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**Permanent Forum on Indigenous Issues**

**Third session**

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**Mandated areas: Human Rights**



**Statement Regarding Treaties, Agreements and Other Constructive Arrangements  
between States and Indigenous Peoples by the Indigenous North American Working  
Group on Treaties**

**Delivered by Rolland Pangowish of the Odawa Nation on May 17, 2004**

1. Treaties were made in North America long before the countries of Canada and the United States existed. All of the various Indigenous Treaty-making parties were distinct and often very different from each other.
2. Treaties and Treaty-making processes promote self-determination and respect for the sovereignty of Indigenous Peoples. Treaties also include unmitigated recognition of Aboriginal Title and proprietary interests that reflect a relationship based on co-existence rather than the extinguishment of Aboriginal Title.
3. Research conducted during the preparation of the United Nations treaty study issued in 1999 (E/CN.4/Sub.2/1999/20) clearly indicated that the European parties to those treaties were, "indeed negotiating and entering into contractual relations with sovereign nations, with all the legal implications that such a term had at the time in international relations."
4. The 1999 Report further stated that "there was incontrovertible evidence that during the first two and a half centuries of contacts between the European colonizer and indigenous peoples the Europeans recognized 'both the international (not internal) nature of the relations between both parties, and...the inherent international personality and legal capacity [of those peoples]...resulting from their status as subjects of international law in accordance with the legal doctrine of those times'. The incontrovertible evidence referred to in this initial Report was the treaties themselves, which also reflect the sovereign status of the Indigenous nations.
5. We support the recommendations of the Indigenous Women's Caucus in this third session of the Permanent Forum that the mandate of this Forum must explicitly accommodate the issue of treaties, agreements and other constructive arrangements between states and indigenous peoples in a more significant way than is presently possible.

6. We appreciate that the Economic and Social Council and the Commission on Human Rights endorsed the recommendation of Sub-Commission on the Promotion and Protection of Human Rights that the United Nations High Commissioner for Human Rights to organize the Seminar to follow up on the United Nations treaty study issued in 1999 (E/CN.4/Sub.2/1999/20).

7. It is important that the Permanent Forum ensure that there is adequate consideration by and direct involvement of Indigenous Peoples within the United Nations system in discussions on the conclusions and recommendations of the Seminar on Treaties, Agreements and Other Constructive Arrangements between States and Indigenous Peoples in Geneva from 15 to 17 December 2003 (E/CN.4/2004/111).

8. The expert seminar made very clear recommendations in regard to specific sectors of the United Nations system and the Permanent Forum can convey and reinforce the urgency with which the United Nations system needs work with Indigenous Peoples to address and consider these recommendations.

9. As this issue is of such great importance to us, the Indigenous Peoples of North America strongly urge the Permanent Forum to recommend to the Economic and Social Council and Commission on Human Rights that there be a new phase mandated for the Study on Treaties, Agreements and Other Constructive Arrangements between States and Indigenous Peoples, which incorporates Indigenous peoples full participation in all stages of this new phase.

10. The Permanent Forum should recommend a further phase of study and dialogue to continue this work in areas not covered by the initial study and to undertake a more comprehensive review of contemporary forms of treaties, agreements and other constructive arrangements between states and Indigenous Peoples.

11. The Permanent Forum should also encourage nation and donor states to significantly increase their contributions to the United Nations Voluntary Fund for Indigenous Peoples and that the fund reconsider its mandate to include the provision of more funding for travel by more North American Indigenous delegates to attend this Forum.

12. In conclusion, we urge the Permanent Forum to continue to recommend that all United Nations member states immediately recognize, adopt and implement the Draft United Nations Declaration on the Rights of Indigenous Peoples.