal and technical advice and implementation services in the area of property restitution and compensation to States and indigenous peoples in situations where restitution and compensation programmes are implemented or where assistance is sought in undertaking such programmes, and also notes:

(a) The initiative of IOM in offering capacity-building services to States, including restitution and compensation strategies and policies, baseline studies to identify and assess needs and propose appropriate solutions and the collection and registration of claims;

(b) The Permanent Forum notes the IOM initiative to provide public outreach and public information to indigenous communities on property restitution

and compensation in countries where Governments have agreed to implement such plans.

21. The Permanent Forum instructs the secretariat to transmit recommendations on lands, territories and natural resources as a contribution to:

(a) The report of the Secretary General to the sixteenth session of the Commission on Sustainable Development;

(b) An informational document to the sixteenth session of the Commission on Sustainable Development on the thematic issue of land and sustainable agricultural rural development;

(c) Transmit specific recommendations on water to the study of the United Nations High Commissioner for Human Rights on the Right to Water.

22. The Permanent Forum calls upon the Partnership for Indigenous Peoples and Environment, which was launched in 2003, to take the lead in revitalizing the effective participation of indigenous peoples at the sixteenth session of the Commission on Sustainable Development and at future meetings by, inter alia, organizing national and regional preparatory meetings, side-events, partnership fair activities and other learning and action events.

23. The Permanent Forum recommends that Governments, bilateral and multilateral donor and development agencies and other development partners responsible for or assisting in the implementation of sectoral strategies or other programmes affecting lands owned, occupied or otherwise used by indigenous peoples, review the consistency of these strategies and programmes with internationally recognized standards for the protection of the rights of indigenous peoples, and the impact of such strategies and programmes on indigenous communities and report to the Permanent Forum at its meeting in 2008 on the results of these reviews and on any strategies adopted to address the challenges they may identify.

24. The Permanent Forum recommends that non-governmental organizations, indigenous peoples' organizations and academics undertake independent studies and investigations into the violations of indigenous peoples' land rights through illegal land expropriation and exploitation and into the issue of land, forestry, tourism and mining concessions. These should include:

(a) Recommendations on how the rights of indigenous peoples can be legally protected;

(b) The degree to which Governments ensure free, prior and informed consent of indigenous peoples in the approval of land concessions and mining exploration licenses over the traditional lands and forests of indigenous peoples;

(c) The role of other States in the promotion of agri-business and extractive industries without the free, prior and informed consent of indigenous peoples;

(d) The role of multinational agri-business and extractive industries; specifically, whether corporate social responsibilities have been fulfilled and social and environmental impact assessments have been undertaken prior to the commencement of development projects.

25. The Permanent Forum calls upon United Nations agencies, the World Bank, the Asian Development Bank, other multilateral financial institutions and bilateral donors to establish clear policy commitments to protect the ancestral lands of indigenous peoples.

26. The Permanent Forum urges the World Bank to implement the actions identified in the management report and recommendations in response to the Inspection Panel Investigation Report (2006), including the call for the termination of all existing logging concessions and the promotion of equitable and sustainable alternatives for forest management.

27. The Permanent Forum affirms the fundamental importance of treaties, agreements and other constructive arrangements between States and indigenous peoples in recognizing and upholding indigenous peoples' rights to territories, lands and natural resources. Furthermore, the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are cross-cutting and impact all six areas of the mandate of the Permanent Forum.

28. The Permanent Forum recommends that the Working Group on Access and Benefit Sharing of the Convention on Biological Diversity recognize the rights of indigenous peoples over the biological and genetic resources of their own territories.

29. The Permanent Forum invites [] to prepare, with the input of the United Nations system, without financial implications, an overview of existing United Nations entities and mandates that are in a position to conduct analysis of conflicts over lands and territories between indigenous peoples and States, with a view to their resolution, and to present the results of their overview to the Permanent Forum.

30. The Permanent Forum appoints Mr. Michael Dodson, who is a member of the Forum, as a special rapporteur to prepare a guide based on the relevant principles contained in Declaration on the Rights of Indigenous Peoples and, taking into account the provisions of ILO Convention No. 169 that relate to indigenous land tenure and management arrangements, to assist indigenous peoples, States and United Nations agencies in negotiating indigenous land tenure and management arrangements.

31. The Permanent Forum recommends that all States that have introduced changes to existing indigenous land management regimes invite the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to undertake a study of those regimes and assess them against the principles contained in the Declaration on the Rights of Indigenous Peoples.

32. The Permanent Forum welcomes the decision of the Inter-Agency Support Group on Indigenous Issues to hold, on an exceptional basis, a meeting to consider appropriate ways of promoting, disseminating and implementing the Declaration on the Rights of Indigenous Peoples, once it is adopted by the General Assembly.

33. The Permanent Forum welcomes the report of the Inter-Agency Support Group on Indigenous Issues on the special theme "Territories, lands and natural resources" (E/C.19/2007/2/Add.1), including the identification of common elements and possible gaps in policies and practice. The paper includes useful information on how the different bodies have pursued the relevant provisions of the Declaration on the

Rights of Indigenous Peoples, even in cases when they have not adopted a formal policy.

34. The Permanent Forum strongly urges the General Assembly to adopt the Declaration on the Rights of Indigenous Peoples, contained in document [_____] before the end of its sixty-first session.

35. The Permanent Forum recommends that the Working Group on Indigenous Populations conclude, at its twenty-fifth session in 2007, under its standard setting mandate, the development of the principle of free, prior and informed consent of indigenous peoples.

36. The Permanent Forum recommends that Governments of member States adopt in relevant national legislation the principle of free, prior and informed consent of indigenous peoples when involving their territories, lands and natural resources.

37. The Permanent Forum recommends that the Human Rights Council and the Committee on Economic, Social and Cultural Rights investigate the possibility of the development and acceptance of general recommendations relating to the right of indigenous peoples to self-determination by securing their access to their ancestral lands, territories and natural resources.
