



Statement on the Treaty Study Outline

WGIP 88/NAM/3

We appreciate the presentation of the outline by Mr. Alfonso Martinez. In particular, for the incorporation of some of the points that the Inuit Circumpolar Conference addressed during the Indigenous Peoples' Preparatory Meeting last week.

Without having the benefit of the outline in writing it is difficult to make exhaustive comments at this time. We would like to receive a copy of the written outline as soon as it is ready for distribution.

The U.N. Treaty Study must address the full significance of treaties and treaty-making to indigenous peoples and Nations. In this regard, the solemnity and sacredness of treaties should be underlined. Also, it is essential to recognize the historical significance and continuing relevance of treaties in formalizing relations of indigenous peoples with States and in promoting mutual trust, honour and respect.

Treaty-making is a distinct and important element, unique to indigenous peoples -- no other peoples and Nations, aside from Nation-States, enter into treaties with State governments.

In light of the status of treaties, treaty-making can be extremely important as well to those indigenous peoples who have never entered into treaties or who are in countries where treaty-making has not been a part of past practice.

There is a tendency of some State governments to steer away from the historical treaty-making process and move towards ordinary agreements. We feel that such a move would serve to undermine the recognition and exercise of our fundamental rights. It would also serve to diminish our distinct status as indigenous peoples and Nations.

We are of the view that it is an urgent matter to proceed with the U.N. Treaty Study. In particular, we emphasize the urgency in view of the continuing failure of many State governments to honour their treaty commitments according to each treaty's spirit and intent.

In Professor Alfonso Martinez' comments on the Treaty Study, it was indicated that jurisprudence or case law would be examined. However, I did not hear any specific mention of the need to consider carefully established judicial rules for interpretation of treaties involving indigenous peoples. Both the interpretation and enforcement aspects of treaties are of great importance to us.

We are deeply disturbed by the actions of certain State governments, who view themselves as leaders in promoting human rights, yet they have made persistent and continuing efforts to

delay or otherwise undermine this vital Treaty Study. As a result of such actions by governments, the working in U.N. Commission on Human Rights Resolution 1988/56 is not always clear. However, we feel the overall interpretation of the Resolution as reflected in Professor Martinez' outline is a useful and positive one.

We do wish to add that, in Part III of the study outline, it is not sufficient to examine how treaties will be signed -- we must also examine additional key aspects, such as how to ensure that treaties will enter into force in the domestic law of States and how full respect of treaty rights of indigenous peoples can be legally guaranteed.

We also would like to note that the use of the term "populations" by the U.N. Commission on Human Rights in Resolution 1988/56 is inaccurate and degrading. Again, only "peoples" enter into treaties, not "populations".

Following the Sub-Commission and the Human Rights Commission sessions, we will provide further preliminary comments and information pertaining to Alaska, Canada and Greenland which may be relevant to Professor Martinez' work. Thank you.