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AUSTRALIA

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Madame Chair,

I am very pleased again, to address the Working Group on behalf of the observer delegation of Australia. As all here are aware, Australia has been an active supporter of and participant in, the deliberations of the Working Group since its establishment. It is one of the United Nations most effective organisations, serving as a valuable forum for constructive communication between indigenous groups, Governments, Non-Government organisations and experts.

I wish you Madame Chair, and all participants in the Working Group, yet another cooperative session in our joint effort to strengthen the promotion and protection of the rights of indigenous people throughout the world. In this context, I am pleased to be able to inform the Working Group that the Australian Government intends to contribute a further \$A10000 to the Voluntary Fund to assist in the widest possible participation of Indigenous Groups.

Since the previous Working Group, Madame Chair, you have been able to visit Australia, where you held extensive consultations with a wide range of individuals and organisations. I and other Government representatives, appreciated the opportunity to continue the dialogue, and to share with you first hand our experiences.

1988 is the 200th anniversary of the British settlement in Australia, a colonization process that had a dramatic, and one could say catastrophic, effect on the indigenous people and their ancient culture.

Yet in this year, despite often dire predictions of racial disharmony, the attention of Aborigines and non-Aborigines has been focussed not on the past but more importantly on the future: on how Aboriginal people are changing their present and what they will make of their future.

An honest reappraisal of Australia's history is taking place in 1988 which is leading to broader understanding of the position of Aborigines in Australian society and to a wider acceptance of Aboriginal viewpoints.

There have been unprecedented statements from many sectors of society, particularly from the Christian churches, recognising the past and present situation of Australia's indigenous people and expressing support for them achieving an equal place in Australian society.

Against that background two most important issues are being pursued:

The British colonizers of the Australian continent operated under what is now widely regarded as a legal fiction - the rule of terra nullius. That is, that the continent was empty land, there for the taking.

This legal principle wiped out at a stroke the rights of the indigenous people to their land, its sacred places, and, ultimately, to the protection and continuation of their culture.

Australia is unique among British colonies in that there was never a formal settlement between the indigenous people and the colonial power.

There has been considerable discussion over recent years that this aspect of Australian law must be remedied by the conclusion of a compact, or agreement, or makaratta, between the Australian Government and its indigenous citizens.

It has been argued that until the dispossession of the indigenous people has been recognised Australians cannot honestly face either their past, or their future.

In September 1987 the Prime Minister announced the Australian Government's commitment to the negotiation of a compact of understanding between the Australian Government and Aboriginal and Torres Strait Islander Australians.

The Prime Minister noted that such a compact would not only recognise the Aboriginal peoples dispossession but more importantly provide the proper basis on which all Australians can move forward together.

The process for negotiating such a compact was considered at a number of meetings between the Minister for Aboriginal Affairs and Aboriginal representatives and during an extensive consultation process.

On 12 June 1988 the Prime Minister agreed:

1. that the treaty be negotiated between the Aboriginal people and the Government on behalf of all the people of Australia;
2. that the Aboriginal people should decide what they believe should be contained in the treaty;
3. to provide assistance to Aboriginals to establish a consultation process to consider details of the treaty;
4. the Government would consider the outcome of these consultations; and
5. to work for the conclusion of such a treaty before the end of the life of this Parliament.

The Australian Government is deliberately not rushing this most important process. As the Minister for Aboriginal Affairs Mr Hand stated in December last and I quote:

"No artificial deadlines will be set, no hasty drafting will be done... This time we must get it right".

I turn to another major development which is underway in Australia. In his address to the Fifth Session of the WGIP in August 1987, my colleague, Mr Winroe, mentioned the Prime Minister's announcement that an Aboriginal and Torres Strait Islander Commission would be established to provide a focal point for and co-ordinated delivery of Aboriginal and Islander advancement programs.

Much has happened since the Prime Minister's initial statement.

In December last, the Minister for Aboriginal Affairs made a statement to the Parliament, appropriately entitled "Foundations for the Future". In that statement the Minister outlined a possible structure for an Aboriginal and Torres Strait Islander Commission which would:-

- . amalgamate all of the existing portfolio organisations including the Department of Aboriginal Affairs
- . and provide for a co-ordinated national program delivery.

The Minister outlined a council structure which would decide policy and spending priorities at each level of the Commission structure.

This structure would give Aboriginal people a major decision making role in the future direction of Aboriginal Affairs policy and administration in Australia.

In addition to the Aboriginal and Torres Strait Islander Commission, an Aboriginal Economic Development Corporation will be established to facilitate Aboriginal and Islander participation in commercial activity and provide or facilitate the provision of capital.

As we would all recognise, participation in commerce and enterprise and the generation of equitable employment is the surest way of moving towards self-sufficiency.

Following the Minister's December announcement of the Commission Proposal, the Minister and I undertook the most extensive community consultation exercise ever undertaken by a Minister for Aboriginal Affairs.

Over a period of seven weeks we attended 46 meetings throughout Australia involving an estimate 6000 representatives of some 1200 Aboriginal and Torres Strait Islander organisations and groups.

These meetings were preceded by 450 community meetings in 415 locations, to ensure that preliminary matters were worked through.

At these meetings the basic principles of the Commission were accepted overwhelmingly, although a number of concerns were expressed about some of the details.

After further discussion and consultation changes were agreed and announced. The Commission will come into operation on 1st January 1989.

I now turn to major areas of disadvantage being addressed through Australian Government programs that have been established in the last year.

1987 was the 20th anniversary of the constitutional reform which gave the Australian Federal Government legal powers in respect of Aboriginal and Torres Strait Islanders as a group.

Aboriginal people have made significant progress in these two decades. However, there is still much to be achieved before all Aboriginals enjoy the economic and social status enjoyed by the majority of Australians.

It should be remembered that Aboriginal Australians have the same legal rights as all other Australians, including universal adult suffrage, rights of access to health, education and other services, entitlement to social security benefits, the same employment conditions and industrial protection, the right to purchase and own land and to live where they wished.

The Australian Government has accepted and acted upon the responsibility of taking special measures to accelerate Aboriginal access to services and to provide a base for further economic, social and legal advancement.

The proposed Commission's functions will include enterprise development programs and it will also assume responsibility for enterprise and small business schemes.

Employment and training schemes currently administered by the Department of Aboriginal Affairs will likewise be transferred to the Commission.

Madam Chair,

At this time last year, the Government announced the establishment of the Royal Commission into Aboriginal Deaths in Custody. The decision to establish the Royal Commission reflected the Federal Government's deep concern over the rate of Aboriginal deaths in custody, and the concerns expressed by relatives of the deceased.

It should be noted that criminal justice, sentencing practices and custodial policy are matters for the States and that the Federal Government does not have jurisdiction. Any investigation of deaths in custody must be carried out as a joint Federal - State undertaking.

The terms of reference require the Royal Commissioner, Mr Justice Muirhead, to inquire into the deaths since 1 January 1980 of Aboriginals whilst in police custody, in prisons or in any other place of detention.

The Commissioner is also to inquire into any subsequent action taken in respect of each of those deaths, including the conduct of coronial and other inquiries, and any other actions that were not done but ought to have been done.

Mr Justice Muirhead is required to report to the Governor-General by 31 December 1989 or at a later date that may be fixed, on his findings and to make recommendations as he considers appropriate in the light of the findings.

He is authorised to take account of social, cultural and legal factors which, in his judgement, appear to have a bearing on those deaths for the purpose of reporting on any underlying issues associated with such deaths.

The Royal Commissioner has stated that he intends to use these broad terms of reference to their fullest in getting to the bottom of this disturbing and tragic problem.

The families of those who died in custody are eligible to apply for legal aid to have counsel represent their interests before the Royal Commission.

The Prime Minister announced on 2 February 1988 that, following a request from the Royal Commissioner, the Government had decided to appoint three additional Commissioners to assist in its work.

These Commissioners will operate separate fact-finding Royal Commissions and will be responsible for investigating the circumstances of particular Aboriginal deaths.

Their work will be co-ordinated by Mr Justice Muirhead who will retain responsibility for the final overall recommendations.

The Government has also been active in promoting measures to prevent further deaths in custody.

A further area of legal practice that has been receiving extensive consideration is that of Aboriginal customary law.

On occasions there have been difficulties in applying existing criminal law to Aboriginals.

Courts have frequently been confronted with the problem of determining to what extent they should have regard to Aboriginal customary law when administering criminal justice.

The Australian Law Reform Commission has considered how Aboriginal customary law might be incorporated into the national common law system.

Its massive, complex and very detailed report, completed in June 1986, is being considered by the Commonwealth and State Governments.

In this very complex area of legal policy and administration any major changes will not be made quickly.

Australia's treatment of its indigenous peoples has been the subject of scrutiny recently in reports of international bodies and probably, more severely so in the domestic media, academic research work, literature, theatre and film.

The Australian Government acknowledges that Aboriginals and Islanders do suffer a significant measure of disadvantage.

To deny this would be fatuous.

However the Australian Government has been active in redressing these disadvantages.

Last year we outlined the significant achievements that have been made in the 20 years the Australian Government has had power to act in this area.

The Australian Government wishes to have that record acknowledged and in its turn, acknowledges that much remains to be done.

We are pursuing major initiatives which will enable Australia's indigenous people to decide their own futures and take a full role in Australian society.

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Moreover we are doing that together in a climate of an unprecedented understanding for the situation and viewpoint of Aboriginals and Torres Strait Islanders.

Thank you Madame Chair.