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**Expert Mechanism on the Rights of Indigenous Peoples
Fourth Session
Geneva, 11 July – 15 July 2011**

Agenda Item 5: Proposals to be submitted to the Human Rights Council for its consideration and approval

Speaker: Sandra Miller

JOINT STATEMENT ON BEHALF OF:

**Aboriginal Legal Service of Western Australia (ALSWA)
Aboriginal Legal Rights Movement of South Australia (ALRM)
Aboriginal and Torres Strait Islander Social Justice Commissioner**

Thank you Mr Chairperson,

This intervention is made on behalf of Indigenous organisations represented at this Forum from the Indigenous Peoples Organisations network of Australia.

We appreciate this opportunity to make suggestions for strengthening the role of the Expert Mechanism and the Human Rights Council in relation to the human rights of Indigenous Peoples.

We encourage the Expert Mechanism to continue working with Indigenous peoples and organisations to identify issues of significance to Indigenous Peoples, whilst also respecting its mandate and advisory role to the Human Rights Council.

In relation to the next study, we believe the Expert Mechanism should continue its focus on the right of Indigenous Peoples to participate in decision-making. This fundamental right must continue to be elaborated at the international level by the Expert Mechanism with the expertise of Indigenous Peoples, organisations and States. Continued examination, assessment and guidance on this important standard is essential. Many States continue to lack understanding as to how Indigenous Peoples choose to govern their affairs and to engage with States and the United Nations system.

We welcome the increased presence of States in these sessions, but believe that more involvement by States is needed. The Expert Mechanism should ask the States to be present during these meetings and to ensure their specialists, or experts, are included as delegates in the future sessions of the Expert Mechanism.

We further note that some Indigenous Peoples and organisations have experienced difficulties and challenges in attending sessions of the Expert Mechanism. The Expert Mechanism should ask States to encourage and support the participation and attendance of Indigenous Peoples and organisations at these sessions.

Mr Chairperson

We appreciate that the Human Rights Council adopts annual resolutions in relation to human rights and Indigenous Peoples. Resolutions 13/12 and 15/7 welcome the reports and work of the Expert Mechanism and strongly encourage States to disseminate and take into account such reports when elaborating on national plans and strategies.

Our delegations consider the Human Rights Council must encourage States to engage MORE with the thematic studies and BETTER promote, protect, and realise the human rights of Indigenous Peoples.

The consideration and discussion of the rights of Indigenous Peoples by the Human Rights Council, including the Expert Mechanism's thematic studies and reports, must extend beyond what is said and done within the Council. It must be translated back to local practice by States when engaging and working with Indigenous peoples.

We suggest this can be assisted by surveying States on the ways they have incorporated and adopted the work of the Expert Mechanism into their domestic arrangements for engaging with Indigenous peoples. The Human Rights Council should request the Office of the High Commissioner for Human Rights prepare and distribute such a survey questionnaire to States.

The Office of the High Commissioner can also play an important role in identifying standard issues that can be examined in the Universal Periodic Review when States address the situation of Indigenous peoples. Issues could include themes studied by the Expert Mechanism, the implementation of the Declaration on the Rights of Indigenous Peoples and the review of national legislation as recommended in the Program of Action for the Second Decade of the World's Indigenous Peoples.

Mr Chairperson

Our final concern is the need to mainstream the rights of Indigenous peoples in the work of the Human Rights Council. While it is very important to maintain Indigenous Peoples as a distinct agenda item in the sessions, enabling our delegations to effectively participate in the work of the Council, we suggest that the broader human rights work of the Council should also be giving due consideration to the situation of the Indigenous Peoples of the world under agenda items such as Racism, Self-Determination and Administration of Justice.

Mr Chairperson

We suggest the Expert Mechanism make the following recommendations:

- 1. that the Human Rights Council authorise the Expert Mechanism continue to examine the implementation of the Declaration on the Rights of Indigenous Peoples and specifically explore the right to participate in decision-making by examining States' duty to consult and the principle of free, prior and informed consent by Indigenous Peoples; and**
- 2. that the Office of the High Commissioner for Human Rights:**
 - a. prepare and send a survey questionnaire to States regarding the relevance and utility to them of the Declaration on the Rights of Indigenous Peoples and the thematic studies of the Expert Mechanism; and**
 - b. identify standard Indigenous Peoples' issues which States might address in their reports to the Universal Periodic Review.**

We thank the Expert Mechanism for the opportunity to present this intervention.