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1. EDITORIAL

The appointment of a Native American Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (SR) is the major news item of early 2008. Appointed on March 26th by the Human Rights Council (HRC), Mr. S. James Anaya is an attorney and professor of international law and human rights at the University of Arizona. He has notably pleaded several indigenous cases brought before the Inter-American Court of Human Rights, including those of the Mayangna Community of Awas Tingni v. Nicaragua, the Maya Communities of the Toledo District v. Belize, and that of Mary and Carrie Dann of the Shoshone People in the United States. His curriculum vitae is available at <http://www2.ohchr.org/english/issues/indigenous/rapporteur/>.

By recommending Professor Anaya, HRC President H.E. Doru Romulus Costea has shown certain independence with respect to the consultative group charged with presenting him with a first list of candidates. It is indeed possible that he will act similarly in nominating the five experts for the new Mechanism on the Rights of Indigenous Peoples (Expert Mechanism) since the procedure is identical. Their names will be known definitively on June 18th.

Therefore, the main concern today is the implementation of the Declaration on the Rights of Indigenous Peoples. According to Article 42 of the Declaration, this is the responsibility of all intergovernmental organizations, including in particular the Permanent Forum on Indigenous Issues (PF), as well as of the States. The SR's mandate specifies that he should "promote" the Declaration, while the Expert Mechanism should provide the HRC "with thematic expertise on the rights of indigenous peoples . . . [that] will focus mainly on studies and research-based advice; . . . it may suggest proposals to the Council for its consideration and approval". This evidently brings to mind the concept of free, prior and informed consent, on which the work begun by the former Working Group on Indigenous Peoples should be concluded. In order to discuss the implementation of Article 42, the PF has recommended to ECOSOC the organization of a three-day international expert group meeting before its eighth session (May 18-29, 2009).

This issue contains the texts that will govern indigenous peoples' rights in the coming years: the final text of the Declaration (with the summary of the States' interventions before and after the vote); the resolution renewing the SR's mandate and the resolution creating the Expert Mechanism. In addition we publish the resolution proposed by the Indigenous Caucus, since it may serve as a reference for the first session of the Mechanism, when the issue will be to set it firmly on a path that is genuinely worthwhile for the indigenous peoples.

Finally, the protest that marked the adoption of the PF Report on May 2nd of this year should be mentioned. The withdrawal of two articles related to climate change and to the compensation mechanisms anticipated by the Kyoto Protocol – mechanisms financed by the World Bank – has been demanded by delegations of indigenous peoples seriously affected by these measures. We recall in this regard that the Office of the High Commissioner for Human Rights is due to present a detailed analysis of the relations between climate change and human rights at the tenth session of the HRC (probably in March 2009).

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2. THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

On September 13, 2007, the UN General Assembly adopted, through resolution 61/295, the UN Declaration on the Rights of Indigenous Peoples, following last-minute negotiations among Member States and the IPs' Global Caucus, and introduction of some amendments in the text as adopted by the Human Rights Council in June 2006. We publish here a summary report of the States' interventions prior to and after the vote on the Declaration's adoption, including also statements that the Chairs of the Permanent Forum on Indigenous Issues and of the Indigenous Peoples' Global Caucus presented on the floor during a subsequent informal segment. The complete version of the adoption resolution follows, including the final text of the UN Declaration on the Rights of Indigenous Peoples.

Report on the adoption of the Declaration on the Rights of IPs by the UN General Assembly¹

Mr. Luis Enrique Chávez, Chair of the Working Group on the Draft Declaration, introduces on behalf of Peru draft resolution A/61/L.67, on adoption of the UN Declaration on the Rights of Indigenous Peoples (the Declaration). Underlining the General Assembly's responsibility of bridging a gap in the promotion and protection of human rights – the protection of indigenous peoples (IPs) – he recalls the various stages of the 25-year long process of drafting, stressing that, for the first time in UN history, representatives of the right-holders, the IPs, participated actively, lending unquestionable legitimacy to the document. After the consideration of the text adopted by the Human Rights Council in June 2006 was postponed by the General Assembly (GA) in November 2006, various efforts were made to address Member States' concerns, resulting in a revised draft, now presented to the GA for adoption. The changes do not undermine the substantive aspects of the protection of IPs and, at the same time, would guarantee adoption of the Declaration and thus lay the foundations for a sound new relationship between the world's IPs and the States and societies with which they coexist. Peru calls upon all delegations to adopt the draft resolution by consensus.

Explanation of vote before the voting

AUSTRALIA, CANADA, the USA, the RUSSIAN FEDERATION and COLOMBIA all object to the lack of inclusiveness and transparency of the consultations on the Declaration during the GA's 61st session, leaving to Member States no opportunity to discuss the text collectively and work constructively towards a stronger Declaration that might be acceptable to and endorsed by all States, including those with significant indigenous populations, and might have resulted in consensus. **AUSTRALIA, the USA and the RUSSIAN FEDERATION** add that this text, which is confusing and lacks transparency and balance, cannot become an authoritative and universal standard of achievement. **AUSTRALIA, CANADA and NEW ZEALAND** state that the Declaration does not reflect current State practice or obligations under international law and does not, therefore, represent customary international law. **AUSTRALIA, CANADA, UK and COLOMBIA** insist that the Declaration is not legally binding.

COLOMBIA claims to be most advanced with regard to the recognition of IPs' collective rights, and informs on its system of inalienable reservations, where IPs carry out their own political, social and legal organisation while receiving budget allocations and other benefits from the central government. Colombia also presents its measures to ensure IPs' participation in national elections and in policy making, and to implement the prior-consultation provisions of ILO Convention 169. Colombia objects to the following provisions in the Declaration: Article 30 on military activities contradicts Colombia's constitutional provisions on the presence of State security forces throughout the national territory to provide and guarantee to all inhabitants protection of and respect for their lives and property, both individual and collective. Articles 19 and 32 on free, prior and informed consent could amount to a possible veto on the exploitation of natural resources in indigenous territories, while IPs' right to consultation is viewed in Colombia as an ideal mechanism for enabling IPs to influence the decision-making process, as defined by the Constitution, ILO Convention 169 and the Constitutional Court's jurisprudence. Articles on IPs' right to own, develop and control their territories and natural resources contradict Colombia's constitutional provisions on the State's ownership of the subsoil and non-renewable natural resources in order to protect and guarantee their public use for the benefit of the entire nation. Colombia nevertheless reiterates its firm commitment to implementing the constitutional provisions, internal norms and assumed international obligations aimed at protecting its ethnic and cultural diversity.

CANADA highlights its commitment to actively advancing indigenous rights, internationally through the relevant UN mechanisms and bodies as well as through its international development programme, and domestically, through constitutional guarantees for aboriginal and treaty rights, as well as negotiated self-government and land

¹ This report is based on the Official Records of the 107th and 108th Plenary Meetings of the UN General Assembly, on September 13, 2007 (documents A/61/PV/107 and A/61/PV 108). In the present summary report, we are prioritising the information on the States' interpretation of the Declaration over general information.

claims agreements. Canada has been an active participant in the development of a strong and effective declaration that would promote and protect the human rights and fundamental freedoms of every indigenous person and recognize IPs' collective rights. However, Canada has concerns on the provisions on lands, territories and resources, which are overly broad, unclear, and fail to recognize a range of land rights; on free, prior and informed consent when used as a complete veto power for a particular group, which would be fundamentally incompatible with Canada's parliamentary system; on self-government without recognition of the importance of negotiations; on intellectual property; on military issues; and on the need to achieve an appropriate balance between the rights and obligations of IPs, States and third parties. Canada will continue to take effective action, domestically and internationally, to promote and protect IPs' rights, but not on the basis of this Declaration, which has no legal effect in Canada.

The **USA** cannot lend its support to the current text, fundamentally flawed. Its views on the core provisions on the text (such as self-determination, lands and resources, redress and the nature of the Declaration) can be found in a separate document². The USA will nevertheless continue its efforts to promote indigenous rights domestically for Indian tribes, which it recognizes as political entities with inherent powers of self-government, and internationally, through its reports on human rights, its diplomatic efforts in opposing racial discrimination and pressing for full indigenous participation in democratic electoral processes throughout the world, as well as through international assistance programmes involving IPs.

Canadian Parliament calls for Implementation of the Declaration

On April 8, 2008, the Canadian Parliament passed a resolution recommending "that the Government endorse the UN Declaration on the Rights of Indigenous Peoples as adopted by the UN General Assembly on 13 September 2007 and that Parliament and Government of Canada fully implement the standards contained therein".

Throughout the discussions within the African Group, **BENIN**, which supported the African position for the sake of solidarity, called for limiting the amendments, and welcomes the compromise text achieved. In spite of its imperfections, its provisional implementation remains desirable while improvements are introduced so that all delegations can endorse it.

AUSTRALIA has the following concerns. 1) Self-determination applies to such situations as decolonization, or the break-up of States into smaller States with clearly defined population groups, but not to an undefined subgroup of a population seeking political independence. Australia supports IPs' participation in the democratic decision-making processes in their country, but does not support impairment of the territorial and political integrity of a State with a system of democratic representative government. 2) The Declaration's provisions on lands and resources do not sufficiently take into account other existing rights pertaining to land. Unless they are subject to national laws, these provisions will be arbitrary and impossible to implement. 3) Regarding free, prior and informed consent, Australia cannot accept a right that allows a particular subgroup of the population to veto legitimate decisions of a democratic and representative government. 4) Regarding intellectual property, Australia will protect indigenous cultural heritage, traditional knowledge and traditional cultural expressions in accordance with national and international intellectual property law, but will not provide sui generis intellectual property rights for indigenous communities. 5) The Declaration does not acknowledge third parties' rights and fails to consider the different types of ownership and use that can be accorded to IPs. 6) The Declaration places indigenous customary law in a superior position to national law. Australia will read the whole Declaration in accordance with domestic laws and international human rights standards. The Declaration does not provide a proper basis for any legal action, or for the elaboration of other international instruments.

NEW ZEALAND, where the Maori are integral to the identity of the nation-State and the people, fully supports the principles and aspirations of a declaration on the rights of IPs. New Zealand acknowledges all efforts to turn the draft declaration into a text that States would be able to implement and promote. However, it cannot support a text that is discriminatory and fundamentally incompatible with its democratic processes, legislation and constitutional arrangements. Regarding lands and resources, the entire country is potentially caught within the scope of article 26, which appears to require recognition of rights to lands now lawfully owned by other citizens; does not take into account the customs and land tenure systems of the IPs concerned; and implies that IPs have rights that others do not have. Similarly, article 28 on redress and compensation is unworkable in New Zealand, as again, the entire country would fall within its scope, and third parties' rights are not taken into account. New Zealand strongly supports IPs' full and active engagement in democratic decision-making processes but the Declaration implies that IPs have a right of veto over a democratic legislature and national resource

² "Observations of the United States with respect to the Declaration on the Rights of Indigenous Peoples", available at doCip and at http://www.usunnewyork.usmission.gov/press_releases/20070913_204.html.

management, which amounts to different classes of citizenship (articles 19 and 32.2). New Zealand takes the Declaration very seriously and cannot accept the argument that it is not legally binding.

The **RUSSIAN FEDERATION** will continue to foster the international promotion and protection of IPs' rights, which the adoption by consensus of the Declaration would have strengthened. The last-minute amendments on the non-impairment of the integrity and political unity of sovereign and independent States are welcome, but not sufficient. The Russian Federation particularly objects to the provisions relating to IPs' rights to land and natural resources, and to the procedure for compensation and redress.

Following a recorded vote requested by Australia, New Zealand and the USA, the General Assembly adopted resolution A/61/295, entitled "United Nations Declaration on the Rights of Indigenous Peoples", by 144 votes to 4, with 11 abstentions, as follows.

In favour: Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Bahamas, Bahrain, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Cape Verde, Central African Republic, Chile, China, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Monaco, Mongolia, Montenegro, Mozambique, Myanmar, Namibia, Nepal, Netherlands, Nicaragua, Niger, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Australia, Canada, New Zealand, United States of America.

Abstaining: Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa, Ukraine.

Absents: Chad, Côte d'Ivoire, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gambia, Grenada, Guinea-Bissau, Israel, Kiribati, Kyrgyzstan, Marshall Islands, Mauritania, Morocco, Nauru, Palau, Papua New Guinea, Romania, Rwanda, Saint Kitts and Nevis, Sao Tome and Principe, Seychelles, Solomon Islands, Somalia, Tajikistan, Togo, Tonga, Turkmenistan, Tuvalu, Uganda, Uzbekistan, Vanuatu.

Explanations of vote following the voting

Many States welcomed the adoption of the Declaration as an important milestone in the promotion and protection of human rights in general and of those of IPs in particular (**UK, MEXICO, REPUBLIC OF KOREA, GUYANA, SWEDEN, BRAZIL, SURINAME, IRAN, PARAGUAY, MONTENEGRO, SLOVAKIA, GUATEMALA, FINLAND** and its **Sami Parliament, ECUADOR, COSTA RICA, FRANCE, CUBA**). **NORWAY** adds the Declaration sets a standard of achievement to be pursued in a spirit of partnership and mutual respect.

This adoption sends a clear message to the international community for IPs' survival, well being, support of their dwindling cultures and languages and of their right to pursue their vision of development (**REPUBLIC OF KOREA**).

A number of States welcomed and emphasized the inclusion (in article 46.1) of language stipulating that nothing in the Declaration may be "construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States." (**ARGENTINA, JAPAN, CHILE, JORDAN** referring to articles 3 and 4, **SWEDEN, BRAZIL, IRAN, INDIA, MYANMAR, NAMIBIA, TURKEY, PHILIPPINES, EGYPT, SURINAME**).

South and Central America

MEXICO pays tribute to the contribution of its IPs to the indivisible Mexican nation. Mexico's Constitution recognizes IPs' right to self-determination, to determine their internal organization and application of customary law, and to customarily elect their internal authorities. Mexico understands that IPs' right to self-determination, autonomy and self-government (articles 3, 4 and 5 of the Declaration), and the provisions on ownership, use,

development and control of territories and resources (articles 26, 27 and 28) shall be exercised in accordance with the Constitution and national legislation, to ensure the State's national unity and territorial integrity, and third-party rights.

CUBA recalls the history of the struggle of IPs at the UN since 1982, with the establishment of the Working Group on Indigenous Populations (WGIP), to end the isolation, discrimination and usurpation of land they have suffered for centuries. Cuba believes that the Human Rights Council should attentively follow the Declaration's implementation, as the Second Decade should not limit itself to a definition of IPs' rights or to seeking to integrate these rights within development parameters that are virtually rejected by the majority of IPs. National legislation must now give due recognition to IPs' rights and protect their free exercise through mechanisms that can guarantee IPs' general well being.

GUYANA is committed to preserving the dignity and well-being of all peoples and to safeguarding the rights of all its citizens, including its own IPs to whom it pays tribute, and considers that the Declaration represents a good faith effort to address the concerns and needs of IPs everywhere (also **SURINAME**). However, some provisions could give rise to interpretations out of consonance with its fundamental spirit and intent. Guyana reserves its position on provisions it views as unclear or at variance with its Constitution and laws, and hopes that the Declaration does not become an instrument of division in States or societies (also **SURINAME**), and that in the future, the international community will arrive at a consensus in ensuring respect for and the promotion of IPs' rights. Guyana also informs on the special measures it has taken to address the specific circumstances and needs of its IPs.

Acknowledging the contribution of its IPs to society, **SURINAME** nevertheless highlights its responsibility to prevent the discrimination and marginalization of any group in its population. Free, prior and informed consent should not be understood as an encroachment upon the constitutional rights and duties of the State to pursue the society's interests by developing its natural resources, achieving sustainable development and improving the lives of the population as a whole. The level, nature and extent of consultations sought by a State to prevent unjustified disregard for human rights depend on the specific circumstances, with the aim to respect the interests of any people who have traditionally inhabited and used the land. Suriname recognizes the Declaration as a reference document on international indigenous issues and as a political document to raise awareness.

BRAZIL, a multi-ethnic and multicultural country, is home to 220 IPs, whose original rights over their lands and to their cultural identity rely on an extensive legal and institutional framework. Their traditional knowledge should also be duly protected, as it holds promising prospects for tackling some of the most pressing issues of the development agenda. The procedures referred to in the Declaration to safeguard the territorial integrity and to determine the relevant public interest are those provided for in national legislations. States should always bear in mind their major responsibility to protect the lives and the identity of their IPs, and to promote their rights while fighting discrimination.

PARAGUAY expresses that the Declaration and, in particular, its article 26 will be interpreted in accordance with its relevant constitutional and legal provisions.

ARGENTINA welcomes the recent efforts to resolve inconsistencies of the right to self-determination with principles pertaining to the territorial integrity, national unity and organizational structure of each State without undermining the rights protected in the Declaration.

CHILE recognizes the important contribution of IPs in its society and reaffirms the need to respect, protect and promote their development as a crucial principle of its legal system and public policies. The Declaration will serve to strengthen these efforts through dialogue, respect for Chile's specificities, and observance of its international commitments and domestic democratic institutions.

Africa

Although the Declaration is not perfect, **EGYPT** considers that it guarantees the States' right to control their land and resources, as enshrined in the UN Charter.

NIGERIA underlines some unaddressed concerns, including territorial integrity, self-determination (articles 3 and 4), control of lands, territories and resources (article 26) and treaties (article 37). Nigeria's national institutions and laws and its federal character all ensure national integration. It will continue to promote IPs' human rights, culture and dignity, which affect the rights of all Nigerians.

As historical victims of deprivation of their rights, the Namibians champion human rights and the right to self-determination. However, the Declaration as adopted by the Human Rights Council presented a number of legal problems for **NAMIBIA**, who understands that the Declaration does not create any new separate rights for IPs, and that the word "law" in article 46.2 means the national laws of States, meaning that the exercise of the rights set forth in the Declaration are limited by the States' constitutional and legal frameworks. Namibia does not consider IPs as an entity distinct from the rest of its people; however, it is designing a specific programme for the social and economic empowerment of historically marginalized communities, so that they are able to participate on an equal footing with others in the life of society and to enjoy the social and economic benefits accruing to all members of society.

Asia and Pacific

Regretting that the Declaration does not include a definition of “indigenous peoples” (also **BANGLADESH**), **INDIA**, **INDONESIA** and **PAKISTAN** understand that it stands, as in ILO Convention 169, for peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the region at the time of conquest or colonization or the establishment of present State boundaries, and who retain some or all of their own institutions. **INDIA** regards its entire population to be indigenous, while understanding that the right to self-determination applies only to peoples under foreign domination. **INDONESIA**, as a multicultural and multi-ethnic nation that does not discriminate against its people, adds that the rights stipulated in the Declaration accorded exclusively to IPs are not applicable in Indonesia, as its entire population has remained unchanged since the time of colonization and subsequent independence.

Although it does not have any IPs as such, **IRAN** considers the protection of IPs’ rights as a matter of principle, and regrets that steward States decided to oppose the adoption by consensus, Iran hopes that those countries will protect the rights of their IPs.

PAKISTAN hopes that the Declaration will help to fulfil the objectives of the Second Decade and enable IPs to retain their cultural identity, values, languages and traditions while participating in the life of the countries they inhabit.

INDIA underlines that the inability of the Working Group on the Draft Declaration (WGCD) to reach overall consensus is only reflective of the extreme complexity of the issues involved. The Declaration clarifies that the right to self-determination will be exercised by IPs in terms of their right to autonomy or self-government in matters relating to their internal and local affairs.

NEPAL is fully committed to including its various IPs in the process of its democratization, while articulating the interests and aspirations of all Nepalese people. Nepal understands that the principles mentioned in the Declaration reflect the good intentions of the international community as guidelines for the protection and promotion of IPs’ rights – to which Nepal remains committed, within the overall framework of its sovereignty and territorial integrity – and therefore do not create any binding legal or political obligations for States.

BANGLADESH adheres to all major international human rights instruments, and supports IPs’ rights in international forums but says the present Declaration retains some ambiguities, and does not enjoy consensus.

MYANMAR understands that the IPs residing in a sovereign State that has already attained self-determination have the right to participate in the political affairs of the State in conformity with national laws. Myanmar will interpret the Declaration according to sovereignty, territorial integrity and national unity, and determine the measures necessary to its implementation in a flexible manner.

THAILAND understands article 46.1 as stipulating that articles on self-determination and related rights (articles 3, 4, 20, 26 and 32) shall be interpreted in accordance with the principles of territorial integrity or political unity as stated in the Vienna Declaration and Programme of Action. The Declaration does not create any new rights and shall be interpreted in accordance with Thailand’s national laws and Constitution, and its international human rights obligations.

Citing its Constitution and its 1997 Indigenous Peoples Rights Act, **THE PHILIPPINES** claims to have consistently upheld the promotion and protection of IPs’ rights, and understands that ownership of lands and natural resources is vested in the State, in accordance with its Constitution.

INDONESIA regrets that several important aspects of the Declaration remain unresolved, but will continue to protect the traditional collective rights of the sub-ethnic communities called *Masyarakat Adats*, which are not equivalent to IPs as referred to in the Declaration, which will be instrumental in promoting and protecting the human rights of the peoples it is intended to be applicable to.

Considering that the concept of collective human rights is not widely recognized in general international law, and that everyone has fundamental human rights, **JAPAN** thinks that indigenous individuals bear the rights contained in the Declaration, and can exercise some of them collectively. The rights set out in the Declaration, in particular regarding land and territory, are stipulated in national laws and are to be balanced with third-party, or public, interests.

Europe

NORWAY will implement the Declaration in partnership with the Saami people in Norway and the Saami Parliament. The right to self-determination, to be exercised in conformity with international law, requires that IPs have full and effective participation in a democratic society and in decision-making processes relevant to them. Norway has implemented the ILO Convention 169 consultation requirements. The Declaration is to be understood within the framework of the UN Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States (1970). For States parties to ILO Convention 169, the rights stipulated in article 26 must be understood to refer to the rights specified in that Convention. As concerns article 30, Norway mentions the military activities it will continue, considering them to be justified by a significant threat to public interests.

The promotion of the human rights of indigenous individuals contributes to pluralistic and tolerant societies, and to stable and peaceful democracies. **SWEDEN** has no difficulty in recognizing collective rights outside the framework of human rights law, but considers that individual human rights prevail over the collective rights mentioned in the Declaration. The political discussion on self-determination cannot be separated from the question of land rights, and the Swedish legal system has struck a delicate balance between the competing interests of different groups living in the same areas. Article 19, which does not entail a collective right to veto, can ensure realization of the right to self-determination. In the Swedish context, the reference to IPs' land rights, as well as to ownership and control, in articles 26, 27 and 28 apply to the traditional rights of the Saami people. The Swedish legal system meets the general requirements in articles 27 and 28. IPs' lands or territories mentioned in article 29.2, article 30 and article 32.2 will be interpreted as such lands or territories that are formally owned by IPs. Article 32.2 shall be interpreted as a guarantee that IPs must be consulted, not as giving them a right of veto. Sweden finally understands that nothing in article 31 conflicts with existing international intellectual property obligations. Measures to recognize and protect the rights enumerated in article 31 should be established at the international level.

The **UNITED KINGDOM (UK)** fully supports the recognition that indigenous individuals are entitled to full and equal protection of their human rights and fundamental freedoms, but does not accept the concept of collective human rights in international law, with the exception of the right to self-determination. It is important to ensure that individuals are not left unprotected due to prevailing collective rights. UK (also **FRANCE**) therefore reads all the Declaration in the light of its twenty-second preambular paragraph, which distinguishes between individual human rights in international law and other collective rights bestowed at the national level to IPs, and understands article 46 to underpin the entire Declaration. UK understands article 3 as referring to a new right of self-determination, specific to IPs and different from the existing right recognized in common article 1 of the International Human Rights Covenants. Subsequent articles of the Declaration set out the content of that new right, which is to be exercised within the territory of the State without any impact on its political unity or territorial integrity. UK also notes that the seventeenth preambular paragraph, which reaffirms the right of all peoples to self-determination in international law, does not imply that this right is automatically applicable to IPs. On article 15, UK's museums are keen to promote understanding of IPs' cultural achievements and to encourage tolerance and respect for different cultures. UK understands the commitments on redress (article 11), and on access and/or repatriation (article 12), as applying only to indigenous objects or human remains owned by the State, while UK's national museums are separate legal bodies. National minorities and other ethnic groups within the mainland and overseas territory of UK do not fall within the scope of the Declaration.

LIECHTENSTEIN welcomes the Declaration and the introduction of the right to autonomy or self-government in matters relating to internal and local affairs, which offers a promising new approach to address the aspirations and needs of many peoples to create an enabling environment for human rights. Such innovative concepts are particularly important for cooperative relations between the State and IPs. Liechtenstein understands that the reference to "political unity" in article 46 does not preclude any gradual and democratic granting of increasing levels of self-government to such peoples, or any democratic decision on the State structure.

Regretting that the Declaration could not be adopted by consensus, **SLOVAKIA** points out the distinction in the preamble between the individual character of the human rights of indigenous individuals and their collective rights as peoples. These should not be considered as human rights. The citizens of Slovakia do not fall under the scope of the Declaration.

Welcoming the last amendments, which have been instrumental in achieving the desired broader support, **TURKEY** recognizes that the Declaration can constitute an important policy tool for those States that recognize IPs within their national territories (also **UK**). Turkey does however not have any such group within its territory.

Statements after the adoption

GUATEMALA was hoping that the Declaration, consistent with the general principles of human rights and international law, would be adopted by consensus (also **BOLIVIA**), and would not be reopened for consultation (also **BRAZIL**), but welcomes the consideration of concerns expressed by other States that truly seek to improve all IPs' living standards. The Declaration does not create new rights, but reaffirms IPs' right to self-determination so that they can freely determine their own development. It recognizes their collective right to live in freedom, peace and security as distinct peoples within the territorial integrity and political unity of the State. It represents minimum standards to allow IPs to maintain their collective life forms while freely participating in the life of the State. The Declaration expresses the political will of the international community to defend and respect IPs, and joins the Universal Declaration of Human Rights, which was also adopted by a recorded vote, as the UN backbone.

Recognizing remaining challenges to improve its IPs' situation, in spite of its legal recognition of their rights (according to ILO Convention 169), **COSTA RICA** says it sponsored the adoption of the Declaration both in the Human Rights Council and the GA as a new opportunity to correct historic injustices, and hopes that it will be

translated into concrete actions worldwide, and be immediately incorporated into the UN system's efforts to protect indigenous rights.

ECUADOR stresses its commitment to implement the Declaration, a historic instrument bound to become the basic charter for the international protection of IP's human rights. The sponsors of the resolution showed flexibility in reopening negotiations and in allowing the inclusion of proposed amendments that did not affect the protection and promotion of IPs' rights (also **Luis Enrique Chavez**, thanking participants for this), thus bringing about the necessary consensus with a majority of countries aware that the Declaration will contribute to improving the situation of great vulnerability facing IPs (also **BRAZIL**).

Western development cannot continue, as it has provoked great imbalances and crisis, not only among human beings but also between human beings and nature, and IPs stand out as a reservoir of scientific knowledge about life, to contribute to the efforts to save planet Earth. **BOLIVIA's** IPs are in the process of recovering their knowledge, values and codes, to promote their own way of life, based on "living well" instead of "living better", refusing the exploitation and misuse of human beings and nature. After centuries of neglect, this Declaration, although not a solution in itself and not perfect, is an important step forward in helping IPs to end discrimination, strengthen their identity, and ensure the recognition of their rights to land and natural resources and to be consulted and participate in decision-making. Bolivia congratulates all those who made this adoption possible (also **FINLAND, Victoria Tauli-Corpuz**).

The **EUROPEAN UNION**, represented by **PORTUGAL**, supports the adopted text, encouraged to see that it has the support of a broad range of indigenous representatives, who played an important role during the process leading to this adoption. The European Union salutes the IPs around the world for this achievement, which will advance their rights and ensure their continued development.

FINLAND and the **Sami Parliament** in Finland recall that the adoption of the Declaration was one of the major goals of the First International Decade of the World's Indigenous Peoples (1995-2004). The Declaration will represent an important tool in underscoring the principle of IPs' full and effective participation in decision-making processes. It should serve as a comprehensive framework for cooperation between States and IPs in the implementation of these new international minimum standards for upholding IPs' rights.

The Declaration supplements the UN normative framework on human rights, without questioning existing individual rights and fundamental freedoms. Based on the principles of the indivisibility of the Republic, of equality and of non-discrimination, **FRANCE** considers that collective rights cannot take precedence over individual rights. Nevertheless, special treatment may be accorded to indigenous populations on a territorial basis. The rights to self-determination and to consultations (articles 3, 4, 19, 20 and 30) are to be exercised in accordance with national constitutional norms, as provided in article 46. Article 36, concerning IPs' right to maintain international relations, is understood within the framework of relevant constitutional norms.

Sheikha Haya Rashed Al-Khalifa, President of the UN General Assembly, thanks Ambassador Hilario Davide of the Philippines for his professionalism as facilitator (also **Luis Enrique Chavez**, including the UN GA President), and congratulates all the members of the GA for their work on this historic Declaration (also **GUATEMALA, ECUADOR** with specific mention to Peru, Guatemala and Mexico, the UN GA President, and indigenous organizations). She then underlines the continuing commitment of the GA towards IPs, who still face marginalization, extreme poverty and other human rights violations, and are threatened, even to become extinct, by conflicts and land disputes. However, they should not be cast as victims, but rather as critical assets to the diversity of humanity. The Declaration will result in further progress to improve their situation. The GA is thus demonstrating its important role in the field of international human-rights standard setting.

Informal segment

Victoria Tauli-Corpuz, Chair of the UN Permanent Forum on Indigenous Issues, states that through the adoption of the Declaration, the UN marks a historical milestone in development of international human rights standards, and a major victory for IPs who actively took part in crafting this Declaration, the only one in the UN which was drafted with the rights-holders. IPs will remember this day forever. The Declaration embodies the most important rights IPs have long fought for, such as self-determination, ownership and control over their lands, territories and resources, free, prior and informed consent. Minimizing the Declaration's significance and legal implications would amount to discrimination against IPs. The Declaration must be interpreted by reading it in its entirety and relating it with existing international law. Article 46.1 cannot be interpreted in a way which discriminates IPs. The first preambular paragraph immediately establishes that IPs' rights in the Declaration are within the context of international law. As preambular paragraph 16 confirms, the right of self-determination of "all peoples", referred to in the UN Charter, the International Human Rights Covenants and the Vienna Declaration and Programme of Action, is the same as IPs' right of self-determination contained in article 3. The reference to the Vienna Declaration and Programme of Action also affirms that the principle of territorial integrity only applies to the right of self-determination. For the PF, who will devote itself to the duty of promoting respect for and full application of its provisions as asked in article 42, the Declaration will become the

major foundation and framework, a key instrument for raising awareness on and monitoring progress of IPs' situations and the protection, respect and fulfilment of their rights. It will facilitate the operationalization of the human rights-based approach to development as it applies to IPs, and be a guide for the Second Decade. The challenge ahead is the effective implementation of the Declaration, in spite of the lack of political will on the part of governments, lack of resources and because of the vested interests of rich and powerful – but with the help of the UN system and good faith of supporting States. Effective implementation will be the test of commitment of States and the whole international community to protect, respect and fulfil IPs' collective and individual human rights.

Les Malezer, Chair of the Global Indigenous Peoples' Caucus, recalls the parallel processes through which the UN was elaborating a much-needed human rights standard on IPs' rights, while the IPs themselves were uniting globally to achieve an international voice and becoming aware of their shared situation of loss of control of their lands, territories and resources and their shared history of colonization. The Declaration represents the viewpoints of both the UN and the IPs, as it combines both parties' interests and sets the framework for a future of peace and justice, based upon mutual recognition and respect. The Declaration contains no new human rights provision; it affirms many rights already contained in international human rights treaties, but that have been denied to the IPs, who now see an international guarantee for the respect of their rights to self-determination, to their lands and territories, to their cultural identities, to their own representation and their values – all rights essential to IPs' successful survival, dignity and well-being, and to maintain their strong cultural and spiritual relationship with nature. It has indeed been IPs' determination to defend their identity and their lands and resources which has helped to preserve the biological diversity, cultural diversity and environmental stability of the world – the very issues that governments are now so desperately trying to address.

The Declaration is not about secession, but about co-operation to ensure that all individuals are truly equal and that all peoples are respected and allowed to develop. IPs' right to self-determination is about their right to freely determine their political status, pursue their development, manage their natural wealth and resources for mutual benefit, and protect their own means of subsistence. 'Free, prior and informed consent' is part of IPs' self-determination and non-discrimination. 'Territorial integrity', as defined in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, and in the Vienna Declaration, obligates States to promote realization of the principle of equal rights and self-determination of peoples (also **SWEDEN, Victoria Tauli-Corpuz**), and to bring a speedy end to colonialism, with due regard to the freely expressed will of the peoples concerned. 'Territorial integrity' also requires that a State represent the whole people without distinction (also **SWEDEN**), and reaffirms that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the UN Charter. The Declaration importantly ensures respect for treaties signed between IPs and States, which are of strong significance for IPs. However, each article of the Declaration is meant to be interpreted in conjunction with the entire Declaration, its principles and its purposes, as well as "... with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith" (article 46.3). States must now collaborate with the IPs to ensure the rights contained in the Declaration (also **Victoria Tauli-Corpuz**). Both the GA resolution 59/174 establishing the Second Decade, and its Programme of Action, call upon governments to ensure IPs' full and effective consultation, participation and collaboration in the activities and objectives of the Second Decade, as well as in the review of national legislations to eliminate possible discriminatory provisions. The Programme of Action also recommends that national constitutions recognize IPs and make explicit reference to them, and that governments consider integrating traditional systems of justice into national legislations in conformity with international human rights law and standards of justice.

Resolution 61/295 adopted by the General Assembly: United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006³, by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

³ See Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53), part one, chap. II, sect. A.

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

Annex: United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights⁴, as well as the Vienna Declaration and Programme of Action⁵, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

⁴ See resolution 2200 A (XXI), annex.

⁵ A/CONF.157/24 (Part I), chap. III.

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁶ and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

⁶ Resolution 217 A (III).

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or

to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

Amendments in the text of the Declaration as adopted by the UN General Assembly

Following are the nine amendments introduced, before the adoption by the UN General Assembly, to the text of the Declaration as it had been adopted by the Human Rights Council on June 29, 2006 (and published in Update 70):

- Addition of the following paragraph at the beginning of the Preamble:

“Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,”

- Deletion of the following paragraph in the Preamble:

“Recognizing also that indigenous peoples have the right freely to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect,”

- Addition (in **bold**) in the following preambular paragraph:

*“Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights **as well as the Vienna Declaration and Programme of Action**, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,”*

- Addition of the following paragraph at the end of the Preamble:

“Recognizing also that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,”

- Deletion (in ~~striketrough~~) in Article 8.2.d:

“2. States shall provide effective mechanisms for prevention of, and redress for:

(d) Any form of forced assimilation or integration ~~by other cultures or ways of life imposed on them by legislative, administrative or other measures;~~”

- Deletion (in ~~striketrough~~) in Article 30.1:

“1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a ~~significant threat to~~ relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.”

- Deletion (in ~~striketrough~~) in Article 32.2:

“2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of ~~their~~ mineral, water or other resources.”

- Addition (in **bold**) in Article 46.1:

*“1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations **or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.**”*

-Addition (in **bold**) in Article 46.2:

*“2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law, **and** in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.”*

“IPs, Treaties and the Right to Free, Prior and Informed Consent”

This paper, in English, was prepared and presented by Andrea Carmen, Executive Director of the International Indian Treaty Council, at the Symposium on the Implementation of the UN Declaration on the Rights of IPs, co-hosted in Vancouver (Canada) in February 2008 by the Assembly of First Nations and the First Nations Leadership Council.

After giving an overview of the right to free, prior and informed consent, the paper turns to IPs’ understanding of this right and to its affirmation in the Declaration, which is also presented as a framework for a “new jurisdiction” for redress of treaty violations. The paper also underlines the provisions of the Declaration that are relevant to the right to free, prior and informed consent, as well as its recognition by other international instruments and mechanisms.

This paper is available at doCip upon request.

Existing Documents on the Right to Free, Prior and Informed Consent

The former **Working Group on Indigenous Populations** produced in 2004 and 2005 a preliminary and an expanded version of a working paper on the **concept of free, prior and informed consent**, prepared by Mrs. Antoanella-Iulia Motoc, expert of the WGIP, and the Tebtebba Foundation. Both these papers (respectively document E/CN.4/Sub.2/AC.4/2004/4 and E/CN.4/Sub.2/AC.4/2005/WP.1) are available at doCip and in our Online Documentation database on www.docip.org (chose “Historical documents” and then “Essentials”). The preliminary paper is available in English, Spanish, French and Russian, while the expanded paper exists only in English.

The **Permanent Forum on Indigenous Issues** held in January 2005 an **International workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples**. The report of this workshop (E/C.19/2005/3) is also available in English, Spanish, French and Russian at doCip and in our Online Documentation database on www.docip.org (choose “Conferences”, then “Permanent Forum on Indigenous Issues 2005”, and “Reference and related documents”).

3. HUMAN RIGHTS COUNCIL

At its 6th resumed session in December 2007, following an informal meeting to discuss proposals on the most appropriate mechanisms to continue the work of the Working Group on Indigenous Populations, the Human Rights Council adopted its resolution 6/36 establishing the Expert Mechanism on the Rights of Indigenous Peoples. During that session, the Council also extended the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, through resolution 6/12. At its 7th session, in March 2008, the Council appointed Prof. James Anaya as new Special Rapporteur. During that session, a few other Special Rapporteurs also mentioned indigenous peoples in their reports and some indigenous delegations submitted statements. We publish a short summary of these.

Expert Mechanism on the Rights of Indigenous Peoples

At the informal meeting to discuss the most appropriate mechanisms to continue the work of the WGIP, held from December 6 to 7, 2007, IPs and States' representatives met to prepare a resolution to be submitted to the Human Rights Council's resumed 6th session (December 10 to 14, 2007) for its adoption by consensus. We publish hereafter a draft resolution presented by the Indigenous Peoples' Caucus at this informal meeting, followed by resolution 6/36, which was actually adopted by consensus by the Human Rights Council, on December 14, 2007.

Indigenous Caucus Proposed Resolution⁷ : Expert Body on the Rights of Indigenous Peoples for the Human Rights Council

Preambular paragraphs for draft resolution:

PP1 *Bearing in mind* paragraph 6 of the General Assembly resolution 60/251 of 15 March 2006, which calls for the Human Rights Council to “assume, review and, where necessary, improve and rationalize all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights in order to maintain a system of special procedures, expert advice and a complaint procedure”,

PP2 *Recalling* that the Human Rights Council institution-building text 18 June 2007 stated that the “Council will decide at its sixth session (First session of its Second Cycle) on the most appropriate mechanisms to continue the work of the Working Group on Indigenous Populations”,

PP3 *Recalling* that at its 61st session, the General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples elaborating “minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.”,

PP4 *Emphasizing* that the human rights of Indigenous peoples are relevant to almost all mandates of the Human Rights Council and require special attention, expertise and insights due to the urgency and complexity of the situation facing indigenous peoples worldwide,

PP5 *Acknowledging* the important work completed by the Working Group on Indigenous Populations.

Mandate:

The Human Rights Council:

1. Decides to establish an Expert Body on the Rights of Indigenous Peoples:

- a) to provide the Council with expert advice on Indigenous Peoples' and individuals' human rights in relation to all the Council's mandates;
- b) to identify and recommend to the Council effective mechanisms to implement, develop and mainstream international standards that promote and protect the human rights of Indigenous Peoples;
- c) to review, elaborate and follow-up on best practices as well as obstacles for the promotion and protection of Indigenous Peoples' human rights;
- d) to review and undertake studies and focused research on human rights issues as they relate to Indigenous Peoples. States, Indigenous Peoples and their representative institutions will be invited to present statements, case studies and papers on situations pertaining to the realization of the rights of Indigenous Peoples;
- e) to cooperate, with a view to complement their respective work, with other relevant mechanisms on the rights of Indigenous Peoples, including the Permanent Forum on Indigenous Issues, the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people and other relevant special procedures, the Human Rights Council Advisory Committee, the Treaty Bodies, the Office of the High Commissioner for Human Rights, and regional, national and Indigenous Peoples human rights institutions;
- f) to perform other tasks at the request of the Council.

⁷ Document IMWGIP/2007/CRP.12, of December 5, 2007

Placement within the UN system:

The Expert Body should be placed directly under the Human Rights Council and report annually to this Council on its work.

Composition:

The Indigenous Caucus developed two proposals for the composition of the Expert Body which it is presenting for discussion:

Option 1

The Expert Body on the Rights of Indigenous Peoples would consist of six members, including a representative of the Human Rights Council Advisory Committee, the Chair of the Permanent Forum on Indigenous Issues or a member of the Permanent Forum designated by the Chair, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, and three Indigenous experts to be nominated following the same model as that of the Special Procedures.

Option 2

The Expert body will consist of six members, 3 of which would be nominated by states and 3 of which would be selected by Indigenous Peoples as independent experts. The UN Rapporteur on Indigenous Peoples, other UN Rapporteurs and members of the UN PF would also be invited to participate.

Terms of the members:*Option 1*

The Indigenous experts would serve for a period of three years. They would be eligible for re-election once. The Chair of the Permanent Forum, the Special Rapporteur and the member of the Advisory Committee would serve as long as they hold their respective positions.

Option 2

The Indigenous experts would serve for a period of three years. They would be eligible for re-election once.

Organization of work:

The Expert Body will provide continuity with regards to the work of the Working Group on Indigenous Peoples including its studies and recommendations in order to advance their implementation and to elaborate and prepare new standards.

The Expert Body on the Rights of Indigenous Peoples should determine its own methods of work.

The Expert Body would hold an annual meeting to feed into the work of the Council related to Indigenous peoples rights. The Expert Body could also organize panel discussions during the sessions of the Council for an exchange of views regarding the human rights of indigenous peoples under Agenda Item #3 of the Human Rights Council.

Participation:

Member States, United Nations bodies and organs, inter-governmental organizations, human rights institutions and non-governmental organizations in consultative status with the Economic and Social Council could participate as observers; organizations of indigenous peoples could equally participate, using the practical arrangements of the former UN Working Group on Indigenous Peoples.

Human Rights Council Resolution 6/36: Expert Mechanism on the Rights of Indigenous Peoples

The Human Rights Council,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006, and paragraph 84 of the annex to Human Rights Council resolution 5/1 of 18 June 2007,

Recalling that, at its 61st session, the General Assembly adopted in its resolution 61/295 of 13 September 2007 the United Nations Declaration on the Rights of Indigenous Peoples,

Bearing in mind Human Rights Council resolution 6/16 of 28 September 2007,

Recalling that the Human Rights Council should be cognizant of the work being undertaken on indigenous issues by other bodies in the United Nations system,

1. *Decides*, in order to assist the Human Rights Council in the implementation of its mandate, to establish a subsidiary expert mechanism to provide the Council with thematic expertise on the rights of indigenous peoples in the manner and form requested by the Council:

(a) The thematic expertise will focus mainly on studies and research-based advice;

(b) The mechanism may suggest proposals to the Council for its consideration and approval, within the scope of its work as set out by the Council;

2. *Also decides* that this mechanism shall report annually to the Council on its work;
3. *Further decides* that the expert mechanism shall consist of five independent experts, the selection of which shall be carried out in accordance with the procedure established in paragraphs 39 to 53 of the annex to Council resolution 5/1 of 18 June 2007;
4. *Strongly recommends* that, in the selection and appointment process, the Council give due regard to experts of indigenous origin;
5. *Decides*, in order for the expert mechanism to enhance cooperation and avoid duplicating the work of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Permanent Forum, that it shall invite the Special Rapporteur and a member of the Permanent Forum to attend and contribute to its annual meeting;
6. *Also decides* that the members of the expert mechanism shall serve for a three-year period and may be re-elected for one additional period;
7. *Further decides* that, within its mandate, the expert mechanism on the rights of indigenous peoples should determine its own methods of work, although the expert mechanism shall not adopt resolutions or decisions;
8. *Decides* that the expert mechanism shall meet once annually three days in its first year and thereafter for up to five days, and that the sessions may be a combination of open and private meetings;
9. *Also decides* that the annual meeting of the expert mechanism shall be open to the participation, as observers, of States, United Nations mechanisms, bodies and specialized agencies, funds and programmes, intergovernmental organizations, regional organizations and mechanisms in the field of human rights, national human rights institutions and other relevant national bodies, academics and experts on indigenous issues, non-governmental organizations in consultative status with the Economic and Social Council; the meeting shall also be open to indigenous peoples' organizations and non-governmental organizations, whose aims and purposes are in conformity with the spirit, purposes and principles of the Charter of the United Nations, based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996, and practices observed by the Commission on Human Rights, through an open and transparent accreditation procedure in accordance with the rules of procedure of the Human Rights Council, which will provide for the timely information on participation and consultation with States concerned;
10. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the expert mechanism for the effective fulfilment of its mandate.

First session of the Expert Mechanism on the Rights of Indigenous Peoples

The **first session of the Expert Mechanism on the Rights of Indigenous Peoples** will take place in Geneva, Switzerland, from **1st to 3rd of October 2008**.

Decision about the membership of the Expert mechanism will be made at the 8th session of the Human Rights Council, from 2nd to 18th of June 2008.

Further information will be posted, when available, on the Indigenous Peoples' page of the OHCHR website at <http://www2.ohchr.org/english/issues/indigenous/>, where a specific page for the Expert Mechanism will also soon be created.

Human Rights Council Resolution 6/12: Mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people

The Human Rights Council,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

Recalling the resolutions 5/1 "Institution-building of the United Nations Human Rights Council" and 5/2 "Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council" of 18 June 2007 and stressing that the mandate-holder shall discharge his/her duties in accordance with these resolutions and their annexes,

Recalling also resolutions 2001/57 of 24 April 2001, 2002/65 of 25 April 2002, 2003/56 of 24 April 2003, 2004/62 of 21 April 2004 and 2005/51 of 20 April 2005 of the Commission on Human Rights entitled "Human rights and indigenous issues",

1. *Decides* to extend the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people for a period of three years:
 - (a) To examine ways and means of overcoming existing obstacles to the full and effective protection of the human rights and fundamental freedoms of indigenous people, in conformity with his/her mandate, and to identify, exchange and promote best practices;
 - (b) To gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous people and their communities and organizations, on alleged violations of their human rights and fundamental freedoms;
 - (c) To formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of indigenous people;
 - (d) To work in close cooperation, while avoiding unnecessary duplication, with other special procedures and subsidiary organs of the Human Rights Council, relevant United Nations bodies, the treaty bodies, and human rights regional organizations;
 - (e) To work in close cooperation with the Permanent Forum on Indigenous Issues and to participate in its annual session;
 - (f) To develop a regular cooperative dialogue with all relevant actors, including Governments, relevant United Nations bodies, specialized agencies and programmes, as well as indigenous peoples, non-governmental organizations and other regional or subregional international institutions, including on possibilities for technical cooperation at the request of Governments;
 - (g) To promote the United Nations Declaration on the Rights of Indigenous Peoples and international instruments relevant to the advancement of the rights of indigenous peoples, where appropriate;
 - (h) To pay special attention to the human rights and fundamental freedoms of indigenous children and women, and to take into account a gender perspective in the performance of his/her mandate;
 - (i) To consider relevant recommendations of the world conferences, summits and other United Nations meetings, as well as the recommendations, observations and conclusions of the treaty bodies on matters regarding his/her mandate;
 - (j) To submit a report on the implementation of his/her mandate to the Council in accordance with its annual programme of work;
2. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, to furnish all information requested in his/her communications and to react promptly to his/her urgent appeals;
3. *Encourages* all Governments to give serious consideration to the possibility of inviting the Special Rapporteur to visit their countries so as to enable him/her to fulfil the mandate effectively;
4. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the Special Rapporteur for the effective fulfilment of his/her mandate;
5. *Decides* to continue consideration of this question in conformity with the Human Rights Council's programme of work.

IPs' issues at the Human Rights Council's seventh session, March 3 – 28, 2008

A few SRs mentioned IPs in their reports under item 3. Indigenous delegations also presented statements on the floor under item 9 and 10. Here is a short report of these mentions and statements.

Item 3: Promotion and protection of all human rights

Referring to her country visit to Indonesia, **Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders**, highlights that among the most vulnerable human rights defenders are the ones who defend the rights of IPs.

Miloon Kothari, Special Rapporteur on adequate housing, welcomes the steps taken recently by Australia to address the issue of homelessness and housing affordability, in particular with regard to the situation of IPs. Referring to South Africa, he underlines the critical task of housing and support for women, among them indigenous women. Referring to Canada, he stresses the urgent need to improve the grave housing conditions faced by numerous IPs both in rural and urban areas, including direct threats due to resource extraction. He also thanks Mexico for its support and commitment to open and frank dialogue during his informal visit, together with the SR on the situation of human rights and fundamental freedoms of IPs, regarding the La Parlota hydroelectric project.

MEXICO refers to the informal visit by the SRs on adequate housing and on IPs' rights to the La Parlota hydroelectric project, where both SRs have had the opportunity to know the opinions of all parties on the project, to interview relevant federal and state authorities, and to visit the project site. Mexico also facilitated complete information on this project to the SRs.

Responding to the SR on adequate housing, **BRAZIL** informs that it has, up to date, recognized 615 indigenous lands, amounting to 12% of the Brazilian territory, of which 422 are duly demarcated with full recognition of the possession and beneficial usage by the IPs.

To Yakın Ertürk, SR on violence against women, who addresses in her statement the issue of indicators on violence against women, **NEW ZEALAND** and **CANADA** ask how to ensure that statistics and indicators fully take into account the diversity of women, mentioning indigenous women.

Addressing the inter-related rights to health, food and housing, **IOIRD** (International Organisation of Indigenous Resource Development) ask each of the relevant SRs (Paul Hunt, Jean Ziegler and Miloon Kothari) to call for implementation of the Treaty rights of IPs to health, to food, subsistence and livelihood, and to housing as it applies to indigenous women, their families and communities. IOIRD finally call for implementation of the UN Declaration on the Rights of IPs, especially its article 37 on Treaties, and recommend that the three mentioned SRs call on all States and IPs to do so.

Panel on Intercultural Dialogue on Human Rights

CAPAJ (Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos) detail the understanding of human rights according to the Andean IPs, whose world vision is based on the inclusion and complementarity of all existing beings, where solutions arise from consensus among all parties. In this context, human rights also include the rights of mother earth, and their value flows from their being inherent to humanity's nature, rather than from being written.

Item 9: Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Referring to the debates during the 72nd session of the CERD (February-March 2008), **ICSA** (Indian Council of South America), together with other 11 indigenous and support organisations, protest against USA's occupation of Alaska and Hawaii, and its violations of its international treaty obligations to IPs. The SR on racism must place increased attention to the right to self-determination and address the situation of Alaska and Hawaii. ICSA object to the decision by the USA and Canada to withdraw from the 2009 Durban Review Conference based on the claim that they address racism as a matter of constitutional law. Yet these States continue to subject IPs to institutional racism, to deprive them from their land and resources by using racist doctrines and principles of superiority, and to dishonour their international treaty obligations.

STP (Society for Threatened Peoples) denounce Nigeria's continued protection of the corporate interests of multinational oil companies against its own citizens, in disregard of the 2005 CERD concluding observations on Nigeria (CERD/C/NGA/CO/18). STP report on Nigeria's failure to resolve the longstanding dispute between the Ogoni people, Shell Petroleum Development Company and the federal government, and its attempt to force the Ogoni people to agree to the return of Shell to their oilfields. The principled stand by MOSOP (Movement for the Survival of the Ogoni People) against this situation resulted in arbitrary arrests, threats and assassination attempts. Shell is now returning to the Niger Delta oilfields with the assistance of governmental military forces. STP recommend that the Council and the SR on racism re-examine the issue of environmental racism and the role of non-state actors in violations.

CAPAJ support the maintaining and strengthening of the mandate of the SR on racism, who should be enabled to look into the history, archives and testimonies of communities that are victims of racism due to colonialism, in order to eradicate the roots of racism.

Item 10: Technical assistance and capacity-building

To foster application of the Human Rights Council's agreements, **CAPAJ** request that States grant increased means to national human rights institutions, in particular in countries where IPs live, where such institutions must be able to communicate with indigenous citizens in their own languages and respecting their own cultures and values, in particular their special relationship to land. National Ombudsmen must be enabled to denounce racist offences to national courts, and their reports be acted upon by public prosecutor's offices. Courts must speed up the resolution of cases and abolish fees, unaffordable for many indigenous persons.

4.UPCOMING MEETINGS AND DEADLINES FOR INDIGENOUS PEOPLES, AUGUST TO DECEMBER 2008

The dates for the sessions of the Human Rights Council are subject to changes. Please check with the Council's website <http://www.ohchr.org/english/bodies/hrcouncil/> (to access the Extranet, the username is "hrc extranet" and the password is "Isession").

AUGUST

28 July – 15 August 2008 (Geneva, Switzerland)

73rd session of the Committee on the Elimination of Racial Discrimination (CERD)

Countries scheduled for consideration: Ecuador, Switzerland, Sweden, Germany, Austria, Togo, Namibia, Russian Federation.

Office of the High Commissioner for Human Rights

Contact: Ms. N. Prouvez, Secretary

United Nations, CH-1211 Geneva 10, Switzerland

Phone: +41 22 917 9309 Fax: +41 22 917 9022

E-mail: nprouvez@ohchr.org Web: <http://www2.ohchr.org/english/bodies/cerd/cerds73.htm>

4 – 15 August 2008 (Geneva, Switzerland)

First session of the Human Rights Council Advisory Committee

Office of High Commissioner for Human Rights

Contact: Ms. Laura Dolci-Kanaan, NGO Liaison Officer

United Nations, 1211 Geneva 10, Switzerland

Phone: +41 22 917 9656 Fax: +41 22 917 9004

E-mail: ldolci-kanaan@ohchr.org Web: <http://www.ohchr.org/english/bodies/hrcouncil/>

9 August 2008 (celebrated throughout the world)

International Day of the World's Indigenous Peoples

Web: <http://www.un.org/events/>

SEPTEMBER

8 – 26 September 2008 (Geneva, Switzerland)

9th session of the Human Rights Council

Office of High Commissioner for Human Rights

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15 September – 3 October 2008 (Geneva, Switzerland)

49th session of the Committee on the Rights of the Child (CRC)

Countries scheduled for consideration: Bhutan, Djibouti, United Kingdom, Australia, Lithuania, Tanzania, Uganda.

Office of the High Commissioner for Human Rights

Contact: Ms. Maja Andrijasevic-Boko, Secretary

United Nations, CH-1211 Geneva 10, Switzerland

Phone: +41 22 917 9276 Fax: +41 22 917 9022

E-mail: crc@ohchr.org Web: <http://www2.ohchr.org/english/bodies/crc/crcs49.htm>

15 September – December 2008 (New York, USA)

63rd session of the UN General Assembly

UN Headquarters, 1 UN Plaza, New York, NY 10017

Phone: +1 212 963 8811 Fax: +1 212 963 1267

Web: <http://www.un.org/ga>

OCTOBER

1 – 3 October 2008 (Geneva, Switzerland)

First session of the Expert Mechanism on the Rights of Indigenous Peoples

Office of High Commissioner for Human Rights

Contact: Indigenous Peoples and Minorities Unit

United Nations, 1211 Geneva 10, Switzerland

Fax: +41 22 928 9008

Web: See <http://www2.ohchr.org/english/issues/indigenous/>

5 – 14 October 2008 (Barcelona, Spain)

IUCN World Conservation Congress

Contact: Congress Secretariat, IUCN,

Rue Mauverney 28, CH-1196 Gland, Switzerland

Phone: +41 22 999 0000 Fax: +41 22 999 0002

E-mail: congress@iucn.org Web: http://cms.iucn.org/news_events/events/congress/index.cfm

6 – 17 October 2008 (Geneva, Switzerland)

Second substantive session of the Preparatory Committee for the Review of the Durban Conference

Office of High Commissioner for Human Rights

Contact: Ms. Laura Dolci-Kanaan, NGO Liaison Officer

United Nations, 1211 Geneva 10, Switzerland

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E-mail: ldolci-kanaan@ohchr.org

Web: <http://www2.ohchr.org/english/issues/racism/DurbanReview/index.htm>

13 October 2008 (Washington DC, USA)

Annual meetings of the World Bank Group and the International Monetary Fund

World Bank Headquarters

1818 H Street, NW Washington, DC 20433, USA

Phone: +1 202 473 1000 Fax: +1 202 477 6391

E-mail: bfcoffice@worldbank.org Web: <http://www.imf.org/external/am/index.htm>

13 – 17 October 2008 (Nanjing, China)

Fourth World Urban Forum: “Harmonious Urbanization: The Challenge of Balanced Territorial Development”

UN-Habitat

Contact: WUF Unit, P.O. Box 30030, Nairobi 00100, Kenya

Phone: +254 20 7623334 / 762 3903 Fax: +254 20 7624175

E-mail: wuf@unhabitat.org Web: www.unhabitat.org/wuf

13 – 17 October 2008 (Geneva, Switzerland)

13th session of the Intergovernmental Committee on Traditional Knowledge, Genetic Resources and Traditional Cultural Expression/Folklore

World Intellectual Property Organisation (WIPO)

PO Box 18, CH-1211 Geneva 20, Switzerland

Telephone: +41 22 338 9111 Fax: +41 22 733 5428

For email go to: <http://www.wipo.int/tools/en/contacts/index.jsp>

Web: <http://www.wipo.int/tk/en/>

13 – 31 October 2008 (Geneva, Switzerland)

94th session of the Human Rights Committee

Countries scheduled for consideration: Nicaragua, Monaco, Denmark, Japan, Spain.

Office of High Commissioner for Human Rights

Contact: M. P. Gillibert

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E-mail: pgillibert@ohchr.org Web: <http://www2.ohchr.org/english/bodies/hrc/hrcs94.htm>

20 October – 16 November 2008 (Geneva, Switzerland)

42nd session of the Committee on Eradication of all Forms of Discrimination Against Women (CEDAW)

Countries scheduled for consideration: Bahrain, Belgium, Cameroon, Canada, Ecuador, El Salvador, Kyrgyzstan, Madagascar, Mongolia, Myanmar, Portugal, Slovenia, Uruguay.

Office of High Commissioner for Human Rights

United Nations, 1211 Geneva 10, Switzerland

Fax: +41 22 917 9022

E-mail: cedaw@ohchr.org Web: <http://www2.ohchr.org/english/bodies/cedaw/cedaws42.htm>

28 – 30 October 2008 (venue to be determined)

Joint Article 8(j) and Clearing-House Mechanism Capacity-Building Workshop on Networking and Information Exchange (Asia and the Pacific region)

Secretariat of the Convention on Biological Diversity

Contact: Mr. Ahmed Djoghlaif, Executive Secretary

413 St-Jacques Street, 8th floor, Office 800

Montreal, Quebec, Canada, H2Y 1N9

Phone: +1 514 288 2220 Fax: +1 514 288 6588

E-mail: secretariat@cbd.int Web: <http://www.cbd.int/meetings/default.shtml>

28 October – 4 November 2008 (Changwon, Gyeongnam, Republic of Korea)

10th meeting of the Contracting Parties to the Ramsar Convention on Wetlands

Contact: Secretariat of the Ramsar Convention on Wetlands

Rue Mauverney 28, CH-1196 Gland, Switzerland

Phone +41 22 999 0170 Fax +41 22 999 0169

E-mail: ramsar@ramsar.org

Web: http://www.ramsar.org/index_cop10_e.htm

NOVEMBER

3 – 21 November 2008 (Geneva, Switzerland)

41st session of the Committee Against Torture

Countries scheduled for consideration: China Macao and Hong Kong, Serbia, Montenegro, Kazakhstan, Lithuania, Kenya, Belgium.

Contact: Ms. M. Morales Fernandez, Secretary

Office of the High Commissioner for Human Rights

United Nations, 1211 Geneva 10, Switzerland

Phone: +41 22 917 9139 Fax: +41 22 917 9022

Web: <http://www2.ohchr.org/english/bodies/cat/cats41.htm>

10 – 28 November 2008 (Geneva, Switzerland)

41st session of the Committee on Economic, Social and Cultural Rights (CESCR)

Countries scheduled for consideration: Philippines, Angola, Kenya, Nicaragua, UNMIK, Sweden.

Office of the High Commissioner for Human Rights

Contact: Ms. Wan-Hea Lee, Secretary

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Phone: + 41 22 917 9154 Fax: + 41 22 917 9022

E-mail: wlee@ohchr.org Web: <http://www2.ohchr.org/english/bodies/cescr/cescrs41.htm>

DECEMBER

1 – 12 December 2008 (Geneva, Switzerland)

Third session of the Human Rights Council Universal Periodic Review

Countries scheduled for consideration (in this order): Botswana, Bahamas, Burundi, Luxembourg, Barbados, Montenegro, United Arab Emirates, Israel, Liechtenstein, Serbia, Turkmenistan, Burkina Faso, Cape verde, Colombia, Uzbekistan, Tuvalu.

Office of High Commissioner for Human Rights

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E-mail: ldolci-kanaan@ohchr.org Web: <http://www.ohchr.org/english/bodies/hrcouncil/>

1 – 12 December 2008 (Poznan, Poland)

14th session of the Conference of Parties (COP 14)**Fourth session of the COP serving as meeting of the Parties to Kyoto Protocol (COP/MOP 4)****Sessions of the Subsidiary Bodies for Scientific and Technological Advice (SBSTA) and for Implementation (SBI)**

UN Framework Convention on Climate Change

Haus Carstanjen, Martin-Luther-King-Strasse 8

PO Box 260124, D-53153 Bonn, Germany

Phone: +49 228 815 1000 Fax: +49 228 815 1999

E-mail: secretariat@unfccc.int Web: http://unfccc.int/meetings/unfccc_calendar/items/2655.php

7 – 11 December 2008 (Melbourne, Australia)

World Indigenous Peoples' Conference on Education (WIPCE)

Contact: Veronica Weisz, Executive Officer WIPC:E 2008,

PO Box 164, Northcote, VIC 3070 – Australia

Phone: +61 3 9486 1599 Fax: +61 3 9486 1577

E-mail: veronicaw@wipce2008.com Web: <http://www.wipce2008.com/>

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5. OTHERS

Office of the High Commissioner for Human Rights' Indigenous Fellowship Programme

The Office of the High Commissioner for Human Rights is accepting applications for the 2009 Indigenous Fellowship Programme. The programme exists in English, Spanish, French and Russian. The aim of the programme is to provide young indigenous men and women (preferably, but not exclusively between the ages of 25 – 35 years) the opportunity to gain knowledge on the UN system and mechanisms dealing with human rights in general and indigenous issues in particular so they can assist their organizations and communities in protecting and promoting the rights of their people. Furthermore, each fellow should also at the end of the Programme be capable of giving training within their communities and organizations in the fields of international human rights in general, and on IPs' rights in particular, and be able to disseminate the information and knowledge gained during the Fellowship Programme.

Five fellows will be selected to participate in each of the four components of the programme: the four-month English programme, based at the Office of the High Commissioner for Human Rights in Geneva, Switzerland; the four-month Spanish programme, in collaboration with the Human Rights Institute of Deusto University in Bilbao, Spain; the two and a half-month French programme, in collaboration with the Dijon University, France; and the two-month Russian programme, in collaboration with the Russian Association of Indigenous Peoples of the North (RAIPON) and the Center for Support of Indigenous Peoples of the North/Russian Indigenous Training Centre (CSIPN/RITC).

A stipend is provided to cover living costs, insurance and travel to and from Geneva. For more information on the program, the conditions for application, the selection process and the application form, please visit the website mentioned below. Additional questions pertaining to this programme should be addressed to the Indigenous Fellowship Programme (address below). Please note that the **deadlines for applying to the 2009 Programme are**

English-speaking component: Friday 27 June 2008

Spanish-speaking component: Monday 30 June 2008

French-speaking component: Monday 15 September 2008

Russian-speaking component: Tuesday 30 September 2008

In order to be considered, applications must be fully completed and sent only by fax or post to the address below.

Fellows of the 2008 Programme

English-speaking component

1 April – 31 July 2008 (based in Geneva, Switzerland)

- Mr. Dharmodip Basumatary, Boro (India)
- Mr. Doug Kiel, Oneida Tribe of Wisconsin (USA)
- Mr. Khim Prasad Ghale, Gurung (Nepal)
- Ms. Jane Naini Meriwas, Yaaku (Kenya)
- Ms. Saelee Kamonphan, Lisu (Thailand)

Spanish-speaking component

31 March - 31 July 2008 (based in Bilbao, Spain and in Geneva, Switzerland)

- Ms. Zoila Milagros Yáñez, Warao (Venezuela)
- Mr. Tito Ramón Guevara Guerrero, Telpaneca (Nicaragua)
- Ms. Lilak Colque Arenas, Quechua (Bolivia)
- Ms. Juana Amalia Mendoza Mendoza, Maya (Guatemala)

French-speaking component

Unfortunately, this component will not take place in 2008, due to funding difficulties.

Russian speaking fellows

Information on the 2008 Russian-speaking programme is not available yet. We will publish it in an upcoming issue.

Contact: Indigenous Fellowship Programme

Indigenous and Minorities Unit

Office of the UN High Commissioner for Human Rights

UNOG-OHCHR CH-1211 Geneva 10 / Switzerland

Telefax: + 41 22 928 9066

E-mail: fellowship@ohchr.org / Website: <http://www2.ohchr.org/english/issues/indigenous/fellowship.htm>

United Nations Voluntary Fund for Indigenous Populations

The forms for representatives of IPs to apply to the Voluntary Fund for travel grants to the 2009 sessions of the:

- Permanent Forum on Indigenous Issues
- Expert Mechanism on the Rights of Indigenous Peoples are available on the OHCHR's Website:

<http://www2.ohchr.org/english/about/funds/indigenous/docs/form.e2009.doc>

This application has to be completed, signed, dated and accompanied by a letter of nomination and sent by

1 OCTOBER 2008 to

Secretariat of the Voluntary Fund for Indigenous Populations

Ms. Mélanie Clerc

Office of the United Nations High Commissioner for Human Rights

CH-1211 Geneva 10 - Switzerland

Tél. +41 22 928 9164 / 9737 - fax +41 22 928 9066

E-mail: IndigenousFunds@ohchr.org

For applications and more information: <http://www2.ohchr.org/english/about/funds/indigenous/>

WIPO's Intergovernmental Committee

The **13th** session of WIPO's **Intergovernmental Committee on Traditional Knowledge, Genetic Resources and Traditional Cultural Expression/Folklore** (the IGC) will take place in Geneva, Switzerland, from **13 to 17 October 2008**.

Please remember that the **Voluntary Fund for Accredited Indigenous and Local Communities** has quite long deadlines, as applications to receive funding to participate to one of the IGC's sessions must be received by the WIPO Secretariat 60 days before the session which precedes the session for which funding is sought. This means that if you wish to apply for funding to participate to the 14th session of the IGC (to be held probably some time at the beginning of 2009), your application has to be received by the WIPO Secretariat before August 13, 2008.

More information on the Voluntary Fund is available at

http://www.wipo.int/tk/en/ngoparticipation/voluntary_fund/index.html .

Visit doCip's new website !

In our recently overhauled website at www.docip.org you will also find information available at shorter notice and which we cannot always include in the Update, due to the longer time necessary for the edition and publication process of our newsletter. We encourage our readers to regularly visit our website (you can also subscribe to our RSS feed) for new information.

Documents of the PF seventh session, April 21 – May 2, 2008

All the relevant documentation and written statements collected by doCip during the seventh session of the Permanent Forum on Indigenous Issues, held in New York from April 21 to May 2, 2008, are being posted on our website at www.docip.org. Go to *Documentation Center* and chose *Online Documentation*, then *Conferences* - or use the Search function.

If you have comments and suggestions about this Update, please do not hesitate to share them with us:

by e-mail at: docip@docip.org (Subject: Update)

by fax at: + 41 22 740 34 54

by mail at: doCip, 14 avenue Trembley, CH-1209 Genève

Thanks!

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Please note

Update is and will remain free for all indigenous organizations.

Rates for non-indigenous organizations or individuals help us defray part of our costs, and cover three to four issues per year:

- Individuals and small NGOs: US\$ 30
- Support price (International Organisations, Administrations, Universities, Large NGOs and others): US\$ 60

We recommended that you pay these amounts by Post-Cash or International Money Order from your local post office. Our giro account is: **CCP 12-11429-8**

Bank transfers charge high commissions; nevertheless payment may be made to:

Banque Cantonale de Genève
Account No. E 775.87.12

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