

THE AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

BACKGROUND MATERIALS &
STRATEGIES FOR IMPLEMENTATION

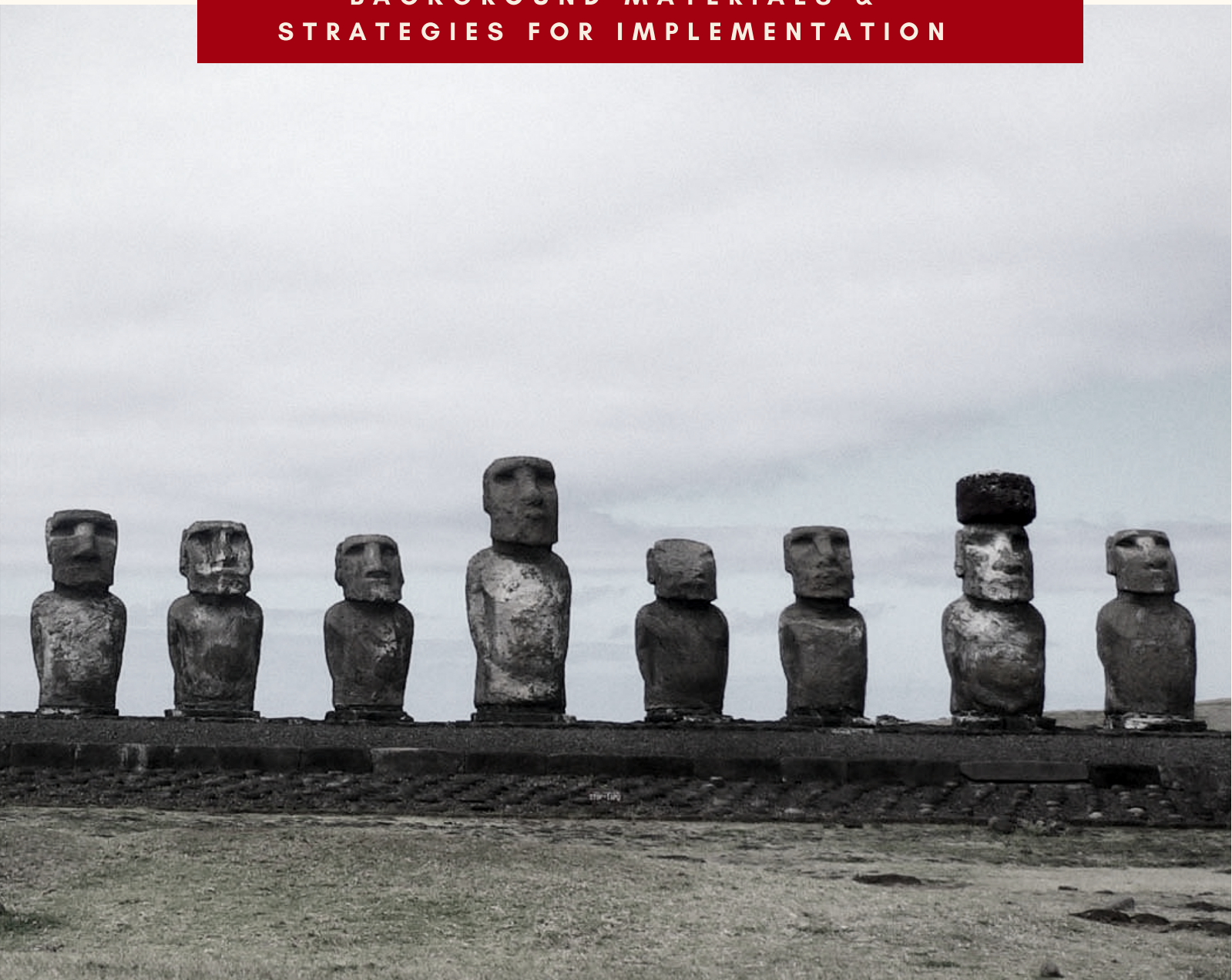


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AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES, A QUICK REFERENCE

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The American Declaration on the Rights of Indigenous Peoples, AG/RES. 288 (XLVI-O/16), was adopted on June 15, 2016 by the Organization of American States General Assembly, after almost thirty years of debate. The Declaration was adopted by consensus, though a few countries reserved endorsement.¹

The Declaration, made up of 14 preambular paragraphs and 41 operative articles, is a monumental statement of individual and collective rights created with the participation of the rights holders themselves – indigenous peoples. Though the Declaration is not legally binding on countries in and of itself, it sets the rules for the treatment of, and obligations of states toward, indigenous peoples and individuals. It can be used as a moral and political tool to guide countries' laws, policies, and practices toward indigenous peoples and to interpret other relevant international laws. In many provisions, the Declaration restates customary international law – the practices which countries believe to be legally required – and these elements are binding. The Declaration is an evolving instrument; its interpretation, implementation, and application by indigenous peoples and in the Inter-American Court of Human Rights and Inter-American Commission on Human Rights will further its influence in the development of international law.

The following is a summary of some of the most important rights in the Declaration. It is not an exhaustive list of all the rights of indigenous peoples and individuals contained in the Declaration. The full text of the Declaration is available at: <http://www.oas.org/en/sla/docs/AG07239E03.pdf>.

SECTION ONE. INDIGENOUS PEOPLES. SCOPE OF APPLICATION.

Articles I-II. Scope. Rights apply to indigenous peoples based on their practice of self-identification.

Articles III-IV. Self-determination and territorial integrity. Indigenous peoples have the right to self-determination, including their political status and economic, social, and cultural development. Such acts must not be contrary to the OAS or UN Charters, including disruption of the territorial integrity of states.

SECTION TWO. HUMAN RIGHTS AND COLLECTIVE RIGHTS.

Articles V-VI. Individual and collective rights. Indigenous peoples have the right to their collective and individual rights recognized in international law, to their juridical, social, political, and economic systems, cultures, spiritual beliefs, languages, and to their lands and resources.

Article VII. Gender equality. Recognizing that violence against indigenous peoples, individuals, and women hinders realization of all other rights, states must take measures to eradicate and prevent all forms of violence and discrimination.

Article VIII. Nationality. Indigenous individuals and communities have the right to belong to one or more indigenous peoples without discrimination.

Article IX. Juridical personality. States must recognize and respect indigenous laws and institutions.

Articles X-XII. Assimilation and non-discrimination. Indigenous peoples have the right to their cultural identity, and to be free of assimilation or destruction of their cultures. States must adopt preventative and corrective measures to fulfill this right.

SECTION THREE. CULTURAL IDENTITY.

Articles XIII-XVI. Culture, spirituality, language, and education. Indigenous peoples have the right to practice and preserve their cultural and spiritual traditions and customs, including their cosmovisions, institutions, practices, beliefs, values, dress, and languages; to establish and control their own educational systems; to develop media in their own languages; and to protect and freely access their sacred sites. States must take measures to protect such rights and, with indigenous peoples, develop mechanisms to redress any takings of cultural property and human remains, and to ensure indigenous peoples can understand and be understood in certain proceedings.

Article XVII. Indigenous family. Indigenous peoples have the right to preserve and have states recognize their indigenous family systems, forms of marriage, descent, and family name. In determining the best interest of the child, states must consider indigenous laws and the right of the child to enjoy his or her culture, in community.

Articles XVIII-XIX. Indigenous health and environmental health. Indigenous peoples have the right to the highest standard of health, including through their health practices and the use of medicines from their ancestral lands, and to

protect and manage their environment. States must prevent indigenous peoples from being subjects of research programs and assist indigenous peoples to conserve and protect their lands and resources.

SECTION FOUR. ORGANIZATIONAL AND POLITICAL RIGHTS.

Articles XX. Fundamental freedoms. Indigenous peoples have fundamental freedoms, including rights of association, assembly, and expression, the right to freely access their sacred lands, and to travel across borders.

Article XXI. Autonomy and self-government. Indigenous peoples have the right to autonomy and self-government, including to develop their decision-making institutions, as well as the right to participate in decision-making affecting their rights, including in national institutions, state forums, and deliberative bodies.

Articles. XXII-XXIII. Indigenous legal systems. Indigenous peoples have the right to develop and maintain their juridical systems, which must be recognized by the national, regional, and international legal systems, and to participate fully and effectively in decision-making in matters affecting their rights. States must consult with indigenous peoples to obtain their free, prior and informed consent before adopting measures affecting them.

Article XXIV. Treaties. Indigenous peoples have the right to the recognition and enforcement of treaties, which must be interpreted according to the understanding of indigenous peoples. Disputes must be submitted to competent national, regional, and/or international bodies.

SECTION FIVE. SOCIAL, ECONOMIC, AND PROPERTY RIGHTS.

Article XXV. Traditional property. Indigenous peoples have the right to own and control the lands they possess by traditional ownership. States must establish special regimes and provide effective demarcation, titling, and legal recognition of indigenous lands and resources in accordance with indigenous and state legal systems.

Article XXVI. Voluntary isolation. Indigenous peoples in voluntary isolation have the right to remain as such and states must adopt policies to recognize and protect their lands and security.

Article XXVII. Labor. Indigenous peoples and individuals have the right to enjoyment of all rights recognized in national and international labor law. States must take measures to promote their employment and to eliminate labor exploitation and discriminatory practices, particularly for indigenous children, women, and the elderly.

Article XXVII. Intellectual property. Indigenous peoples have the right to own and control their tangible and intangible cultural heritage and intellectual property. States must adopt measures to ensure national and international frameworks recognize and protect such property.

Article XIX. Development. Indigenous peoples have the right to their development, including their subsistence practices. If deprived of means of subsistence, indigenous peoples have the right to restitution and/or compensation. States must consult with them in order to obtain their free, prior and informed consent before approval of projects that may affect them, or must provide redress and mitigate any adverse impacts.

Article XXX. Security. Indigenous peoples have the right to peace and security, and to protection in situations of internal or international armed conflict, during which states must: not recruit indigenous children into the military; adopt reparation measures and provide resources for damages caused; and take special measures to guarantee indigenous women and children live free of violence and have access to justice.

SECTION SIX. GENERAL PROVISIONS.

Articles XXXI-XLI. Implementation and Interpretation. States must ensure the full enjoyment of all rights of indigenous peoples, including by promoting legislation and providing financial/technical assistance. States must provide reparation mechanisms for violations of indigenous peoples' rights and provide due consideration to the legal systems of indigenous peoples. Rights and freedoms recognized in this Declaration and the UN Declaration constitute the minimum human rights standards for indigenous peoples and shall only be limited by law and in accordance with international human rights obligations, to meet the most compelling needs of a society. Rights herein are equally guaranteed to men and women and do not diminish any existing or future rights of indigenous peoples.

ⁱ Though no member state opposed adoption of the Declaration, the United States noted its persistent objector status to the Declaration, Canada stated its non-position on the Declaration, and Colombia issued interpretative notes and footnotes to the Declaration's articles concerning free, prior, and informed consent (Arts. XXIII.2 and XXIX.4) and military activities on indigenous lands (Art. XXX.5).

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AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

PP 1 RECOGNIZING that the rights of indigenous peoples are both essential and of historical significance to the present and future of the Americas;

PP 2 The important presence in the Americas of indigenous peoples and their immense contribution to development, plurality, and cultural diversity, and reiterating our commitment to their economic and social well-being, as well as the obligation to respect their rights and cultural identity; and

PP 3 That the existence of indigenous cultures and peoples of the Americas is important to humanity;

PP 4 REAFFIRMING that indigenous peoples are original, diverse societies with their own identities that constitute an integral part of the Americas;

PP 5 CONCERNED that indigenous peoples have suffered from historic injustices as a result of, *inter alia*, their colonization and the 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;

PP 6 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;

PP 7 RECOGNIZING ALSO that respect for indigenous knowledge, cultures, and traditional practices contributes to sustainable and equitable development and proper management of the environment;

PP 8 BEARING IN MIND the progress achieved at the international level in recognizing the rights of indigenous peoples, especially Convention No. 169 of the International Labour Organization and the United Nations Declaration on the Rights of Indigenous Peoples;

PP 9 BEARING IN MIND ALSO the progress made in nations of the Americas at the constitutional, legislative, and jurisprudential levels to safeguard, promote, and protect the rights of indigenous peoples, as well as the political will of states to continue their progress toward recognition of the rights of indigenous peoples in the Americas;

UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

PP 3 Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

PP 6 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,

PP 7 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,

PP 11 Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

PP 20 Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

PP 19 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,

PP 10 RECALLING the commitments undertaken by the member states to guarantee, promote, and protect the rights and institutions of indigenous peoples, including those undertaken at the Third and Fourth Summits of the Americas;	PP 21 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,
PP 11 RECALLING ALSO the universality, inseparability, and interdependence of human rights recognized under international law;	
PP 12 CONVINCED that recognition of the rights of indigenous peoples in this Declaration will foster harmonious and cooperative relations among States and indigenous peoples, based on the principles of justice, democracy, respect for human rights, nondiscrimination, and good faith;	PP 18 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,
PP 13 CONSIDERING the importance of eliminating all forms of discrimination that may affect indigenous peoples, and taking into account the responsibility of States to combat them;	PP 22 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,
PP 14 ENCOURAGING states to respect and comply with, as well as 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;	PP 16 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 ³ peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development
	PP 1 Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfillment of the obligations assumed by States in accordance with the Charter,
	PP 2 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,
	PP 4 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,
	PP 5 Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,
	PP 6 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,

	PP 7 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,
	PP 8 Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,
	PP 9 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,
	PP 10 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,
	PP 11 Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,
	PP 12 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,
	PP 13 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,
	PP 14 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,
	PP 15 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,
	PP 17 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,
	PP 23 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,
Article I.	Article 33
1. The American Declaration on the Rights of Indigenous Peoples	1. Indigenous peoples have the right to determine their own

applies to the indigenous peoples of the Americas.
2. Self-identification as indigenous peoples will be a fundamental criterion for determining to whom this Declaration applies. States shall respect the right to such self-identification as indigenous, whether individually or collectively, in keeping with the practices and institutions of each indigenous people.

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 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 II.

States recognize and respect the multicultural and multilingual character of the indigenous peoples, who are an integral part of their societies.

No Equivalent

Article III.

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 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 IV.

Nothing included 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 Organization of American States or 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.

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.

Article V. Full effect and observance of human rights

Indigenous peoples and individuals have the right to the full enjoyment of all the human rights and fundamental freedoms, as recognized in the Charter of the United Nations, the Charter of the Organization of American States and international human rights law.

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 Rights 4 and international human rights law.

See also:

Article 46

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.

Article VI. Collective rights

Indigenous peoples have collective rights that are indispensable for their existence, well-being, and integral development as peoples. In that regard, States recognize and respect, the right of the indigenous peoples to their collective action; to their juridical, social, political, and economic systems or institutions; to their own cultures; to profess and practice their spiritual beliefs; to use their own tongues and languages; and to their lands, territories and resources. States shall promote, with the full and effective participation of the indigenous peoples, the harmonious coexistence of rights and systems of the different population groups and cultures.

No equivalent, but see:

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 Rights⁴ and international human rights law.

PP 22 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,

Article VII. Gender equality

1. Indigenous women have the right to the recognition, protection, and enjoyment of all human rights and fundamental freedoms provided for in international law, free from discrimination of any kind.
2. States recognize that violence against indigenous peoples and individuals, particularly women, hinders or nullifies the enjoyment of all human rights and fundamental freedoms.
3. States shall adopt, in conjunction with indigenous peoples, the necessary measures to prevent and eradicate all forms of violence and discrimination, particularly against indigenous women and children.

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 VIII. Right to belong to the indigenous peoples

Indigenous individuals and communities have the right to belong to one or more indigenous peoples, in accordance with the identity, traditions, customs, and systems of belonging of each people. No discrimination of any kind may arise from the exercise of such a right.

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.
See also:

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.
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	<p>Article 35</p> <p>Indigenous peoples have the right to determine the responsibilities of individuals to their communities.</p>
<p>Article IX. <u>Juridical personality</u></p> <p>States shall recognize fully the juridical personality of indigenous peoples, respecting indigenous forms of organization and promoting the full exercise of the rights recognized in this Declaration.</p>	<p>NO EQUIVALENT</p>
<p>Article X. <u>Rejection of assimilation</u></p> <p>1. Indigenous peoples have the right to maintain, express, and freely develop their cultural identity in all respects, free from any external attempt at assimilation.</p> <p>2. States shall not carry out, adopt, support, or favor any policy of assimilation of indigenous peoples or of destruction of their cultures.</p>	<p>Article 8</p> <p>1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.</p> <p>2. States shall provide effective mechanisms for prevention of, and redress for:</p> <p>(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;</p> <p>(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;</p> <p>(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;</p> <p>(d) Any form of forced assimilation or integration;</p> <p>(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.</p>
<p>Article XI. <u>Protection against genocide</u></p> <p>Indigenous peoples have the right not to be the object of any form of genocide or attempts to exterminate them.</p>	<p>Article 7</p> <p>1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.</p> <p>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.</p>
<p>Article XII. <u>Guarantees against racism, racial discrimination, xenophobia, and related intolerance</u></p> <p>Indigenous peoples have the right not to be object of racism, racial discrimination, xenophobia, or related intolerance. States shall adopt the preventive and corrective measures necessary for the full and effective protection of that right.</p>	<p>Article 2</p> <p>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.</p> <p>Article 15</p> <p>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</p>
<p>Article XIII. <u>Right to cultural identity and integrity</u></p> <p>1. Indigenous peoples have the right to their own cultural identity and integrity and to their cultural heritage, whether tangible or intangible, including historic and ancestral heritage; and to the protection, preservation, maintenance, and development of that</p>	<p>Article 11</p> <p>1. Indigenous peoples have the right to practice 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</p>

cultural heritage for their collective continuity and that of their members and so as to transmit that heritage to future generations.

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.

3. Indigenous people have the right to the recognition and respect for all their ways of life, cosmovisions, spirituality, uses, customs, norms, traditions, forms of social, economic, and political organization; forms of transmission of knowledge, institutions, practices, beliefs, values, dress, and languages, recognizing their inter-relationship as established in this Declaration.

Article XIV. Systems of knowledge, language, and communication

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

2. States shall adopt adequate and effective measures to protect the exercise of this right with the full and effective participation of indigenous peoples.

3. Indigenous peoples have the right to promote and develop all their systems and media of communication, including their own radio and television programs, and to have equal access to all other means of communication and information. States shall take measures to promote the broadcast of radio and television programs in indigenous languages, particularly in areas with an indigenous presence. States shall support and facilitate the creation of indigenous radio and television stations, as well as other means of information and communication.

4. States, in conjunction with indigenous peoples, shall make efforts to ensure that those peoples can understand and be understood in their languages in administrative, political, and judicial proceedings, if necessary through the provision of interpretation or by other effective means.

Article XV. Education

1. Indigenous peoples and individuals, particularly indigenous children, have the right to all levels and forms of education, without discrimination.

2. States and indigenous peoples, in keeping with the principle of equality of opportunity, shall promote the reduction of disparities in education between indigenous and non-indigenous peoples.

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

4. States, in conjunction with indigenous peoples, shall take

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 8

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;

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 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 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.

effective measures to enable indigenous individuals living outside their communities, particularly children, may have access to education in their own languages and cultures.

5. States shall promote harmonious intercultural relations, ensuring that the curricula of state educational systems reflect the pluricultural and multilingual nature of their societies and encourage respect for, and knowledge of, the different indigenous cultures. States, in conjunction with indigenous peoples, shall promote intercultural education that reflects the cosmovision, histories, languages, knowledge, values, cultures, practices, and ways of life of those peoples.

6. States, in conjunction with indigenous peoples, shall adopt necessary and effective measures to ensure the exercise and observance of these rights.

Article XVI. Indigenous spirituality

1. Indigenous peoples have the right to freely exercise their own spirituality and beliefs and, by virtue of that right, to practice, develop, transmit, and teach their traditions, customs, and ceremonies, and to carry them out in public and in private, whether individually and collectively.

2. No indigenous people or individual shall be subjected to pressures or impositions, or any other type of coercive measures that might impair or limit their right to freely exercise their indigenous spirituality and beliefs.

3. Indigenous peoples have the right to preserve, protect, and access their sacred sites, including their burial grounds, to use and control their sacred objects and relics, and to recover their human remains.

4. States, in conjunction with indigenous peoples, shall adopt effective measures, to promote respect for indigenous spirituality and beliefs, and to protect the integrity of the symbols, practices, ceremonies, expressions, and spiritual protocols of indigenous peoples, in accordance with international law.

Article XVII. Indigenous family

1. The family is a natural and fundamental group unit of society. Indigenous peoples have the right to preserve, maintain, and promote their own family systems. States shall recognize, respect, and protect the various indigenous forms of family, in particular, the extended family, as well as their forms of matrimonial union, filiation, descent, and family name. In all cases, gender and generational equity shall be recognized and respected.

2. In matters relating to custody, adoption, severance of family ties, and related matters, the best interests of the child shall be a primary consideration. In determining the best interests of the child, courts and other relevant institutions shall take into account the right of every indigenous child, in community with members of his or her people, to enjoy his or her own culture, to profess and practice his or her own religion, and to use his or her own language, and, in that regard, shall take into account the indigenous law of the people concerned and their points of view, rights and interests, including the positions of individuals, the family, and the community.

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.

Article 12

1. Indigenous peoples have the right to manifest, practice, 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.

Also see:

Article 11

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.

NO EQUIVALENT, BUT SEE:

PP 13 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.

Article XVIII. Health

1. Indigenous peoples have the collective and individual right to the enjoyment of the highest attainable standard of physical, mental, and spiritual health.
2. Indigenous peoples have the right to their own health systems and practices, as well as to the use and protection of their vital medicinal plants, animals and minerals, and other natural resources for medicinal use in their ancestral lands and territories.
3. States shall take measures to prevent and prohibit indigenous peoples and individuals from being subjects of research programs, biological or medical experimentation, or sterilization without their free, prior and informed consent. Likewise, indigenous peoples and individuals have the right, as appropriate, to access to their data, medical records, and documentation of research conducted by individuals and institutions, whether public or private.
4. Indigenous peoples have the right to use, without any discrimination of any kind, all the health and medical care institutions and services accessible to the general population. States, in consultation and coordination with indigenous peoples, shall promote intercultural systems or practices in the medical and health services provided in indigenous communities, including training of indigenous technical and professional health care personnel.
5. States shall ensure the effective exercise of the rights contained in this article.

Article XIX. Right to protection of a healthy environment

1. Indigenous peoples have the right to live in harmony with nature and to a healthy, safe, and sustainable environment, essential conditions for the full enjoyment of the rights to life and to their spirituality, cosmovision, and collective well-being.
2. Indigenous peoples have the right to conserve, restore, and protect the environment and to manage their lands, territories and resources in a sustainable way.
3. Indigenous peoples have the right to be protected against the introduction, abandonment, dispersion, transit, indiscriminate use, or deposit of any harmful substance that could adversely affect indigenous communities, lands, territories and resources.
4. 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 programs for indigenous peoples for such conservation and protection, without discrimination.

Article XX. Rights of association, assembly, and freedom of expression and thought

1. Indigenous peoples have the rights of association, assembly, organization and expression, and are entitled to exercise them without interference and in accordance, *inter alia*, with their

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 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 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

cosmovision, values, uses, customs, ancestral traditions, beliefs, spirituality, and other cultural practices.

2. Indigenous peoples have the right to assemble on their sacred and ceremonial sites and areas. For this purpose they shall have free access to, and use of, such sites and areas.

3. Indigenous peoples, in particular those who are divided by international borders, shall have the right to travel and to maintain and develop contacts, relations, and direct cooperation, including activities for spiritual, cultural, political, economic, and social purposes, with their members and other peoples.

4. States, in consultation and cooperation with the indigenous peoples, shall adopt effective measures to ensure the exercise and enforcement of these rights.

Article XXI. Right to autonomy or self-government

1. 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.

2. Indigenous peoples have the right to maintain and develop their own decision-making institutions. They also have the right to participate in decision-making in matters which would affect their rights. They may do so directly or through their representatives, and in accordance with their own norms, procedures, and traditions. They also have the right to equal opportunities in accessing and participating fully and effectively as peoples in all national institutions and forums, including deliberative bodies.

and control of their ceremonial objects; and the right to the repatriation of their human remains.

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 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 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 32

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.

Article 33

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 XXII. Indigenous law and jurisdiction

1. 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.

2. The indigenous law and legal systems shall be recognized and respected by national, regional and international-legal systems.

3. Matters concerning indigenous individuals or their rights or interests in the jurisdiction of each State shall be conducted in such a way as to afford indigenous individuals the right to full representation with dignity and equality before the law. Consequently, they are entitled, without discrimination, to equal protection and benefit of the law, including the use of linguistic and cultural interpreters.

4. States shall take effective measures in conjunction with indigenous peoples to ensure the implementation of this article.

NO EQUIVALENT, BUT SEE:

Article 13

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 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 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 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 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 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 XXIII. Participation of indigenous peoples and contributions of indigenous legal and organizational systems

1. Indigenous peoples have the right to full and effective participation in decision-making, through representatives chosen by themselves in accordance with their own institutions, in matters which affect their rights, and which are related to the development and execution of laws, public policies, programs, plans, and actions related to indigenous matters.

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, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article XXIV. Treaties, agreements, and other constructive arrangements

1. Indigenous peoples have the right to the recognition, observance, and enforcement of the treaties, agreements and other constructive arrangements concluded with States or their successors, in accordance with their true spirit and intent in good faith and to have States honor and respect the same. States shall give due consideration to the understanding of the indigenous peoples as regards to treaties, agreements and other constructive arrangements.

2. When disputes in relation to such treaties, agreements and other constructive arrangements cannot be resolved between the parties, they shall be submitted to competent bodies, including regional and international bodies, by the states or indigenous peoples concerned.

3. 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 XXV. Traditional forms of property and cultural survival. Right to land, territory, and resources

1. Indigenous peoples have the right to maintain and strengthen their distinctive spiritual, cultural, and material relationship with their lands, territories, and resources and to uphold their responsibilities to preserve them for themselves and for future generations.

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

3. Indigenous peoples have the right to own, use, develop and

NO EQUIVALENT, BUT SEE:

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 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 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.

See also:

PP 14 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,

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.

4. 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.

5. Indigenous peoples have the right to legal recognition of the various and particular modalities and forms of property, possession and ownership of their lands, territories, and resources, in accordance with the legal system of each State and the relevant instruments. States shall establish special regimes appropriate for such recognition and for their effective demarcation or titling.

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.

SEE ALSO:

Article 32

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.

Article 8

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

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

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 XXVI. Indigenous peoples in voluntary isolation or initial contact

NO EQUIVALENT

1. Indigenous peoples in voluntary isolation or initial contact have the right to remain in that condition and to live freely and in accordance with their cultures.
2. States shall, with the knowledge and participation of indigenous peoples and organizations, adopt appropriate policies and measures to recognize, respect, and protect the lands, territories, environment, and cultures of these peoples as well as their life, and individual and collective integrity.

Article XXVII. Labor Rights

1. Indigenous peoples and persons have the rights and guarantees recognized in national and international labor law. States shall take all special measures necessary to prevent, punish and remedy any discrimination against indigenous peoples and individuals.
2. States, in conjunction with indigenous peoples, shall adopt immediate and effective measures to eliminate exploitative labor practices with regard to indigenous peoples, in particular, indigenous children, women and elderly persons.
3. Where indigenous peoples are not effectively protected by the laws applicable to workers in general, States, in conjunction with indigenous peoples, shall adopt all necessary measures to:
 - a. protect indigenous workers and employees in relation to hiring under fair and equal conditions in both formal and informal employment;
 - b. establish, apply, or improve labor inspection and the enforcement of rules with particular attention to, *inter alia*, regions, companies, and labor activities in which indigenous workers or employees participate;
 - c. establish, apply or enforce laws so that both female and male indigenous workers:
 - i. enjoy equal opportunities and treatment in all terms, conditions, and benefits of employment, including training and capacity building, under national and international law;
 - ii. enjoy the right of association, the right to form trade unions and participate in trade union activities, and the right to collective bargaining with employers through representatives of their own choosing or workers' organizations, including traditional authorities;
 - iii. are not subject to discrimination or harassment on the basis of, *inter alia*, race, sex, origin, or indigenous identity;
 - iv. are not subject to coercive hiring systems,

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.

including debt servitude or any other form of forced or compulsory labor, regardless of whether the labor arrangement arises from law, custom, or an individual or collective arrangement, in which case the labor arrangement shall be deemed absolutely null and void;

v. are not forced to work in conditions that endanger their health and personal safety; and are protected from work that does not conform to occupational health and safety standards;

vi. receive full and effective legal protection, without discrimination, when they provide their services as seasonal, occasional, or migrant workers, as well as when they are contracted by employers, such that they receive the benefits of the national laws and practices, which shall be in accordance with the international human rights laws and standards for this category of workers;

d. ensure that the indigenous workers and their employers are informed of the rights of indigenous workers under national law and international and indigenous standards, and of the remedies and actions available to them to protect those rights.

4. States shall take measures to promote employment of indigenous individuals.

Article XXVIII. Protection of cultural heritage and intellectual property

1. Indigenous peoples have the right to the full recognition and respect for the ownership, dominion, possession, control, development, and protection of their tangible and intangible cultural heritage and intellectual property, including its collective nature, transmitted over millennia from generation to generation.

2. The collective intellectual property of indigenous peoples includes, *inter alia*, traditional knowledge and traditional cultural expressions, including traditional knowledge associated with genetic resources, ancestral designs and procedures, cultural, artistic, spiritual, technological, and scientific expressions, tangible and intangible cultural heritage, as well as knowledge and developments of their own related to biodiversity and the utility and qualities of seeds, medicinal plants, flora, and fauna.

3. States, with the full and effective participation of indigenous peoples, shall adopt measures necessary to ensure that national and international agreements and regimes provide recognition and adequate protection for the cultural heritage of indigenous peoples and intellectual property associated with that heritage. In adopting such measures, consultations shall be held to obtain the free, prior and informed consent of indigenous peoples.

Article XXIX. Right to development

1. Indigenous peoples have the right to maintain and determine their own priorities with respect to their political, economic, social, and cultural development in conformity with their own cosmovision. They also have the right to be guaranteed

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 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

the enjoyment of their own means of subsistence and development, and to engage freely in all their economic activities.

2. This right includes the development of policies, plans, programs, and strategies in the exercise of their right to development and to implement them in accordance with their political and social organization, norms and procedures, own cosmovisions, and institutions.

3. Indigenous peoples have the right to be actively involved in developing and determining development programs that affect them and, to the extent possible, to administer such programs through their own institutions.

4. 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.

5. Indigenous peoples have the right to effective measures to mitigate adverse ecological, economic, social, cultural, or spiritual impacts of the implementation of development projects that affect their rights. Indigenous peoples who have been deprived of their means of subsistence and development have the right to restitution and, where this is not possible, to fair and equitable compensation. This includes the right to compensation for any harm caused to them by the implementation of plans, programs, or projects of the State, international financial institutions, or private business.

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 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 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.

Article XXX. Right to peace, security and protection

1. Indigenous peoples have the right to peace and security.

2. Indigenous peoples have the right to recognition and respect for their institutions for the maintenance of their organization and control of their communities and peoples.

3. Indigenous peoples have the right to protection and security in situations or periods of internal or international armed conflict, in accordance with international humanitarian law.

4. States, in compliance with international agreements to which they are party, in particular international humanitarian law and international human rights law, including the Geneva Convention relative to the Protection of Civilian Persons in Time of War and Protocol II thereof relating to the protection of victims of non-international armed conflicts, shall, in the event of armed conflicts, shall take adequate measures to protect the human

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

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

rights, institutions, lands, territories, and resources of the indigenous peoples and their communities. Likewise, States:	activities
<p>a. Shall not recruit indigenous children and adolescents into the armed forces under any circumstances;</p> <p>b. Shall adopt effective reparation measures and provide adequate resources for said reparation, in conjunction with the indigenous peoples concerned, for the damages or harm caused by an armed conflict.</p> <p>c. Shall take special and effective measures in collaboration with indigenous peoples to guarantee that indigenous women, children live free from all forms of violence, especially sexual violence, and shall guarantee the right of access to justice, protection, and effective reparation for harm caused to the victims</p>	
5. 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 to or requested by the indigenous peoples concerned.	
Article XXXI	Article 38
1. States shall ensure the full enjoyment of the civil, political, economic, social, and cultural rights of indigenous peoples, as well as their right to maintain their cultural and spiritual identity, religious traditions, cosmovision, and values; the protection of their sacred sites and places of worship, and all the human rights contained in this Declaration.	States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.
2. States shall promote, with the full and effective participation of the indigenous peoples, the adoption of such legislative and other measures as may be necessary to give effect to the rights included in 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 XXXII	Article 44
All the rights and freedoms recognized in the present Declaration are guaranteed equally to indigenous women and men.	All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals
Article XXXIII	Article 40
Indigenous peoples and individuals have the right to effective and suitable remedies, including prompt judicial remedies, for the reparation of any violation of their collective and individual rights. States, with the full and effective participation of indigenous peoples, shall provide the necessary mechanisms for the exercise of this right.	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 XXXIV	Article 40
In the event of conflicts and disputes with indigenous peoples, States shall provide, with the full and effective participation of those peoples, just, equitable and effective mechanisms and procedures for their prompt resolution. For that purpose, due consideration and recognition shall be accorded to the customs, traditions, norms and legal systems of the indigenous peoples concerned.	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 XXXV Nothing in this Declaration may be interpreted as limiting, restricting, or denying human rights in any way, or as authorizing any action that is not in keeping with international human rights law.	NO EQUIVALENT.
Article XXXVI In the exercise of the rights enunciated in the present Declaration, the 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 as required for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling needs of a democratic society. 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.	Article 46 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.
Article XXXVII 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 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 XXXVIII The Organization of American States, its organs, agencies, and entities, shall adopt all necessary measures to promote the full observance, protection, and application of the provisions contained in this Declaration, and shall endeavor to ensure their efficacy.	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 XXXIX The nature and scope of the measures that shall be adopted to implement this Declaration shall be determined in accordance with the spirit and purpose of said Declaration.	NO EQUIVALENT
Article XL Nothing in this declaration shall be construed as diminishing or extinguishing rights that indigenous peoples now have or may	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.	acquire in the future.
Article XLI	Article 43
The rights recognized in this Declaration and the United Nations Declaration on the Rights of Indigenous Peoples constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the Americas.	The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.
NO EQUIVALENT.	Article 6
	Every indigenous individual has the right to a nationality.
NO EQUIVALENT, BUT SEE	Article 46
PP 12 CONVINCED that recognition of the rights of indigenous peoples in this Declaration will foster harmonious and cooperative relations among States and indigenous peoples, based on the principles of justice, democracy, respect for human rights, nondiscrimination, and good faith;	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.

"PROPOSED AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES"

(Resolution adopted at the seventh plenary session, held on June 5, 1997)

THE GENERAL ASSEMBLY,

HAVING SEEN the observations and recommendations of the Permanent Council on the Annual Report of the Inter-American Commission on Human Rights (AG/doc.3492/97); and

CONSIDERING:

That, through resolution AG/RES. 1022 (XIX-O/89), the General Assembly requested the Inter-American Commission on Human Rights to prepare a declaration on the rights of indigenous populations; and

That, on April 10, 1997, the Permanent Council received the "Proposed American Declaration on the Rights of Indigenous Peoples" (CP/doc.2878/97 corr. 1), prepared by the Inter-American Commission on Human Rights,

RESOLVES:

1. To express its appreciation for and take note of the "Proposed American Declaration on the Rights of Indigenous Peoples," prepared by the Inter-American Commission on Human Rights.
2. To instruct the Permanent Council to study the "Proposed American Declaration on the Rights of Indigenous Peoples."
3. To express the view that the text of the "Proposed American Declaration on the Rights of Indigenous Peoples" should reflect the concerns of indigenous populations as well as the work of the United Nations in this area.
4. To urge the member states to present to the Permanent Council, by December 31, 1997, their observations and recommendations on the "Proposed American Declaration on the Rights of Indigenous Peoples."
5. To request the Inter-American Juridical Committee and the Inter-American Indian Institute to transmit to the Permanent Council their comments on the "Proposed American Declaration on the Rights of Indigenous Peoples," taking into account any observations and recommendations presented by the member states.
6. To instruct the Permanent Council to convene a meeting of government experts in this field, within allocated resources approved in the program-budget and other resources, upon receipt of the observations and comments referred to in the preceding paragraphs, and once it has carried out other activities it deems pertinent, with a view to the possible adoption of the "Proposed American Declaration on the Rights of Indigenous Peoples" by the General Assembly at its twenty-eighth regular session.

PROPOSED AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS POPULATIONS

(Resolution adopted at the first plenary session, held on June 7, 1999)

THE GENERAL ASSEMBLY,

RECALLING its resolutions AG/RES. 1022 (XIX-O/89), AG/RES. 1479 (XXVII-O/97), and AG/RES. 1549 (XXVIII-O/98);

CONVINCED that the adoption of a declaration on the rights of indigenous populations will enhance the recognition, promotion, and protection of the rights of those populations, and will contribute to the development of pertinent activities by the Organization of American States in this area;

EXPRESSING ITS GRATITUDE to the Inter-American Commission on Human Rights, the Inter-American Juridical Committee, and the Inter-American Indian Institute for their contributions in preparing a proposed declaration on the rights of indigenous populations;

CONSIDERING that, in accordance with resolution AG/RES. 1549 (XXVIII-O/98), the Meeting of Government Experts to Examine the Proposed American Declaration on the Rights of Indigenous Populations was held at OAS headquarters from February 10 to 12, 1999;

HAVING EXAMINED the report of the Committee on Juridical and Political Affairs of the Permanent Council on the Proposed American Declaration on the Rights of Indigenous Populations (CP/CAJP-1489/99), in keeping with resolution AG/RES. 1549 (XXVIII-O/98); and

BEARING IN MIND that, despite the progress made, the Meeting of Government Experts was unable to complete its work, aimed at the adoption of a declaration during this session of the General Assembly, pursuant to the aforementioned resolution AG/RES. 1549 (XXVIII-O/98),

RESOLVES:

1. To establish a working group of the Permanent Council to continue consideration of the Proposed American Declaration on the Rights of Indigenous Populations.
2. To invite the Working Group to take account of the observations and comments of the member states and of the various organs, agencies, and entities of the inter-American system.
3. To also invite the Working Group to provide for appropriate participation in its efforts by representatives of indigenous communities, so that their observations and suggestions may be considered.
4. To request the Inter-American Indian Institute to provide the necessary advisory services to the Working Group and to prepare, at the earliest possible date, a report on the actions taken by other international organizations to promote the rights of indigenous populations.
5. To request the General Secretariat and the organs, agencies, and entities of the inter-American system to provide any assistance required by the Working Group, which shall hold an initial meeting before the end of this year.
6. To also request the Inter-American Juridical Committee to continue providing legal advice to the Working Group on the proposed Declaration on the Rights of Indigenous Populations.
7. To request the Permanent Council to present to the General Assembly, at its thirtieth regular session, a progress report on the activities entrusted to the Working Group.

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES

COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

OEA/Ser.K/XVI
GT/DADIN/doc.6/00 rev. 6
30 April 2001
Original: Spanish

Working Group to Prepare the Draft American
Declaration on the Rights of Indigenous Peoples

WORK PLAN
2000/2001

PRESENTED BY THE CHAIR OF THE WORKING GROUP
AMBASSADOR RONALD OCHAETA

(Approved by the Working Group at its meeting on February 6, 2001)

WORK PLAN
2000/2001

PRESENTED BY THE CHAIR OF THE WORKING GROUP
AMBASSADOR RONALD OCHAETA

1. Background

Under resolution AG/RES. 1022 (XIX-O/89), issued in 1989, the OAS General Assembly requested that the Inter-American Commission on Human Rights prepare a draft declaration on the rights of indigenous populations.

Pursuant to that mandate, the Committee held a number of meetings and consulted with government representatives, international experts, Indian leaders, and jurists specializing in this topic, with a view to drawing up the preliminary draft. In April 1997, the Permanent Council received from the Committee the "Proposed American Declaration on the Rights of Indigenous Peoples."

In June of that same year, the OAS General Assembly expressed the view that the text of the draft should reflect the observations and recommendations of member states as well as the opinions of specialized organizations, such as the Inter-American Juridical Committee and the Inter-American Indian Institute. In subsequent years, the states submitted specific comments and observations and participated in two meetings of government experts to study and discuss the initial draft.

In 1999, the General Assembly, at its twenty-ninth regular session, established a working group of the Permanent Council to continue consideration of the Proposed American Declaration on the Rights of Indigenous Populations.

The hemispheric importance of the content of the proposed Declaration and the progress made by the Working Group in its study and discussion of the proposed Declaration prompted the General Assembly, at its thirtieth regular session, held in Canada in June 2000, to extend the mandate for these efforts by way of resolution AG/RES. 1708 (XXX-O/00).

2. Mandates Issued by the General Assembly

At its thirtieth regular session, the OAS General Assembly resolved as follows with regard to the Proposed American Declaration on the Rights of Indigenous Populations, under resolution AG/RES. 1708 (XXX-O/00):

1. To request the Permanent Council to renew the mandate of the Working Group so that it may continue to consider the Proposed American Declaration on the Rights of Indigenous Populations and hold at least a second meeting before the thirty-first regular session of the General Assembly, in accordance with the resources allocated in the program-budget and other resources.
2. To recommend to the Working Group that it follow the procedures agreed upon for suitable participation in its work by representatives of indigenous communities, so that their observations and suggestions may be considered.
3. To request the Inter-American Indian Institute and the Inter-American Juridical Committee to continue to advise the Working Group as necessary.
4. Also to request the General Secretariat to publicize the efforts of the Working Group as necessary and consider the necessary measures to promote more representative involvement in the Working Group by the Hemisphere's indigenous community organizations.
5. To request the Permanent Council to present a report to the General Assembly at its thirty-first regular session on the implementation of this resolution.

3. Courses of Action

In view of the General Assembly's specific mandate, the Working Group's objectives are as follows:

Overall Objective

- To continue consideration of the Proposed American Declaration on the Rights of Indigenous Populations and to submit to the General Assembly at its thirty-first regular session a report on progress made in the discussions.

Specific Objectives

- a. To hold a second meeting of the Working Group before the thirty-first regular session of the General Assembly.
- b. To promote participation by representatives of indigenous communities of the Hemisphere in the study and discussion of the proposed Declaration.
- c. To receive the necessary advice by working in coordination with the Inter-American Juridical Committee and the Inter-American Indian Institute.
- d. To work with the General Secretariat to publicize the activities of the Working Group and to promote participation by the indigenous communities of the Hemisphere in the Working Group's efforts.
- e. To submit to the Committee on Juridical and Political Affairs a report on fulfillment of resolution AG/RES. 1708 (XXX-O/00), which it may in turn submit to the Permanent Council.

4. Activities

- a. To convene a special meeting of the Working Group for April 2001.
- b. To establish an Ad Hoc Group of OAS Member States for consultation, the exchange of views, and additional support.
- c. To conduct meetings of the Working Group, as necessary.
- d. To take the necessary steps to promote participation by leaders of indigenous populations of the Hemisphere in discussing and studying the content of the proposed Declaration.
- e. To promote and hold events in which certain key points in the proposed Declaration are discussed from an academic standpoint.
- f. To publicize the content of the proposed Declaration among leaders of the indigenous movement in the Hemisphere and to provide them with appropriate materials to spread the message at the grassroots level.
- g. To submit consideration of the proposed Declaration as a priority topic for the Hemisphere at the highest political levels.
- h. To organize and follow up on progress discussed in the Working Group and present it to the countries for consideration.
- i. To present a report on progress made in the discussions on the proposed American Declaration on the Rights of Indigenous Populations to the General Assembly at its thirty-first regular session, to be held in San Jose, Costa Rica, in June 2001.

5. Proposed Procedure for the Special Meeting of the Working Group

It is proposed that discussions at the upcoming special meeting of the Working Group follow the procedure employed by the previous Chair of the Working Group, Ambassador Claude Heller, Permanent Representative of Mexico to the OAS, at the special meeting of the Group held in November 1999.

Under that approach, the proceedings were to begin with the operative section of the proposed Declaration, by chapter and topic.

Participation by representatives of indigenous populations, according to the procedure described,^{1/} was conducted as follows:

- a. When the discussion of each topic began, the representatives were invited to present their views, suggestions, and concerns on that topic.
- b. The statements of the governments were then heard, and a final proposal on the wording of each chapter was made.
- c. When necessary, and at their express request, indigenous community representatives were allowed to speak again at the conclusion of the consideration of each chapter.

One of the main requests made by representatives of indigenous populations during the Working Group meeting had to do with their desire to participate in decision-making. They made the following proposals in this regard.^{2/}

- a. Participation in the discussion: they requested a full and unrestricted right to speak, as well as the opportunity to comment on the statements of the government delegations.
- b. Adoption of agreements: they requested that government delegations consider the actual situation of indigenous populations before taking a decision.
- c. Recording of statements: they requested that the statements of the representatives of indigenous populations be recorded and that these statements, as well as the conclusions of the meeting, be transmitted to the governments.

Furthermore, according to the Report of the Chair, the representatives requested that resources be raised to facilitate continuing participation by their organizations in the consideration of the proposed Declaration.

The Working Group Chair feels that the procedure followed during the November 1999 meeting should serve as the basis for the formal meeting in February 2001. It is also advisable to embrace some aspects of the request issued by representatives of indigenous organizations, so as to promote the inclusion of these populations in the discussion of a subject that affects them directly.

On that basis, the procedure proposed by the Chair of the Working Group is as follows:

- a. There is a background document that includes the remarks made during the meeting of November 1999. That document should be used as a guide for the discussions,
- b. The document contains two types of text:
 - Text on which consensus has been reached;
 - Text on which consensus has not been reached, enclosed in square brackets.
- c. Discussion of the document will be based on points of disagreement. Articles already agreed upon will not be discussed.
- d. Discussion will proceed chapter by chapter, according to the sequence of chapters. Government representatives will be invited to speak during the discussion of each article. Representatives of indigenous populations shall intervene at the start of the discussion of each chapter and shall present in writing alternative drafts of any articles they might

1. Meeting of the Working Group to Prepare the Proposed American Declaration on the Rights of Indigenous Populations. Report of the Chair. Page 2.

2. *Ibid*, pages 2 and 3.

wish to amend, so that their proposals can be included in the debate among States and, if considered appropriate, incorporated into the respective texts.

- e. In the interest of avoiding fragmentation in the debate, government representatives and those of indigenous populations shall be asked to make their statements specific and to focus on clearly defined proposals. As the consideration of each article concludes, text upon which consensus has been reached will be read aloud. If any points of disagreement remain, these will be indicated.
- f. At the end of the discussion of each chapter, the representatives of the indigenous population shall be offered the floor, to make any comments they might have with respect to points arising during the debate of each article. During the debate of the articles, the representatives of indigenous groups may only intervene when clarification of specific points is required.

Under this procedure, special attention should be paid to the representativeness and legitimacy of the participants representing indigenous communities in the Working Group discussions. The greatest possible degree of representation will be sought for each country. Any other position on the participation and representation of the indigenous populations may be considered subsequently by the Working Group, including consideration of the idea of creating a voluntary fund to encourage participation by indigenous representatives of those organizations lacking the means and funds with which to finance such participation themselves taking into account, among other views, those discussed earlier by the Group. The consideration of such positions shall bear in mind, *inter alia*, criteria previously discussed in the Working Group.

6. Timetable

Activities	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUNE
Establishment of the Ad Hoc Consultation Group on the Declaration	XXX	XXX							
Informal meeting of the Working Group		X							
Dissemination of the content of the Declaration	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Printing of documents			XXX	XXX		XXX		XXX	
Invitation to the Working Group of Leaders of Indigenous Populations			XXX	XXX	XXX				
Informal meeting of the Working Group				X					
Convocation of special meeting of Working Group			XXX	XXX					
Special Meeting of Working Group						X			
Organization of Working Group discussions							XX		
Presentation of findings of Working Group							XXX		
Academic meetings		XXX		XXX		XXX			
Presentation of findings to General Assembly at thirty-first regular session									XXX

CP/RES. 817 (1319/02)

**SPECIFIC FUND TO SUPPORT THE ELABORATION
OF THE AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

THE PERMANENT COUNCIL OF THE ORGANIZATION OF AMERICAN STATES,

NOTING resolution AG/RES. 1610 (XXIX-O/99), in which it was decided to establish a working group of the Permanent Council to continue consideration of the Proposed American Declaration on the Rights of Indigenous Peoples (hereinafter the Draft Declaration);

CONSIDERING operative paragraph 4 of resolution AG/RES. 1780 (XXXI-O/01), which recommended to the Permanent Council the establishment of a specific fund consisting of voluntary contributions to support the participation of representatives of indigenous peoples in meetings related to the Draft Declaration and stated that mechanisms should be sought to ensure indigenous participation in the utilization of the fund;

CONSIDERING the importance of indigenous participation in the process of elaborating the Draft Declaration and of indigenous cooperation in carrying out and publicizing the activities of the Working Group;

TAKING INTO CONSIDERATION the proposals received from member state representatives and from representatives of indigenous peoples on the establishment of the specific fund, in particular document GT/DADIN/doc.75/02; and

CONVINCED that establishing a specific fund of voluntary contributions will constitute a mechanism within the inter-American system to facilitate participation by representatives of indigenous peoples in the process of elaborating the Draft American Declaration,

RESOLVES:

1. To establish the Specific Fund to Support the Elaboration of the American Declaration on the Rights of Indigenous Peoples, hereinafter “the Fund,” the purpose of which shall be to provide financial support for participation by indigenous peoples’ representatives in the efforts by the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples, as well as in other activities of the Group. This financial support shall be limited to defraying travel and per diem expenses.

2. That beneficiaries of the Fund shall be chosen on the basis of the following criteria:

a. They must be representatives of indigenous organizations and communities. To facilitate selection, applicants must submit a letter from their respective organization or community designating them as their representatives. The same letter must include information supporting the request for financial assistance.

b. The representatives appointed by the indigenous organizations and communities may submit their communications to the Selection Board in any of the official languages of the Organization (English, French, Portuguese, and Spanish).

c. No more than two representatives from each indigenous organization or community shall receive financial support to participate in a single event, subject to the availability of funds.

d. The Selection Board shall take into account the equitable geographic representation of beneficiaries.

e. The Selection Board shall take gender equity and equality into account, and indigenous organizations and communities should consider this recommendation in selecting their representatives.

3. The Specific Fund shall consist of voluntary contributions by OAS member states and permanent observers to the Organization, as well as contributions by persons or institutions, whether public or private, national or international, wishing to finance achievement of the aim set forth in Article 1. Contributors to the Fund may specify that their contributions may also be used to finance other activities of the Working Group or participation in its meetings by experts on indigenous issues.

4. To instruct the Secretary General to administer the Fund in accordance with the General Standards to Govern the Operations of the General Secretariat and other rules and regulations of the Organization, with the support of a Selection Board composed of five members, who shall be: the present chair of the Working Group, the previous chair of the Working Group or, in his or her absence, the previous vice chair, and, in their personal capacity, three indigenous representatives—one from South America, one from Central America or the Caribbean, and one from North America. The indigenous members of the Selection Board shall be elected by the representatives of the indigenous peoples present at the last special meeting of the Working Group prior to the regular session of the General Assembly. Members of the Selection Board shall serve for a one-year term and shall perform their functions *ad honorem*. The Selection Board shall establish, by consensus, specific criteria for the selection of the beneficiaries, pursuant to the general criteria established in operative paragraph 2.

5. To invite all member states, permanent observers, and other donors, as defined in Article 68 of the General Standards to Govern the Operations of the General Secretariat and other rules and regulations of the Organization, to contribute to this Specific Fund.

6. The expenses of administering the Fund shall be covered by the Fund itself. Consultations among members of the Selection Board shall preferably take place by electronic or similar means so that the Fund will not have to cover the costs of its own meetings.

7. These guidelines in respect of the Fund shall take effect following their adoption by the Permanent Council and may be amended by the Council itself, on its own initiative or at the recommendation of the Secretary General or of the Selection Board mentioned in paragraph 4.

8. The viability and efficacy of the Fund shall be reviewed by the Permanent Council two years from the date of its establishment, or earlier if the Secretary General reports that there are insufficient resources in the Fund to carry out or maintain the selection process.

9. The Specific Fund's accounts shall be audited by the General Secretariat's external auditing firm and its financial statements published in the annual report of the Board of External Auditors.

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES

COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

OEA/Ser.K/XVI
GT/DADIN/doc.329/08 rev. 2
22 August 2008
Original: Spanish/English

Working Group to Prepare the
Draft American Declaration on the Rights
of Indigenous Peoples

CLASSIFICATION OF PROVISIONS THAT COULD FACILITATE CONSENSUS

(Reference document prepared by the Department of International Law)

[Updated upon the conclusion of the Eleventh Meeting of Negotiations]

Classification of provisions that could facilitate consensus

This working document seeks to classify provisions of the Draft American Declaration on the Rights of Indigenous Peoples according to their level of difficulty in obtaining a consensus at the meetings of Negotiations in the Quest for Points of Consensus held so far.

The reference document is the “Record of the Current Status of the Draft American Declaration on the Rights of Indigenous Peoples (Outcomes of the Eleventh Meetings of Negotiations in the Quest for Points of Consensus, held by the Working Group)” [GT/DADIN/doc.334/08].

Provisions of the “Record of the Current Status” have been organized in four groups:

- Texts that have been approved;
- Texts where consensus could be reached easily;
- Texts where consensus could be reached with some difficulty;
- Complex texts.

The current classification is a first attempt by the technical secretariat to establish groups of provisions according to the level of difficulty in obtaining a consensus; therefore it is open to changes and is subject to the final decisions by members of the working group. Within this context, delegations are requested to address their comments and suggestions to the Chair of the Working Group.

This new version includes all approved provisions during the Eleventh Meeting of Negotiations in the Quest for Points of Consensus

Texts that have been approved

Article I.

1. The American Declaration on the Rights of Indigenous Peoples applies to the indigenous peoples of the Americas. (Approved on March 25, 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

2. Self-identification as indigenous peoples will be a fundamental criteria for determining to whom this Declaration applies. The States shall respect the right to such self-identification as indigenous, individually or collectively, in keeping with the practices and institutions of each indigenous people. (Approved on March 25, 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

Article II.

The States recognize and respect the multicultural and multilingual character of the indigenous peoples, who are an integral part of their societies. (Approved on April 16, 2008, at the at the Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

Article V. Full effect and observance of human rights

Indigenous peoples and persons have the right to the full enjoyment of all human rights and fundamental freedoms, as recognized in the Charter of the United Nations, the Charter of the Organization of American States and international human rights law. (Approved on April 16, 2008 at the Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

Article VII. Gender equality

1. Indigenous women have the right to the recognition, protection, and enjoyment of all human rights and fundamental freedoms provided for in international law, free of all forms of discrimination. (Approved in March 2006—Seventh Meeting of Negotiation in the Quest for Points of Consensus)

2. States recognize that violence against indigenous peoples and persons, particularly women, hinders or nullifies the enjoyment of all human rights and fundamental freedoms. (Approved in March 2006—Seventh Meeting of Negotiation in the Quest for Points of Consensus)

3. States shall adopt the necessary measures, in conjunction with indigenous peoples, to prevent and eradicate all forms of violence and discrimination, particularly against indigenous women and children. (Approved in March 2006—Seventh Meeting of Negotiation in the Quest for Points of Consensus)

Article IX. Juridical personality

4. The States shall recognize fully the juridical personality of the indigenous peoples, respecting indigenous forms of organization and promoting the full exercise of the rights recognized in this Declaration. (Approved on December 7, 2006—Eighth Meeting of Negotiation in the Quest for Points of Consensus)

Article X. Rejection of assimilation

1. Indigenous peoples have the right to maintain, express, and freely develop their cultural identity in all respects, free from any external attempt at assimilation. (Approved on November 11, 2003—First Meeting of Negotiation in the Quest for Points of Consensus)

2. The States shall not carry out, adopt, support, or favor any policy to assimilate the indigenous peoples or to destroy their cultures. (Approved on November 11, 2003—First Meeting of Negotiation in the Quest for Points of Consensus)

Article X bis. Protection against genocide

Indigenous peoples have the right to not be subjected to any form of genocide or attempts to exterminate them. (Approved on November 11, 2003—First Meeting of Negotiation in the Quest for Points of Consensus)

[Article XI. Guarantees against racism, racial discrimination, xenophobia, and other related forms of intolerance

Indigenous peoples have the right not to be subject to racism, racial discrimination, xenophobia, and other related forms of intolerance. The States shall adopt the preventive and corrective measures necessary for the full and effective protection of this right. (Approved on April 18, 2008 at the Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

Article XXXII.

All the rights and freedoms recognized in the present Declaration shall be guaranteed equally to indigenous women and men.^{1/} (Approved on November 11, 2003—First Meeting of Negotiation in the Quest for Points of Consensus. Moved to this section in March 2006—Seventh Meeting of Negotiation in the Quest for Points of Consensus)

Article XXXIII.

Indigenous peoples and persons have the right to effective and appropriate remedies, including prompt judicial remedies, for the reparation of all violations of their collective and individual rights. The States, with full and effective participation of indigenous peoples, shall provide the necessary mechanisms for the exercise of this right. (Approved on April 16, 2008 at the Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

Article XXXIV bis.

Nothing in this Declaration may be interpreted so as to limit, restrict, or deny human rights in any way, or so as to authorize any action that is not in keeping with international human rights law. (Approved on December 8, 2006 – Eighth Meeting of Negotiation in the Quest for Points of Consensus)

Article XXXVI.

The nature and scope of the measures that shall be taken to implement this Declaration shall be determined in accordance with the spirit and purpose of said Declaration.² (Approved on April 16, 2008 at the Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

Article XXXVIII.

Nothing in this declaration shall be construed as diminishing or extinguishing rights that indigenous peoples now have or may acquire in the future. (Approved in March 2006—Seventh Meeting of Negotiation in the Quest for Points of Consensus)

Article XXXIX.

The rights recognized in this Declaration constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the Americas. (Approved on April 16, 2008 at the Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

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1. During the Seventh Meeting of Negotiations, held in Brasilia, Brazil, the Working Group approved the three paragraphs proposed by the Indigenous Peoples' Caucus and which the Chair suggested should currently appear in Article VII, "Gender Equality." The paragraph that had already been approved by consensus at another meeting of negotiations and which appeared as the first paragraph of Article VII has been transferred as a general provision and now appears as Article XXXII in that section.
 2. The delegation of Argentina states that the Article raises doubts regarding the scope of the measures referred to, bearing in mind that this is a Declaration, not a Plan of Action. It therefore reserves its right to formulate comments and proposals in the future.

Texts on which a consensus could be reached easily

Article II.

The States recognize and respect the multiethnic and multicultural [and multilingual] character of their societies.^{3/}

[Article VIII. Right to belong to the indigenous peoples

Indigenous persons and communities have the right to belong to the indigenous peoples, in accordance with the identities, traditions, customs, and systems of those peoples.]

Article XVI. Indigenous family

1. The family is the natural and fundamental unit of society. Indigenous peoples have the right to preserve, maintain, and promote their own family systems. The States shall recognize, respect, and [protect] the various indigenous forms^{4/} of family, in particular the extended family,⁵ as well as indigenous forms of matrimonial union, filiation, descentance, and family name. In all cases, gender and generational equity shall be recognized and respected.

2. In determining the best interests of the child in matters related to the adoption of indigenous children, severance of family ties, and other similar circumstances, the courts and other relevant institutions shall take into account, primarily, the [any applicable] indigenous law of the peoples concerned and shall consider their points of view, rights, and interests, including the positions of individuals, the family, and the community. The indigenous institutions, and indigenous courts where they exist, shall [may] have jurisdiction in determining the custody and other related matters concerning indigenous children.

[Article XI. Special guarantees against racism, racial discrimination, xenophobia, and related forms of intolerance

1. Indigenous peoples have the right to protection against racism, racial discrimination, xenophobia, and related forms of intolerance. In this regard, the States shall adopt special measures, when necessary, for the full enjoyment of internationally and nationally recognized human rights, and shall adopt all necessary measures so that indigenous women, men, and children can enjoy their civil, political, economic, social, cultural, and spiritual rights.

2. Indigenous peoples have the right to participate in the determination of those special guarantees.]

Article XIII. Systems of knowledge, language and communication

1. Indigenous peoples have the right to preserve, use, develop, revitalize, and transmit to future generations their own histories, languages, oral traditions, philosophies, systems of knowledge, writing, and literature; and to designate and maintain their own names for their communities, individuals, and places.^{6/} (Approved Jan 24, 2007)

The States [shall] [will] adopt adequate [and effective] measures to protect the exercise of this right [, in consultation with the peoples concerned].^{7/}

2. Indigenous peoples [, on an equal basis with the rest of society,] have the right to promote and develop all their systems and media of communication, including their own radio and television programs, and to access all other means of communication and information. The States shall take measures to promote the broadcast of radio and television programs in indigenous languages, particularly in areas with an indigenous presence. The States shall support and facilitate the creation of indigenous radio and television stations, as well as other means of information and communication.

3. The States, in conjunction with indigenous peoples, shall make efforts to ensure that those peoples can understand and be understood in their languages in administrative, political, and judicial proceedings, where necessary through the provision of interpretation or by other effective means. (Approved Jan. 26, 2007)^{8/}

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3. During the Eighth Meeting of Negotiations, the majority of delegations, including the indigenous caucus, supported the following text:
“The States recognize and respect the multicultural and multilingual character of the indigenous peoples, who are an integral part of their societies.”
 4. The phrase “various indigenous forms” is approved *ad referendum* of Argentina.
 5. The phrase “in particular the extended family” is approved *ad referendum* of Mexico.
 6. After participating in Working Group meetings regarding Section Three, it is the understanding of the United States that this section does not concern intellectual property rights, which are addressed exclusively under Article XXVIII of this Declaration.
 7. This text is under consultation and its placement is to be determined.
 8. Approved *ad referendum* of the indigenous caucus.

Article XIV. Education

1. The indigenous peoples have the right to bilingual intercultural education (based on) their own world views, histories, knowledge, values, practices, and ways of life. The States shall include in their educational systems, curricula with content that reflects the multicultural and multilingual nature of their societies.]

2. Indigenous peoples have the right to:

- a. define and implement their own educational programs, institutions, and facilities;
- b. prepare and apply their own plans, programs, curricula, and teaching materials; and,
- c. educate, train, and accredit their teachers and administrators.

The States shall take the necessary measures to ensure that the indigenous education systems guarantee equal educational opportunity and teachers for the general population and complementarity with the national educational systems.

3. The States shall guarantee that the indigenous educational systems have the same level of quality, efficiency, accessibility, and in every other respect as those provided for the general population. In addition, the States shall facilitate access for indigenous children who live outside of their communities to learning in their own languages and cultures.

4. The States shall take measures to guarantee for the members of the indigenous peoples education of equal quality as for the general population at all levels. The States shall adopt effective measures to provide adequate resources for these purposes.]

Article XXV. On transfers and relocations

1. Indigenous peoples shall not be transferred or relocated without their free, prior, and informed consent, except in cases of natural disaster, [national emergency, or exceptional grounds duly justified,] through procedures jointly established with the indigenous peoples. In the event of a transfer or relocation, the States shall ensure the replacement, [wherever possible,] by adequate lands of equal size, quality, and legal status, [guaranteeing] in all cases the right to return if the causes that gave rise to the displacement cease to exist.

2. Just and equitable compensation shall be paid to the indigenous peoples and to their members who are transferred or relocated for [any] loss or harm they may have suffered as a result of their displacement.^{9/}

Article XXXV.

The Organization of American States, its organs, agencies, and entities, shall take all necessary measures to [promote and ensure] the full application, respect and protection of the rights of indigenous peoples contained in this Declaration.

Article XXXVI.

The nature and scope of the measures that shall be taken to implement this Declaration shall be determined in accordance with the spirit and purpose of said Declaration.

Article XXXVII.

Any interpretation and application of the present Declaration [shall take into account the constitutional principles of each State and] shall be consistent with the international principles of justice, democracy, respect for human rights, nondiscrimination, [good governance,] and good faith.

Article XXXIX.

The rights recognized in this Declaration constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the Americas.

Texts where consensus could be reached with some difficulty

Article V. Full effect and observance of human rights

Indigenous [peoples and persons] have the right to the full and effective enjoyment of all the human rights and fundamental freedoms recognized in the Charter of the OAS, the American Declaration of the Rights and Duties of Man, and [, where applicable,] the American Convention on Human Rights, [the Convention 169 of the International Labour Organisation,] [as well as] and other international [and regional] [principles, standards, and] instruments of human rights. Nothing in this Declaration may be interpreted so as to limit, restrict, or deny in any way those rights, or so as to authorize any action that is not in keeping with the principles [, standards, and instruments] of international law, including international human rights law.^{10/}

9. The delegation of the United States reserves its position on Article XXV (2).

10. During the Eighth Meeting of Negotiations, the following language for Article V had the support of a majority of delegates, including the indigenous caucus:

“Indigenous peoples and persons have the right to the full enjoyment of all human rights and fundamental freedoms, [as] recognized in the Charter of the United Nations, the Charter of the Organization of American States and international human rights law.”

Article VI. Collective rights

1. Indigenous peoples have collective rights that are indispensable for their existence, well-being, and integral development as peoples.
2. In this regard, the States recognize [and guarantee], *inter alia*, the right of the indigenous peoples to their collective action; to their social, political, and economic organization; [to their legal systems;] to their own cultures; to profess and practice their spiritual beliefs; [and] to use their languages [; and to administer and control their lands, territories, and natural resources].

Article XVII. Health

1. Indigenous peoples have the collective and individual right to the enjoyment of the highest attainable standard of physical, mental, and spiritual health. (Approved on April 18, 2008 at the Eleventh Meeting of Negotiations in the Quest for Points of Consensus)
2. Indigenous peoples have the right to the use and protection of the plants, animal, and minerals for medicinal use in their ancestral lands and territories, as necessary for the practice of indigenous medicine.]
3. The States shall take measures to prevent and prohibit indigenous peoples and individuals from being subject to research programs, biological or medical [or other medical procedures] experimentation, as well as sterilization without their prior, free, and informed consent. [Likewise, indigenous peoples have the right to access to their data, medical records, and documentation of research conducted by individuals and public and private {national} institutions.]
4. Indigenous peoples have the right to use, without any discrimination whatsoever, all the health and medical care institutions and services accessible to the general population. The States, in coordination with indigenous peoples, shall promote [establish] an intercultural [system] approach in the medical and health services provided [in facilities that serve] to indigenous persons, including the formation of indigenous technical and professional health care personnel.
5. The States shall provide the necessary means for the indigenous peoples to improve the health conditions in their communities insofar as they fall short of the standards accepted for the general population.]

Article XIX. [Rights of association, assembly, and freedom of expression and thought]

1. [Indigenous peoples have rights of association, assembly, organization and expression, without interference and in accordance with their worldview, *inter alia*, values, usages, customs, ancestral traditions, beliefs, spirituality, and other cultural practices.]^{11/}
2. Indigenous peoples have the right to assemble on their sacred and ceremonial sites and areas, and for this purpose, they shall have free [reasonable] access, use [and administration] of these sites and areas.
3. Indigenous peoples, in particular those who are divided by borders, have the right to [move freely and] maintain full contact and common activities with their members [and other peoples] [with whom they have ethnic, religious or linguistic ties] who inhabit the territory of neighboring States, without discrimination. [The States shall adopt measures, including the adoption of international instruments, to facilitate the exercise of these rights.]
4. [The States shall adopt measures aimed at facilitating the exercise of the rights recognized in this article, mindful of the rights of third persons.]^{12/}

Article XXI. Indigenous law and jurisdiction

1. The States shall recognize the [competence] of the authorities of indigenous peoples to exercise [jurisdictional functions] in their territory in accordance with their own standards, institutions and procedures. Indigenous peoples have the right to maintain [control] and strengthen their legal systems to address the internal matters that affect their rights and interests, and to apply them in accordance with their own rules and procedures.^{13/}
2. The indigenous law and legal systems shall be recognized and respected by the national [and international] legal systems.^{14/}
3. The matters referring to indigenous persons or to their rights or interests in the jurisdiction of each State shall be conducted so as to provide for the right of the indigenous people to full representation with dignity and equality before the law. Consequently, they are entitled, without discrimination, to equal protection and benefit of the law, including the use of linguistic and cultural interpreters.
4. The States shall take effective measures in consultation with the indigenous peoples to ensure implementation of this article,^{15/} [for which they shall determine the coordination of the indigenous jurisdictional systems with the national legal systems].

11. This item had the support of most of delegations, but a consensus was not reached.

12. This item will be reviewed when considering section six general provisions - the Secretariat duly records the proposals of the indigenous caucus.

13. This item had the support of most of delegations, but a consensus was not reached. It was suggested that this paragraph be revised with article XXXIII.

14. This item had the support of most of delegations, but a consensus was not reached. It was suggested that this paragraph be revised with article XXXIII.

15. The first part of this paragraph will be considered when reviewing the chapter on General Provisions.

Article XXII. Contributions of the indigenous legal and organizational systems

1. The States shall facilitate the inclusion, within their national and regional organizational structures, as appropriate, of the traditional institutions and practices of the indigenous peoples, in consultation with and with the consent^{16/} of said peoples.

2. The Indigenous peoples, in matters that may directly affect their rights, have the right to participate fully and effectively [without discrimination] in the design of institutions that serve them, in the development, [adoption] and implementation of plans, public policies, and programs and activities, including those that the State agrees [with {financial} multilateral institutions], as well as in the process of development of legislative, administrative and judicial measures. [All of the above, with the purpose of strengthening and promoting the identity, culture, traditions, organization and values of these peoples.]

[3. States shall obtain free, prior and informed consent of the indigenous peoples concerned before adopting and implementing such policies and measures.]^{17/}

Article XXXIII.

Indigenous peoples and persons have the right to effective and appropriate remedies, including prompt judicial remedies, for the reparation of all violations of their collective and individual rights. The States, with full and effective participation of indigenous peoples, shall provide the necessary mechanisms for the exercise of this right.

Article XXXIV.

In case of conflicts and disputes with indigenous peoples, States shall provide, with the full and effective participation of those peoples, just, equitable and effective mechanisms and procedures for their prompt resolution. For this purposes, [due consideration / recognition] shall be given to the customs, traditions, norms and [legal systems] of the indigenous peoples concerned.

Article XXIII. Treaties, agreements, and constructive arrangements

[Indigenous peoples have the right to the recognition, observance, and application of the treaties, conventions, and other arrangements that the States or their successors may have concluded, in keeping with their spirit and intent, and to have the same be respected and observed by the States.]^{18/}

Article XXVII. Labor Rights

1. Indigenous peoples and persons have the rights and guarantees recognized in national and [applicable] international labor law. States shall take all special measures to prevent, sanction and remedy the discrimination to which indigenous peoples and persons are subjected.

2. States, in conjunction with indigenous peoples, shall adopt immediate and effective measures to eliminate exploitative labor practices with regard to indigenous peoples, in particular, indigenous children, women and elders.

3. In case indigenous peoples are not effectively protected by the laws applicable to workers in general, States, in conjunction with indigenous peoples, shall take all measures that may be necessary in order to:

- a. protect indigenous workers and employees in relation to contracting under fair and equal conditions of employment in both formal and informal labor arrangements;
- b. establish, apply, or improve labor inspection and the enforcement of rules with particular attention to, *inter alia*, regions, companies, and labor activities in which indigenous workers or employees participate;
- c. establish, apply or enforce laws so that both female and male indigenous workers:
 - i. enjoy equal opportunities and treatment in all terms, conditions, and privileges of employment under national and [applicable] international law;
 - ii. enjoy the right of association, the right to form trade unions, and join trade union activities, and the right to bargain collectively with employers through representatives of their own choosing or workers' organizations, including traditional authorities;
 - iii. are not subject to discrimination or harassment on the basis of, *inter alia*, race, sex, indigenous origin or identity;
 - iv. are not subject to coercive hiring systems, including debt servitude or any other form of forced or compulsory labor regardless of whether the labor arrangement arises from law, custom, or an individual or collective arrangement, in which case the labor arrangement shall be deemed absolutely null and void;
 - v. are not forced to work in conditions that endanger their health and personal safety; and are protected from work that does not comport with occupational health and safety standards; and
 - vi. receive full and effective legal protection, without discrimination, when they provide their services as seasonal, occasional, or migrant workers, as well as when they are contracted by employers such that they receive the benefits of the national legislation and practices, which shall be in accordance with the [applicable] international human rights laws and standards for this category of workers;

16. The term "with the consent" will need further reflection.

17. Most delegations felt there was a need to analyze the scope of this paragraph in the future.

18. The Chair has collected all the proposals but delegations need further time to analyze them.

- d. ensure that the indigenous workers and their employers are informed of the rights of indigenous workers under national law and [applicable] international and indigenous standards, and of the remedies and actions available to them to protect those rights.
4. [States should take measures to promote employment of indigenous individuals.]
5. In all cases, applicable indigenous labor laws, norms, and policies shall take precedence within the jurisdiction of the indigenous peoples concerned.]

Difficult texts

Article III.

[Within the States, the right to self-determination of the indigenous peoples is recognized, pursuant to which they can define their forms of organization and promote their economic, social, and cultural development.]^{19/}

Article IV.

[Nothing in this Declaration shall be construed so as to authorize or foster any action aimed at breaking up or diminishing, fully or in part, the territorial integrity, sovereignty, and political independence of the States, or other principles contained in the Charter of the Organization of American States.]

Article XX. Right to [autonomy] or [and] self-government

1. Indigenous peoples, [as one of the ways to exercise their] [in the exercise of] the right to self-determination [within the States], have the right to autonomy or [and] self-government with respect to, *inter alia*, culture, language, spirituality, education, [information, means of communication,] health, housing, employment, social well-being, maintenance [of community security], [of jurisdictional functions in matters of territory,] family relations, economic activities, administration of land and resources, environment and [entry of non-members]; [and to determine with States the ways and means of financing {the exercise of these rights} these autonomous functions].^{20/}

2. Indigenous peoples have the right to maintain and develop their own decision-making institutions. They also have the right to participate fully and effectively without discrimination in decision-making at all levels in relation to matters that may [directly] affect their rights, [lives and destiny]. They may do so directly or through their representatives, and accordance with their own norms, procedures, and traditions. They also have the right [to equal opportunities] to access and to participate [fully and effectively as peoples] in all national institutions and fora, [including deliberative bodies.]

[Article XII. Right to cultural identity]

[1. Indigenous peoples have the right to their cultural integrity and to their historical and ancestral heritage, which are important for their collective continuity, and for their identity and that of their members and their States.]^{21/}

[2. Indigenous peoples have the right to restitution of the property that is part of that heritage of which they may be dispossessed, or, when restitution is not possible, to fair and equitable compensation.]^{22/}

[3. Indigenous people have the right to the recognition and respect for all their ways of life, world views, spirituality, uses and customs, norms and traditions, forms of social, economic and political organization, forms of transmission of knowledge, institutions, practices, beliefs, values, dress and languages, recognizing their inter-relationship as elaborated in this Declaration. (Approved Jan. 26, 2007)]

19. During the Eighth Meeting of Negotiations, proposed language for this Article, including the indigenous caucus proposal, is included in the “New Compendium of Proposals for the Phase of Review of the Draft American Declaration on the Rights of Indigenous Peoples” (GT/DADIN/doc.276/06 rev. 4)

20. This item will be considered together with Articles III and IV of the Draft Declaration.

21. Informal consultations held at the ninth meeting resulted in the following text:

[1. Indigenous peoples have the right to/rights pertaining to their own identity and cultural integrity and to their cultural heritage, both tangible and intangible, including historic and ancestral heritage; and to the protection, preservation, maintenance, and development of that cultural heritage for their collective continuity and that of their members and so as to pass on/and to transmit that heritage to future generations.]

22. Informal consultations held at the ninth meeting resulted in the following text:

[2. States shall provide [redress, reparation], including the right of [restitution, return], whenever possible, of any cultural heritage of which indigenous peoples have been dispossessed without their free, prior, and informed consent. Should return not be possible, indigenous peoples shall have the right to fair and equitable compensation. States, in conjunction with indigenous peoples, shall establish effective mechanisms for that purpose.]

Article XV. Indigenous spirituality

1. Indigenous peoples have the right to [their freedom of spirituality] their spirituality and beliefs, and, by virtue of that right, to practice, develop, transmit, and teach their traditions, customs, and ceremonies, and to carry them out in public and in private, individually and collectively.
2. [The States shall take the necessary measures to prohibit efforts to convert or impose beliefs on the indigenous peoples or their members without their free and informed consent.]
3. [The States shall adopt the necessary measures, in consultation with the indigenous peoples, to preserve, respect, and protect their sacred sites and objects, including their burial grounds, human remains, and relics.]
4. [The States and their institutions shall guarantee that society as a whole respect the integrity of indigenous symbols, practices, sacred ceremonies, expressions, and spiritual protocols.]

Article XVIII. [Right to] protection of a healthy environment

1. Indigenous peoples have the right to live in harmony with nature and to a healthy, safe, and sustainable environment, essential conditions for the full enjoyment of the right to life, to their spirituality, world view and to collective well-being. (Approved on April 16, 2008, at the Eleventh Meeting of Negotiations in the Quest for Points of Consensus)
2. Indigenous peoples have the right to conserve, restore, recover, manage, use, and protect the environment, and to the sustainable management of their lands [, territories,][and resources].^{23/}
3. Indigenous peoples have a right to [prior information and consultation on] [their free, prior and informed consent on] measures and actions which may [significantly] affect the environment in indigenous lands [and territories].^{24/}
4. Indigenous peoples have the right to participate fully and effectively in the formulation, planning, organization and implementation of measures, programs, laws, policies, and any other public [or private] activity that could affect the environment, for the conservation, use and management of their [the] lands [, territories] [and resources].^{25/}
5. Indigenous peoples have the right to technical and financial assistance from their States and from International Organizations for the purpose of protecting the environment [, in keeping with the procedures established in the national legislations].
- [6. The States shall prohibit and punish, with the full and effective participation of indigenous peoples [and their consent], the introduction, abandonment, dispersion, transit, use, or deposit of any harmful substance, including persistent organic contaminants, nuclear radioactive chemical and biological materials, and [genetically modified organisms] that can directly or indirectly affect indigenous communities, lands [, territories] and resources.]
7. Indigenous Peoples have the right to create their own protected areas or areas of conservation on their lands [and territories] that shall be recognized, respected and protected by the State. States shall not create protected areas or areas of conservation of any sort on lands [or territories] that Indigenous Peoples have historically or traditionally used, possessed or occupied or have otherwise acquired, without the free, prior and informed consent of the Indigenous Peoples affected. In the creation of said areas, States shall not [under any circumstances / except under the circumstances set out in article 25 of this Declaration] require the forced transfer or relocation of indigenous peoples' communities, impose restrictions or inhibit the traditional uses of the land, their way of life or their means of subsistence.

Article XXIV. Traditional forms of property and cultural survival. Right to land, territory, and resources

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual, cultural, and material relationship to their lands, territories, and resources and the [duty] to assume their responsibilities to preserve them for themselves and for future generations.^{26/}

- [1. Indigenous peoples have the right to the recognition of their property rights and ownership rights with respect to the lands and territories that they historically occupy, as well as the use of the lands to which they have traditionally had access for carrying out their traditional activities and for sustenance, respecting the principles of the legal system of each State. These rights also include the waters, coastal seas, flora, fauna, and all other resources of that habitat, as well as their environment, preserving these for themselves and future generations.]
2. Indigenous peoples have the right to legal recognition of the various and particular modalities and forms of property, possession, and ownership of their lands and territories, in accordance with the principles of the legal system of each State. The States shall establish the special regimes appropriate for such recognition, and for their effective demarcation or titling.

23. Since there is no consensus on this paragraph, the Chair has recorded proposals made by Member States and by the Indigenous Caucus. Various delegations of Member States have requested the insertion of brackets around the words "territories" and "resources". In addition, a part of this paragraph will be considered when reviewing the chapter on General Provisions.

24. Since there is no consensus on this paragraph, the Chair has recorded proposals made by Member States and by the Indigenous Caucus. The terms "significantly" and "prior, free and informed consent" were the object of special consideration by the Working Group. This paragraph will be considered when reviewing the chapter on General Provisions.

25. This paragraph will be considered when reviewing article XX (2) and the indigenous caucus' proposal with respect to article XXII.

26. Following instructions it received from Santiago after consideration of this paragraph by the Meeting, the Delegation of Chile reserves the right to review the term "territories" used in this clause.

3. The rights of the indigenous peoples to their lands and territories they occupy or use historically are permanent, exclusive, inalienable, imprescriptible, and indefeasible.

4. The titles may only be modified by mutual agreement between the State and the respective indigenous peoples, with full knowledge and understanding by their members with respect to the nature and attributes of that property and of the proposed modification. The agreement by the indigenous people concerned shall be given following its practices, usages and customs.

5. Indigenous peoples have the right to attribute ownership within the community in accordance with the values, usages, and customs of each peoples.

6. The States shall take adequate measures to avert, prevent, and punish any intrusion or use of such lands, territories, or resources by persons from outside to claim for themselves the property, possession, or right to use the same.

7. In case the property rights over the minerals or resources of the subsoil belong to the State, or it has rights over other resources existing in the lands and territories of the indigenous peoples, the States shall establish or maintain procedures for the participation of the peoples concerned for determining whether the interests of those peoples would be prejudiced and to what extent, before undertaking or authorizing any program involving prospecting, planning, or exploitation of the resources existing on their lands and territories. The peoples concerned shall participate in the benefits of such activities, and receive fair compensation for any harm they might suffer as a result of such activities.

8. The States shall provide, within their legal systems, a legal framework and effective legal remedies to protect the rights of the indigenous peoples referred to in this article.]

Article XXVI. Indigenous peoples in voluntary isolation or initial contact

1. Indigenous peoples in voluntary isolation or initial contact have the right to remain in that condition and to live freely and in accordance with their cultures.

2. The States shall adopt adequate policies and measures with the knowledge and participation of indigenous peoples and organizations to recognize, respect, and protect the lands, territories, environment, and cultures of these peoples as well as their life, and individual and collective integrity.^{27/ 28/}

[Article XXVIII. Protection of Cultural Heritage and Intellectual Property

1. Indigenous peoples have the right to the full recognition and respect for their property, ownership, possession, control, development, and protection of their tangible and intangible cultural heritage and intellectual property, including its collective nature, transmitted through millennia, from generation to generation.

2. The intellectual property of indigenous peoples includes, *inter alia*, traditional knowledge, ancestral designs and procedures, cultural, artistic, spiritual, technological, and scientific, expressions, genetic resources including human genetic resources, tangible and intangible cultural heritage, as well as the knowledge and developments of their own related to biodiversity and the utility and qualities of seeds and medicinal plants, flora and fauna.

3. States, in conjunction with indigenous peoples, shall adopt measures necessary to guarantee that national and international agreements and regimes provide adequate recognition and protection for indigenous peoples' cultural heritage and intellectual property. These measures shall be adopted with the free, prior, and informed consent of indigenous peoples.]

[Article XXIX. Right to development

1. Indigenous peoples have the right to freely^{29/} determine their political, economic, social and cultural development in conformity with their own world view. They also have the right to be guaranteed the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. This right includes the development of policies, plans, programs, and strategies in the exercise of their right to development and to administer them through their own institutions.

3. Indigenous peoples have the right to obtain adequate means for their own development from the State, as well as those from international cooperation.

4. Indigenous peoples have the right to full and effective participation in the formulation, implementation and evaluation of State development plans and programs which may affect them.

5. The States shall take the necessary measures to ensure that the decisions referring to any plan, program, or project that affect the rights or living conditions of indigenous peoples are made with the free, prior and informed consent or agreement of the indigenous peoples affected, on the basis of the measures proposed.

6. Indigenous peoples have the right to effective measures to mitigate adverse ecological, economic, social, cultural, or spiritual impacts of development projects. Indigenous peoples who have been deprived of their own means of subsistence and development have the right to restitution and, where this is not possible, to fair and equitable compensation. This includes the right to

27. The delegation of Argentina enters a reservation with respect to the terms "lands and territories" until the scope of their meaning throughout the text of the declaration is reviewed.

28. The delegation of Mexico joins in the consensus reached on this article. However, Mexico reserves the right to request reconsideration of the final part of paragraph 2 of this article which reads: "These policies shall include the necessary measures to prevent, prohibit, and punish any unauthorized intrusion in their lands and territories" if it is not reflected elsewhere in the Declaration.

29. This item will be considered together with Articles III, IV, and XX of the Draft Declaration.

compensation for any damage caused to them by the implementation of State, international financial institutions or private business plans, programs, or projects.]

[Article XXX. Right to peace, security and protection in the event of armed conflicts

1. Indigenous peoples have the right to peace and security.
2. Indigenous peoples have the rights to recognition and respect for their institutions for the maintenance of peace and security.
3. Indigenous peoples have the right to protection and security in situations or periods of internal or international armed conflict, political turmoil or social disorder.
4. States shall respect international standards, in particular the international humanitarian law such as the Fourth Geneva Convention of 1949 relative to the protection of civilian persons in time of war, and the Protocol II of 1977 relating to the protection of victims of non-international armed conflicts. In the event of armed conflicts, the States shall take adequate measures, with the agreement of the indigenous peoples concerned, to protect the human rights, institutions, lands, territories, and resources of the indigenous peoples, *inter alia*:
 - a. Shall not permit the recruitment of indigenous individuals against their will to serve in the armed forces and private security forces and, in particular, for use against their own peoples or other indigenous peoples.
 - b. Shall not recruit indigenous children into the armed forces under any circumstances;
 - c. Shall not force indigenous communities or individuals to abandon their lands, territories or means of subsistence, nor relocate them for military purposes;
 - d. Shall not force indigenous individuals to work for military purposes.
 - e. Shall respect the right to conscientious objection particularly taking into account their cultural or spiritual practices.
 - f. Shall take measures of integral reparation and provide adequate resources for reconstruction, with the free, prior and informed consent of the indigenous peoples affected, by the damages incurred.
 - g. Shall take special and effective measures to guarantee that women and children live free from all forms of violence.
5. Nothing in this article shall be used as a pretext to militarize, directly or indirectly, the lands and territories of indigenous peoples, by the armed forces of the State, armed groups supported or condoned by the State, or private security groups; or to take any actions that limit or deny their right to peace and security.]

Article XXXI.

1. The States shall ensure the full enjoyment of the civil, political, economic, social, cultural, and [spiritual] rights, and of all [fundamental human] rights of the indigenous peoples contained in this Declaration.
2. The States shall promote, with the full and effective participation of the indigenous peoples, the adoption of the legislative and other measures that may be necessary to give effect to the rights included in this Declaration.

Working Group to Prepare
the Draft American Declaration on
the Rights of Indigenous Peoples

WORKING PROCEDURES OF THE
WORKING GROUP TO PREPARE THE DRAFT
AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES
(2016)

(Document prepared by the Chair)

I. INTRODUCTION

At its forty-fourth regular session, the General Assembly of the Organization of American States (OAS) adopted declaration AG/DEC. 79 (XLIV-O/14), which identifies the effective promotion and protection of the rights of indigenous peoples as a priority of the OAS; and resolution AG/RES.2867 (XLIV-O/14), which reaffirms the OAS member states' determination and their commitment to the process surrounding the Draft Inter-American Declaration on the Rights of Indigenous Peoples.

In the aforementioned resolution, the General Assembly also renewed the Working Group's mandate so it can finish drafting the Declaration, using the "Record of the Current Status of the Draft American Declaration on the Rights of Indigenous Peoples" as its basis.

In its forty-fifth regular session, the OAS General Assembly adopted resolution AG/RES. 2873 (XLV-O/15), "Reaffirmation of Mandates and Authorization for the Permanent Council and the Inter-American Council for Integral Development to Convene the High-level Meetings and Fora established in Conventions and Other International Instruments Currently in Force, as well as in Resolutions Adopted by the General Assembly that require Approval by This Organ," which instructs "the Permanent Council, the Inter-American Council for Integral Development (CIDI), the General Secretariat, and the other organs identified in Article 53 of the Charter to continue pursuing implementation of the pertinent mandates; unless a particular resolution states otherwise or unless the mandates have been fulfilled. The texts of resolutions adopted by previous sessions of the General Assembly shall remain fully in effect; the texts including any unilateral statements submitted by states."

II. OFFICERS

At its meeting on March 31, 2016, the Committee on Juridical and Political Affairs (CAJP) elected the Permanent Representative of Paraguay, Ambassador Elisa Ruiz Diaz, as Chair of the Working Group for 2016. The Working Group's Vice Chair(s) will be elected when the Group holds its first meeting.

III. MANDATE

For the Working Group to do its work pursuant to the 2014 and 2015 mandates issued by the OAS General Assembly it would be useful, among other things:

1. To renew the mandate of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples to continue its meetings of negotiations in the quest for points of consensus in order to complete the drafting of the Declaration.
2. To request the Permanent Council to instruct the Working Group to:
 - a. hold three-day meetings of negotiations in the quest for points of consensus prior to the forty-sixth regular session of the General Assembly;
 - b. Convene meetings of negotiations in the quest for points of consensus on the Draft American Declaration on the Rights of Indigenous Peoples; and
 - c. Take the appropriate measures to ensure effective participation by representatives of member states and of indigenous peoples in these meetings.

IV. WORKING PROCEDURE FOR NEGOTIATIONS IN THE QUEST FOR POINTS OF CONSENSUS (2016)

The Chair, mindful of the financial difficulties the Organization had been experiencing, proposes the following procedure for advancing the negotiation of the Draft American Declaration on the Rights of Indigenous Peoples and thereby concluding this phase and submitting the aforementioned Draft Declaration to our highest authorities at the next regular session of the General Assembly, to be held in the Dominican Republic in June of this year.

Thus, the Chair proposes holding one Meeting of Negotiations in the Quest for Points of Consensus, by no later than the second week in May. It would be public and open, and always attended by one indigenous representative per region, in keeping with the Indigenous Caucus' selection mechanisms – that is, the Indigenous Fund will cover the participation of four persons.

Member states are also invited to support the participation of indigenous representatives from their respective countries, so they can participate in the Meetings of Negotiations. Indigenous peoples' representatives wishing to participate as well as indigenous organizations that are interested may also fund their own attendance.

The negotiations are based on the document “Record of the Current Status of the Draft American Declaration on the Rights of Indigenous Peoples” [GT/DADIN/doc.334/08 rev. 11 corr. 1](#), with an emphasis on Article XXXIV ter, the only text left pending at the end of the Eighteenth Meeting of Negotiations, held from May 11 to 15, 2015.

In preparation for the Nineteenth meeting of Negotiations, the idea is to conduct several informal and consultation meetings with interested delegations in order to achieve a rapprochement and arrive at a formal meeting with a text on which consensus has been reached among the member states.

During the discussion, the Chair will submit for consideration the article to be negotiated, depending on the status of negotiations at the end of the Eighteenth Meeting of Negotiations.

The relevant article of the base document for the negotiations will be projected on screens in Spanish and English, to facilitate the negotiations and to find consensus.

After reading aloud the article under consideration, the Chair of the Working Group will invite the delegations of indigenous peoples and of member states to comment on the article in the interest of achieving consensus, stressing the need to find compromise solutions that address the most pressing concerns of indigenous peoples, as well as the needs of all member states in preparing the Draft Declaration.

Should the states or the Indigenous Peoples Caucus have alternative proposals on the text being considered, these should be submitted to the Working Group for consideration. Any such proposals must be confirmed in writing. If the consensus required is not reached, proposals received in writing will be included in official documents containing the proposals submitted during the respective Meeting of Negotiations.

The basis and point of reference for those articles of the American Declaration on the Rights of Indigenous Peoples that have so far failed to garner consensus should be the provisions of the UN Declaration on the Rights of Indigenous Peoples.

If no consensus is reached, the Chair of the Working Group will urge the delegations to hold informal consultations through drafting groups composed of representatives of states and of indigenous peoples, to craft language acceptable to the parties.

If disagreement persists, the Chair will present an alternative proposal for the Working Group to consider.

If after all these efforts consensus is still not reached, the word, phrase, or paragraph still outstanding will be kept in square brackets.

This work plan will be understood to be a guide that may be adapted depending on the needs that the Working Group might have to address, or as progress is made on the tasks assigned, in order to ensure optimal results.

Ambassador Elisa Ruiz Diaz
Permanent Representative of Paraguay to the OAS and
Chair of the Working Group to Prepare the
Draft American Declaration on the Rights of Indigenous Peoples

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May 19, 2015

H.E. Mr. Neil Parsan
President of the Permanent Council
Ambassador and Permanent Representative of Trinidad and Tobago to the OAS
1708 Massachusetts Ave., N.W.
Washington, DC 20036

Re: Draft American Declaration on the Rights of Indigenous Peoples

Your Excellency,

The Indian Law Resource Center is an indigenous non-profit law and advocacy organization, in consultative status with the UN and OAS, dedicated to the promotion and protection of the human rights of indigenous peoples. We have been actively involved in the OAS negotiations on the draft American Declaration on the Rights of Indigenous Peoples since they began in 1989. We have consistently provided legal and technical advice to indigenous leaders and facilitated their participation in the negotiations.

The Center supports the May 15, 2015 decision of the Indigenous Caucus of Indigenous Peoples of the Americas to withdraw from the eighteenth session of negotiations on the draft American Declaration on the Rights of Indigenous Peoples. Conditions during the eighteenth session were not conducive to reaching a positive outcome and did not allow for negotiations to proceed in good faith.

Yet, the poor negotiating conditions exhibited during the eighteenth session do not preclude future efforts to achieve an acceptable draft of the American Declaration that could be adopted by the General Assembly. If there is an opportunity to continue good faith negotiations in the future, with the full, effective, and meaningful participation of indigenous peoples, their governments and representatives, we would be happy to continue working toward a positive outcome. There is just one simple condition: that the negotiated text does not fall below the standards of the UN Declaration on the Rights of Indigenous Peoples. All member states of the OAS have agreed to the UN Declaration, and they should honor their commitment. The 2014-2015 Work Plan of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples, GT/DADIN/doc.429/14 rev.1, also recognizes that “the basis and point of reference for those articles of the American Declaration on the Rights of Indigenous Peoples that have so far failed to garner consensus should be the provisions of the UN Declaration on the

Rights of Indigenous Peoples.”

We are also concerned that indigenous peoples are not adequately represented in the negotiations and that states still seek to limit participation to only those indigenous representatives who have been funded by the Special Fund to Prepare the Draft American Declaration on the Rights of Indigenous Peoples. Many indigenous governments represent their nations and constituents in the negotiations using their own sources of funding and can only speak on behalf of the peoples who have authorized them. We urge that participation be open to other indigenous peoples, their governments and representatives, and that they have the opportunity to speak at any future negotiations. Should future negotiations not be possible, we urge that indigenous peoples, their governments and representatives, have the opportunity to review the draft text and to submit comments to the Committee on Juridical and Political Affairs, the Permanent Council, and the General Assembly.

We are eager to see forward movement and the conclusion of negotiations after more than 26 years of work.

Sincerely,

A handwritten signature in black ink, appearing to read 'Armstrong Wiggins', with a stylized, cursive script.

Armstrong Wiggins
Miskito Indian from the Caribbean Coast of Nicaragua
Director, Washington Office

Encl:

2014-2015 Work Plan of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples, GT/DADIN/doc.429/14 rev.1

Cc:

H.E. Mr. Stephen Vasciannie, President of the Committee on Juridical and Political Affairs and Ambassador and Permanent Representative of Jamaica to the OAS

H.E. Mr. Diego Pary Rodríguez, Chair of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples and Ambassador and Permanent Representative of Bolivia to the OAS

**STATEMENT BY THE INDIGENOUS DELEGATIONS
DURING THE OAS GENERAL ASSEMBLY'S ADOPTION OF THE
AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

Santo Domingo, Dominican Republic, June 15, 2016

President of the 46th Session of the OAS General Assembly
Distinguished State Representatives
Secretary General
Civil society and private enterprise representatives
Indigenous sisters and brothers of the Americas
People of the Dominican Republic

I thank Baba, Nana and our Pachamama for allowing me to address you on behalf of the governments and traditional institutions of the indigenous peoples and nations of Abya Yala (the Americas).

The adoption of the American Declaration on the Rights of Indigenous Peoples by the General Assembly is a historic event and the settlement of the moral debt that the OAS has with indigenous peoples. This adoption concludes the almost 30-year long process of negotiations on the rights of our peoples, which are more than 50 million indigenous people, in all of Abya Yala.

This Declaration is also historic confirmation that the Americas can no longer ignore the vital presence and the full and effective participation of indigenous peoples in the development of the hemisphere.

We acknowledge the OAS' commitment to obtain a Declaration text created and agreed upon with the participation of indigenous representatives during the negotiation process. Unfortunately, our participation in the final stage of this process was limited due to the lack of political will on the part of Member States with respect to funding for this process.

The negotiation process for the adoption of the Declaration has not been easy, due to the fact that some States have insisted on subjecting indigenous peoples to State's domestic laws and constitutions, which is contrary to the progressive stance taken in human rights law. In this regard, we, the indigenous representatives, would like to make it clear that our rights are non-negotiable, and that they must be recognized, protected and guaranteed in the Inter-American System. Furthermore, nothing in this Declaration can contradict or undermine the rights recognized in the United Nations Declaration on the Rights of Indigenous Peoples.

We would like to acknowledge the participation, confidence, and support of the more than 500 representatives of indigenous peoples and organizations across the Americas, whose perspectives and concerns were the cornerstone and inspiration guiding us in the negotiation of the Declaration. We would also like to thank State delegations for the important role they played in this process, in particular those that led the Working Group, and to all of those who made these negotiations possible, both in the OAS' headquarters and in their home-countries.

Additionally, we would like to thank both the non-governmental organizations from Civil Society and the international organizations that supported the participation of indigenous representatives in the negotiation meetings, as well as the Inter-American Commission on Human Rights and the OAS Committee on Political and Juridical Affairs for their invaluable work.

During this adoption process, it is important to keep in mind that indigenous peoples are currently victims to murders and criminalization of our indigenous leaders because of our fight to defend our rights to self determination, lands, territories, natural resources and cultural preservation, as was the case of Berta Caceres. The imposition of projects, such as mining, agro-industry and hydroelectric projects, which in addition to being unsustainable, provoke the forced displacement of hundreds of indigenous communities, the degradation of the environment, the loss of our food-sovereignty, and are responsible for climate change, which affects all of us in this region.

We would like to state that indigenous peoples are defenders of our Mother Earth and that we have practiced sustainable development from ancestral times. Therefore, it is no coincidence that natural resources in our continent are located within indigenous territory, and because of this, we find it unacceptable that still today we are discriminated against and marginalized during national and regional discussions on this matter.

It is of great importance, therefore, that the Declaration reaffirms our inalienable rights to self-determination; to our lands, territories and resources; to free, prior and informed consent and consultation; and to protect the integrity of our cultures, among others, and makes their fulfillment a common objective in the Americas.

The Declaration must be the basis upon which a new relationship between the State and indigenous peoples is constructed, based on acknowledgement of and respect for our fundamental rights, and as a necessary condition for the creation of just and democratic societies.

In this regard, the Declaration demands action, implementation, and an urgent need for the creation of inclusive, relevant, and specific public policies that will allow for the strengthening of our institutions and governance of our lands, territories and natural resources to allow for our sustainable development.

On this note, we call upon States, civil society and private enterprise to work together towards the implementation of this Declaration, which will become the OAS' next challenge.

Finally, we appeal for the creation of an effective mechanism through which the OAS is allowed to monitor State compliance with the Declaration, with the full and effective participation of indigenous peoples. Furthermore, we demand a space for appropriate participation within the OAS that will allow us to express our specific concerns, as indigenous governments and traditional institutions.

With the adoption of this Declaration, the American States settle a debt with indigenous peoples. That is why we strongly hope that, just as a story of dispossession and colonization of our lands took place more than 500 years ago, a new dawn will come for the indigenous peoples of the Americas, so that we will finally have peace, justice, and dignity.

NEVER AGAIN THE AMERICAS, WITHOUT ITS INDIGENOUS PEOPLES!

INDIAN LAW RESOURCE CENTER

CENTRO DE RECURSOS JURÍDICOS PARA LOS PUEBLOS INDÍGENAS

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April 28, 2017

Plan of Action for the American Declaration on the Rights of Indigenous Peoples

Written contribution to inform the consultation on the activities proposed at the national and hemispheric level in the proposal for a Plan of Action

The Indian Law Resource Center is a non-profit legal and advocacy organization established in 1978 by American Indians. The Center is dedicated to the protection and promotion of the rights of Indian and Alaska Native nations and other indigenous peoples throughout the Americas. The Center, among other work, has supported indigenous nations and organizations to participate directly in the negotiation sessions of the American Declaration on the Rights of Indigenous Peoples.

The following observations and proposals of the Center are intended to contribute to the development of the Plan of Action of the Organization of American States (OAS) on the Declaration on the Rights of Indigenous Peoples (2017-2021). Our comments and recommendations on the draft Plan of Action focus primarily on the need for establishing an implementing body or mechanism to monitor states' compliance with the provisions of the Declaration as well as the need to ensure indigenous peoples, represented through their genuine decision-making institutions, are afforded a regular and permanent status to enable them to participate in the OAS and to directly engage with the member states and other regional actors. These are the two overarching unmet needs that will likely have the most positive and lasting impact to advance implementation of the rights of indigenous peoples as recognized in the Declaration.

Regarding section one of the draft Plan of Action, dissemination of, and education on, the American Declaration at the national and hemispheric levels, is critical to ensure overall awareness, understanding, and implementation of the rights in the Declaration. Section one targets the general population, indigenous peoples, and civil servants for dissemination. To this, we suggest adding reference to all relevant state officials and actors at the federal, state, and local levels. We understand this section is complementary to section three, capacity building of states, indigenous peoples, and civil society, but before the capacity of state officials can be increased, they must first be aware of their responsibilities under the American Declaration, so we urge inclusion of reference to state officials in section one as well as in section three.

Overall, the draft Plan of Action proposes some of the most important actions necessary to begin to realize the rights recognized in the American Declaration. It is generally understood that human rights instruments like the Declaration on the Rights of Indigenous Peoples have little effect unless there are steps taken to monitor and implement their provisions. To address this, we

propose a mechanism be established within the OAS that is capable of responding to major problems or issues concerning indigenous lands and resources, protection of the environment, and the well-being and self-governance of indigenous peoples, including the health and safety of indigenous women and children. Such a mechanism is necessary for promoting compliance with the Declaration and realizing the rights of indigenous peoples and will best assure that the Declaration will be effective and at last bring permanent and critical improvements to the lives of indigenous peoples. Toward that end, section 2(2)(a) regarding the creation of an institutional monitoring mechanism at the Organization is a key recommendation that we fully endorse. It is important that the mechanism be developed in conjunction with indigenous peoples and member states.

Just as important as establishing functional mechanisms or bodies to monitor and ensure implementation of the Declaration is establishing the necessary ways and means to regularize the permanent participation of indigenous peoples through their decision-making institutions (their governments and authorities). It is vitally important that indigenous voices are present at the OAS to directly assert and defend their rights, and to contribute to good global governance, sustainable development, and regional challenges like conservation of biological diversity and violence against indigenous women and children. Toward that end, we propose the Plan of Action recognize the positive and valuable contributions indigenous peoples' decisionmaking institutions have made to the work of the Organization, including the strengthening of cooperation between states and indigenous peoples, as well as to decide to enable the permanent and regular participation of indigenous peoples' governance institutions in the Organization in order to address their frequent marginalization and exclusion from decision-making processes on matters that affect them.

Finally, regarding section five, the exchange of best practices and experiences we endorse the recommendation to hold a special annual meeting of the Committee on Juridical and Political Affairs on implementation of the Declaration. This is an important step to ensure the Organization and member states remain committed to implementing the American Declaration, and to share best practices and lessons learned over time. We also propose an additional high-level conference to be organized in the near future to assess good practices and remaining challenges on progress made toward achieving the goals and objectives of the Plan of Action. The World Conference on Indigenous Peoples, held at the United Nations General Assembly in 2014, provides a good example of how indigenous peoples and member states can work together to develop common goals and achieve good progress toward the implementation of indigenous peoples' rights.

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Statement of Armstrong Wiggins to the Organization of American States' Committee on Juridical and Political Affairs

March 2, 2017
Organization of American States
Washington, DC

Madam Chair, Ambassadors, Distinguished Guests of the Organization of American States:

My name is Armstrong Wiggins; I am a Miskito Indian from the Atlantic Coast of Nicaragua, and the Director of the Washington, DC Office of the Indian Law Resource Center. I thank you for this opportunity to contribute to the Committee on Juridical and Political Affairs' discussion on the follow-up of the American Declaration on the Rights of Indigenous Peoples. I am speaking today at the invitation of the Chair of the Committee, the Mission of Canada, and I am grateful for this opportunity.

I wish that elected indigenous leaders from the Western Hemisphere were able to address you instead of me today. Due to short notice, they were not able to be here today, but I encourage you to consult with them as we continue to move forward with this work.

For our part, the Indian Law Resource Center has 40 years of expertise in the area of indigenous peoples' rights. The Center is a non-profit law and advocacy organization founded and directed by American Indians in 1978 that provides legal assistance without charge to Indian Nations working to protect their lands, resources, human rights, environment, and cultural heritage. A hallmark of our work has been our work to help establish international and regional human rights standards, such as the UN Declaration on the Rights of Indigenous Peoples and the OAS American Declaration on the Rights of Indigenous Peoples.

During my lifetime, I have seen important victories to advance the rights of indigenous peoples. Adoption of the American Declaration took nearly 30 years to achieve and indigenous leaders celebrated when it was adopted on June 15, 2016. I wish to take this opportunity to

especially thank those countries that led the long and arduous, and sometimes seemingly endless, negotiation and adoption process. All good things take time and careful attention.

For us, the Declaration represents the acknowledgment of the permanent existence of indigenous peoples in the Americas. We are no longer a curiosity but are recognized by all member states as peoples with the right to self-govern, self-determine, and to secure the wellness, safety, and future of our people. The Declaration indicates the good faith of countries to assure our rights in practice. Since its adoption, we have shared the final text of the Declaration with our brothers and sisters throughout the region and we plan to hold workshops and provide resources to assist tribes and indigenous communities to use the Declaration and advance their rights.

In spite of this important progress in the Americas, much work remains. Indigenous peoples throughout the region remain the poorest of the poor; violence against indigenous women is at epidemic levels; indigenous peoples living in voluntary isolation are forced into contact with the outside world; indigenous peoples under states' internal armed conflicts continue to suffer; sacred sites are turned over to extractive industry companies; and indigenous leaders are threatened, assaulted, and even murdered for their work protecting indigenous lands and resources. And even when a legal victory is achieved, its impact can be limited; because our rights are not always guaranteed when the rule of law does not exist for indigenous peoples.

When indigenous peoples are deprived of their basic human rights, their ways of life, their ceremonial and spiritual practices, their lands, territories, and resources, they suffer and many have disappeared completely. So far in 2017, the Inter-American Commission on Human Rights has reported that there have been 14 murders of human rights defenders; nearly half were indigenous leaders. This is unacceptable. Such grave loss of life results from the lack of human rights protections, monitoring of rights violations, and implementation of instruments like the American Declaration on the Rights of Indigenous Peoples.

While there are many problems that remain in the region, we have a unique opportunity before us. The Declaration can and should ensure the permanent existence of indigenous peoples and prevent the further extinction of our languages, cultures, and lives. But we recognize that the Declaration is only as good as the paper it is written on unless we can secure serious commitments by member states and indigenous peoples to work together and breathe life into its text. To address this, we propose a mechanism be established within the OAS, that is capable of responding to major problems or issues concerning indigenous lands and resources, protection of the environment, and the well-being and self-governance of indigenous peoples, including the health and safety of indigenous women and children. Such a body will best assure that the Declaration will be effective and at last bring permanent and critical improvements to the lives of indigenous peoples.

Just as important as establishing functional mechanisms or bodies to monitor and ensure implementation of the Declaration is establishing the necessary ways and means to regularize the permanent participation of indigenous peoples through their decision-making institutions (governments). This crucial work is happening now at the United Nations and there are important lessons to be learned from those discussions. We hope the OAS will seek to do the same, to ensure indigenous voices are present at the OAS to assert and defend their rights, and to contribute to good global governance, sustainable development, and regional challenges like conservation of biological diversity and violence against indigenous women and children.

Now is the time for cohesive action by the organs of the Inter-American human rights system to uphold the rights of indigenous peoples. In our opinion, both the Commission and the Court should interpret the Declaration to provide content to other regional instruments, such as the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man. No other regional instrument recognizes the rights of indigenous peoples to collectively hold their lands, territories and resources, and to determine their own governing institutions. A good starting point for this work would be to request the organs of the Inter-American System to report annually to the General Assembly on its processing of cases and precautionary measures related to the rights of indigenous peoples.

Similarly, the OAS General Assembly, through this Committee on Juridical and Political Affairs, could include as a standing agenda item the implementation of the American Declaration on the Rights of Indigenous Peoples, to discuss it among member states and consult with indigenous peoples. Additionally, I call upon the member states of the OAS to hold a special conference to consult with indigenous peoples and member states how best to implement the American Declaration.

We believe that decisive actions have to be made to ensure the purposes of the American Declaration on the Rights of Indigenous Peoples are achieved. I look forward to discussing further how we can work toward achieving the objectives of the Declaration together.

Thank you.

PLAN OF ACTION ON THE AMERICAN DECLARATION ON
THE RIGHTS OF INDIGENOUS PEOPLES (2017-2021)^{1/2/}

(Adopted at the first plenary session, held on June 20, 2017)

THE GENERAL ASSEMBLY,

BEARING IN MIND the Charter of the Organization of American States, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the American Declaration on the Rights of Indigenous Peoples, and other inter-American and international instruments, in particular the United Nations Declaration on the Rights of Indigenous Peoples;

REAFFIRMING that the American Declaration on the Rights of Indigenous Peoples establishes that progress in promoting and effectively protecting the rights of the indigenous peoples of the Americas is a priority for the Organization of American States; and

MINDFUL of the work undertaken by the Rapporteurship on the Rights of Indigenous Peoples of the Inter-American Commission on Human Rights,

RESOLVES:

To adopt the following Plan of Action on the American Declaration on the Rights of Indigenous Peoples:

-
- ¹. The United States does not join consensus on this resolution, consistent with our persistent objections to the American Declaration on the Rights of Indigenous Peoples initially placed ...
 - ². The Bolivarian Republic of Venezuela does not agree to any commitment or mandate issued in this resolution as it did not participate in the negotiation of said resolution. ...

PLAN OF ACTION ON THE AMERICAN DECLARATION
ON THE RIGHTS OF INDIGENOUS PEOPLES (2017-2021)

I. MISSION

The promotion of public administrative, legislative, judicial and budgetary policies to ensure that indigenous peoples in the Americas enjoy and exercise all of their rights.

II. VISION

Member states of the Organization of American States (OAS) develop and implement in consultation and cooperation with the indigenous peoples policies, programs and projects for the recognition, promotion, and protection of the rights of indigenous peoples established in the American Declaration on the Rights of Indigenous Peoples (ADRIP).

III. MAINSTREAMING

The implementation of this plan will be crosscutting, adopting a balanced perspective on civil and political rights, economic, social and cultural rights, and the collective rights of indigenous peoples. Moreover, particular attention will be given to marginalized and vulnerable groups within indigenous communities, who suffer multiple, aggravated and concomitant forms of discrimination.

IV. GENDER PERSPECTIVE

The Plan will adopt a gender perspective so as to promote balance, the empowerment and visibility of indigenous women, and the elimination of all forms of discrimination. By adopting a gender perspective, the Plan seeks to promote a dialogue based on respect for diversity that takes into consideration the varying effects that policies and programs will have on indigenous women and young girls.

V. INTERCULTURAL PERSPECTIVE

The adoption of an intercultural approach is intended to promote the creation of policies that value and acknowledge ethnic and cultural diversity, and which are based on respect for cultural differences, in accordance with each people's cosmovision, the opening of spaces for dialogue, and the establishment or strengthening of consultation mechanisms to obtain their free, prior, and informed consent.

VI. MAIN OBJECTIVE

To contribute to the full recognition, exercise, and enjoyment of the rights of indigenous peoples at the national and hemispheric levels through the support of the OAS and other bodies of the inter-American system.

VII. ACTIVITIES

To promote and draw attention to the culture of the indigenous peoples of the Americas, furthering and encouraging different activities in the framework of the OAS and at the national level to promote their traditions, recognize the value of their languages, transmit their history, and draw attention to their contributions in different fields.

To mark International Day of the World's Indigenous Peoples on August 9 each year and to commemorate 2019 as the International Year of Indigenous Languages.

VIII. STRATEGIC LINES OF THE ACTION PLAN:

1. Dissemination and education on the ADRIP
 2. Implementation of the ADRIP
 3. Capacity building for states, indigenous peoples, and civil society
 4. Sustainable development of indigenous peoples
 5. Exchanges of best practices and experience
-
1. Dissemination and education on the ADRIP
General Objective: To disseminate the contents of the ADRIP across all sectors, in order to incorporate the rights of indigenous peoples in all spheres of public life in a crosscutting and intercultural way.
 - 1.1 At the national level:
 - a. For the general population:
 - i. Devise and carry out campaigns with key messages to promote knowledge, understanding, and respect for the rights of indigenous peoples, in all their diversity, as recognized in the ADRIP.
 - ii. Disseminate the Declaration in accessible formats distributed during educational campaigns on the rights of indigenous peoples.
 - iii. Suggest including in national curricula the study, from an intercultural perspective, of the rights, principles, and norms of indigenous peoples recognized in the ADRIP.
 - iv. Encourage institutions and universities to disseminate the rights, principles, and norms of indigenous peoples in their higher education curricula.

- b. For indigenous peoples:
 - i. Disseminate among indigenous peoples, in as many indigenous languages as possible, information about the human rights standards recognized in the ADRIP and in other relevant instruments.
 - ii. Disseminate information among indigenous peoples about effective and suitable recourse, including expeditious judicial remedies, to redress any violation of their collective or individual rights.
 - c. For civil servants:
 - i. Disseminate and raise awareness of the ADRIP in State institutions in a crosscutting and intercultural way not limited to those responsible for indigenous issues, with a special emphasis on education, health, justice, and security.
 - ii. Seek to include information on the rights of indigenous peoples in the education and training of civil servants.
- 1.2 At the hemispheric level:
 - a. Disseminate information and raise awareness about the ADRIP in a crosscutting and intercultural way.
 - b. Develop, through the OAS, a social and electronic media campaign to disseminate key messages to promote knowledge and understanding of the rights of the indigenous peoples, in all their diversity, as recognized in the ADRIP.
- 2. Implementation of the ADRIP

General Objective: To promote the incorporation and implementation in a crosscutting and intercultural way of the rights of indigenous peoples recognized in ADRIP in all areas of public life of states.

 - 2.1 At the national level:
 - a. Formulate and implement action plans, strategies, and other measures to achieve the purposes of the ADRIP through public policies and legislative, regulatory, and administrative measures.
 - b. Promote the establishment or strengthening of mechanisms for participation, consultation, and platforms for dialogue between the State and indigenous peoples.
 - c. Strengthen intercultural education and health programs as part of indigenous peoples' rights.
 - d. Implement affirmative-action policies to foster the enjoyment of human rights by indigenous peoples, especially in the area of economic, social, and cultural rights.
 - e. Adopt measures to support the hiring of indigenous persons across sectors without any form of discrimination.
 - 2.2 At the hemispheric level:

Review the possibility of creating an institutional monitoring mechanism within the framework of the OAS, based on experience acquired in other international organizations, to monitor implementation of the ADRIP at the hemispheric level. This review should include discussions on options for the mechanism's mandate, format and costs.
- 3. Capacity building for states, indigenous peoples, and civil society

General Objective: To promote capacity building of civil servants, indigenous peoples, and civil society to help bring about full enjoyment of rights and protection for indigenous peoples, within a framework of equality, respect, and nondiscrimination, so as to strengthen intercultural societies.

 - 3.1 At the national level:
 - a. For civil servants:

Develop training programs for civil servants at all levels of government in a crosscutting and intercultural way, with particular emphasis on those whose duties are directly or indirectly related to indigenous issues.
 - b. For indigenous peoples and civil society:
 - i. Develop professionalization and training programs for indigenous representatives and civil society organizations in a crosscutting, intersecting, and intercultural way, with special emphasis on those whose role is directly or indirectly related to indigenous issues.
 - ii. Promote the development of cooperation programs for the execution of projects to strengthen the exercise of the rights of indigenous peoples consistent with the DADIN.
 - 3.2 At the hemispheric level:
 - a. Incorporate a crosscutting and intercultural perspective in the promotion and protection of the human rights of indigenous peoples in all programs and projects of the OAS and other entities of the inter-American system.
 - b. Encourage training on the rights of indigenous peoples for staff of the organs, agencies, and entities of the OAS and the inter-American system.
 - c. Support the work of the Office of the Special Rapporteur for the Rights of Indigenous Peoples of the Inter-American Commission on Human Rights and, in particular, promote the identification of the necessary resources for it to function properly.

4. Sustainable development of indigenous peoples
 General Objective: To promote the strengthening of sustainable development for indigenous peoples, ensuring full respect for their rights recognized in the ADRIP, including the establishment or strengthening of consultation mechanisms in order to achieve their free, prior, and informed consent and taking into account ongoing processes in other international forums.
 - 4.1 At the national level:
 - a. Take into account the development priorities of indigenous peoples in preparing national, local, and regional development plans and ensure that they are in line with the 2030 Agenda for Sustainable Development and the provisions of the ADRIP.
 - b. Take into account the knowledge and traditional ancestral practices of indigenous peoples, including knowledge and agricultural techniques, as well as techniques for protecting, safeguarding, and relating to natural resources in plans of action to address the adverse effects of climate change.
 - 4.2 At the hemispheric level:
 - a. Promote the coordinated and systematic participation of indigenous peoples in programs, projects and other activities related to the implementation of the 2030 Sustainable Development Agenda and the Inter-American Program for Sustainable Development (2016-2021), with an emphasis on the participation of indigenous women, persons with disabilities, older persons, children, and young people.
 - b. Promote an approach that respects the rights of indigenous peoples in the preparation of cooperation projects in this field, and in activities and training opportunities offered by states and by the organs, agencies, and entities of the inter-American system.
 - c. To promote an affirmative action policy for indigenous peoples in the scholarship, training, and internship programs of the organs, agencies, and entities of the inter-American system.
5. Exchanges of best practices and experience
 General Objective: To promote dialogue between states and representatives of indigenous peoples in order to exchange experiences and assess fulfillment of the objectives of the ADRIP and this plan of action.
 - 5.1 At the national level:
 - a. Promote exchanges of best practices in the promotion and implementation of the ADRIP among states' national and subnational institutions.
 - b. Identify, in consultation and collaboration with indigenous peoples measurable and quantifiable social, economic, and cultural indicators, as well as disaggregated data, all in line with the Sustainable Development Agenda 2030, in order to assess progress and challenges.
 - 5.2 At the hemispheric level:
 - a. Hold a special annual meeting of the Committee on Juridical and Political Affairs attended by officials from the national and subnational institutions working on indigenous issues and open to participation by representatives of indigenous peoples, in order to share information on progress, experience, lessons learned, and challenges in the implementation of the ADRIP.
 - b. Promote the exchange of information on national and subnational laws and policies on the rights of indigenous peoples.
 - c. Compile an inventory of standards and policies on the rights of indigenous peoples in the Americas, as well as of measurable and quantifiable indicators and targets for the entire region.

IX. IMPLEMENTATION AND MONITORING OF THE ACTION PLAN

This plan of action will remain in force for a period of four years from its adoption. Once the deadline has expired, the OAS General Assembly will evaluate the fulfillment of the proposed objectives and may request its revision and updating, consistent with the purposes and principles adopted in the American Declaration on the Rights of Indigenous Peoples.

The information and recommendations presented at the special meeting mentioned in Section VIII.5.2 of this plan of action will be integrated into the regular reports of the Permanent Council and brought to the attention of the General Assembly.

Member states will be responsible for the implementation of this plan of action, taking into account their national and subnational realities. To that end, member states may rely on existing mechanisms in the OAS and other agencies of the inter-American system.

The General Secretariat will collaborate with other organizations, universities, research and development centers, and with the public and private sectors to create synergies for the implementation of this plan of action.

States shall strive to allocate the necessary financial resources for the fulfillment of the objectives set forth in this plan of action.

FOOTNOTES

1. ... on the record in 2007 and further elaborated in our footnote to OAS General Assembly resolution AG/RES. 2888 (XLVI-O/16) of June 15, 2016. In particular, we reiterate our view that the focus of the member states of the OAS should be on implementation of the UN Declaration on the Rights of Indigenous Peoples.

1. ... It is still within the denunciation period established in Article 143 of the OAS Charter.

INCREASING AND STRENGTHENING THE PARTICIPATION OF CIVIL SOCIETY
AND SOCIAL ACTORS IN THE ACTIVITIES OF THE ORGANIZATION OF
AMERICAN STATES AND IN THE SUMMITS OF THE AMERICAS PROCESS^{1/}

(Adopted at the first plenary session, held on June 20, 2017)

THE GENERAL ASSEMBLY,

RECOGNIZING the importance of participation by civil society organizations and other social actors in consolidating democracy, social development, human rights, and security in all member states and that their participation in the activities of the Organization of American States (OAS) and in the Summits of the Americas process should take place in a context of close collaboration among the political and institutional bodies of the Organization and in compliance with the provisions of the Charter of the Organization of American States and resolution CP/RES. 759 (1217/99), "Guidelines for the Participation of Civil Society Organizations in OAS Activities";

TAKING INTO ACCOUNT resolution AG/RES. 2893 (XLVI-O/16), "Increasing and Strengthening the Participation of Civil Society and Social Actors in the Activities of the Organization of American States and in the Summits of the Americas Process"; the "Strategy for Strengthening Participation by Civil Society Organizations and Social Actors in Activities of the Organization of American States (OAS)" adopted by the General Assembly in resolution AG/RES. 2861 (XLIV-O/14), "Increasing and Strengthening the Participation of Civil Society and Social Actors in the Activities of the Organization of American States and in the Summits of the Americas Process"; and resolution AG/RES. 2884 (XLVI-O/16), "Support for and Follow-up to the Summits of the Americas Process";

TAKING INTO CONSIDERATION the "Strategies for Increasing and Strengthening Participation by Civil Society Organizations in OAS Activities" adopted by the General Assembly in resolution AG/RES. 1915 (XXXIII-O/03), "Increasing and Strengthening Civil Society Participation in OAS Activities," which requested "the Committee on Inter-American Summits Management and Civil Society Participation in OAS Activities (CISC) to follow up on these strategies; to evaluate their implementation; and, if appropriate, to propose amendments to them or new mechanisms for increasing and strengthening participation by civil society organizations in OAS activities"; and

NOTING the establishment by resolution CP/RES. 864 (1413/04) of the Specific Fund to Support the Participation of Civil Society Organizations in OAS Activities and in the Summits of the Americas Process, whose purpose is to support participation by civil society organizations and other social actors in OAS activities, including the dialogue among heads of delegation of member states, the Secretary General, and civil society organization representatives and other social actors, which has been included on the draft schedule for regular sessions of the General Assembly as a regular activity before the inaugural session, as established in resolution AG/RES. 1915 (XXXIII-O/03),

RESOLVES:

1. To reaffirm the commitment and will of the member states of the Organization of American States (OAS): (a) to continue strengthening and implementing effective forums and mechanisms and concrete actions to actively support and promote the registration of civil society organizations and other social actors, in accordance with resolution CP/RES. 759 (1217/99), as well as national and multilateral efforts to enable civil society organizations and other social actors to participate in OAS activities; (b) to support the host country of the Eighth Summit of the Americas in its efforts to engage civil society, other social actors, and other stakeholders in the Summits process, through the Summits Secretariat and the Secretariat for Access to Rights and Equity; and (c) to continue participating in the dialogue of heads of delegation with civil society organization representatives in the framework of the regular sessions of the General Assembly and the Summits of the Americas process.

2. To instruct the Permanent Council, the Inter-American Council for Integral Development, and the General Secretariat to continue, in coordination with all organs, agencies, and entities of the OAS, facilitating the implementation of strategies, forums, and mechanisms for promoting, increasing, and strengthening participation by civil society organizations and other social actors in the Summits of the Americas and OAS activities, including the strategies adopted by the General Assembly in resolutions AG/RES. 1915 (XXXIII-O/03) and AG/RES. 2861 (XLIV-O/14).

3. To instruct the General Secretariat to invite the indigenous peoples and Afro-descendent communities of member states or their representatives to participate in the Dialogue of the Heads of Delegation with Representatives of Civil Society Organizations and Other Social Actors in the framework of regular sessions of the OAS General Assembly, in order to enable those representatives to present recommendations and proposed initiatives related to the theme of the General Assembly session.

^{1/} The Bolivarian Republic of Venezuela does not agree to any commitment or mandate issued in this resolution as it did not participate in the negotiation of said resolution. It is still ...

4. To instruct the General Secretariat to continue to support member states that so request in their efforts to increase and strengthen the institutional capacity of their governments to receive, integrate, and incorporate civil society and other social actors' input and advocacy; and to submit, before the forty-eighth regular session of the General Assembly, a report on the implementation of this resolution, which will be subject to the availability of financial resources in the program-budget of the Organization and other resources.

5. To strengthen the participation of social actors of member states in the Summits of the Americas process and in OAS activities as a result of said process, taking into account their ways, uses, and customs in organizing themselves.

6. To encourage all member states, permanent observers, and other donors, as defined in Article 74 of the General Standards to Govern the Operations of the General Secretariat of the OAS and in other rules and regulations of the Organization, to consider contributing to the Specific Fund to Support the Participation of Civil Society Organizations in OAS Activities and in the Summits of the Americas Process, in order to sustain and promote the effective participation of civil society organizations and other social actors in OAS activities, in accordance with the goals set by the General Assembly and by the Heads of State and Government in the Summits of the Americas process, including the Dialogue of Heads of Delegation, the Secretary General, and Representatives of Civil Society Organizations.

FOOTNOTE

1. ... within the denunciation period established in Article 143 of the OAS Charter.

**Statement of the Indigenous Peoples and Nations Coalition to the Organization of
American States' 47th General Assembly**

June 19, 2017
Organization of American States
Cancun, MEXICO

Secretary General Luis Almagro, Ambassadors and Distinguished Guests of the Organization of American States:

My name is Jaime Arias and I am a Kankuamo from Colombia, representing the National Indigenous Organization of Colombia (ONIC). I thank you for this opportunity to contribute to this interactive dialogue on human rights, democracy, and the rule of law. I am grateful for the opportunity to take the floor this morning/afternoon. I am speaking on behalf of the Indigenous Peoples and Nations Thematic Coalition, and though Indigenous Peoples' governments are authorized to represent the interests of our own people, we are required by the Organization of American States (OAS) to address you today with just one voice, so my comments reflect the concerns of this broad coalition of Indigenous Peoples and Nations.

Today, our coalition would like to address a very important matter: the need for the Organization and its member states to fulfill its commitments in a new groundbreaking human rights instrument: the American Declaration on the Rights of Indigenous Peoples.

The Declaration was adopted by the General Assembly on June 15, 2016. That date marked almost 30 years of concerted effort, hard work, and complex negotiations between Indigenous Peoples and member states. Because of this collaboration, the Declaration is an effective and relevant instrument that strengthens existing international law on the rights of Indigenous Peoples. Yet, collaboration with Indigenous Peoples was not always practiced. In the beginning, the OAS Member States refused to allow Indigenous Peoples to participate in the negotiation process. Thanks to the perseverance of Indigenous leaders and support from Antigua and Barbuda, Canada, and the United States, we, in the words of the Canadian Ambassador at the time, "kicked the OAS' door open." We not only managed to secure our seat at the table and our right to negotiate face to face with Member States, we were able to open a space for civil society and non-governmental organizations to participate at the OAS.

We share this story because it shows that Indigenous contributions to the OAS produce stronger and more useful results like the American Declaration. The Declaration represents the acknowledgment by the countries of our region of our permanent existence as Indigenous Peoples of the Americas with the right to self-govern, to self-determine, and to secure the

wellness, safety, and future of our people. The Declaration indicates the good faith of countries to assure our rights in practice. However, we all know that much work remains.

Indigenous Peoples throughout the region remain the poorest of the poor; violence against Indigenous women is at epidemic levels; Indigenous Peoples living in voluntary isolation are forced into contact with the outside world; Indigenous Peoples under states' internal armed conflicts continue to suffer; sacred sites are desecrated by extractive industry companies; and Indigenous leaders are threatened, assaulted, and even murdered for their work protecting Indigenous lands and resources. In March, the Inter-American Commission on Human Rights reported that there have been 14 murders of human rights defenders in 2017 alone; nearly half were Indigenous leaders. This is unacceptable.

While there are many problems that remain in the region, we have a unique opportunity before us. The Declaration can and should ensure the permanent existence of Indigenous Peoples and prevent the further extinction of our languages, cultures, and lives. But, we recognize that the Declaration is only as good as the paper it is written on until member states seriously commit to working with Indigenous Peoples to breathe life into its text. To address this, we propose that a mechanism be established within the OAS, that is capable of responding to issues concerning indigenous lands and resources, protection of the environment, and the well-being and self-governance of Indigenous Peoples, including the health and safety of Indigenous women and children. Such a body will best assure that the Declaration will be effective and finally bring permanent and critical improvements to the lives of Indigenous Peoples.

While establishing functional mechanisms or bodies to monitor and ensure implementation of the Declaration is a critical step forward, it is also imperative to establish the necessary ways and means to regularize the permanent participation of Indigenous Peoples within the OAS, through their representative decision-making institutions. Indigenous Peoples are entirely distinct from civil society. We are not interest groups organized to address particular sectoral concerns. We are political and legal entities and have the right to self-government; our institutions must therefore have a distinct and permanent voice in the international community, including at the OAS. This crucial work is already happening at the United Nations and there are important lessons to be learned from that process. We hope the OAS will seek to do the same, to ensure Indigenous voices are present at the OAS. With a formal seat at the table, Indigenous Peoples would be able to assert and defend their rights, and to contribute to good global governance, sustainable development, and regional challenges like conservation of biological diversity and violence against Indigenous women and children. Indigenous Peoples and nations have much to share and contribute, and it is absolutely vital that their voices continue to be heard and consulted throughout the Organization. To realize their rights in the Declaration, Indigenous Peoples' governance institutions must be able to participate fully and effectively at the Organization.

Now is the time for cohesive action by the organs of the Inter-American human rights system to uphold the rights of Indigenous Peoples. In our opinion, both the Commission and the Court should interpret the Declaration to provide guidance for interpretation of other regional instruments, such as the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man. A good starting point for this work would be to request the organs of the Inter-American System to present an annual dedicated report to the General Assembly regarding the progress and outcomes of cases and precautionary measures related to the rights of Indigenous Peoples.

Similarly, the OAS General Assembly, through its Committee on Juridical and Political Affairs or Permanent Council, could include as a standing agenda item the implementation of the American Declaration to discuss its ramifications among member states and consult with Indigenous Peoples. Additionally, we call upon the member states of the OAS to hold a special high-level conference to consult with Indigenous Peoples and member states how best to implement and achieve the objectives of the American Declaration.

We are aware of the proposal for a Plan of Action of the American Declaration on the Rights of Indigenous Peoples and we hope that our comments will be taken into consideration as this Plan is finalized and implemented. We also call upon those countries who have not yet fully embraced and supported the American Declaration to do so immediately. Indigenous Peoples cannot wait any longer for recognition and promotion of their rights. We believe that decisive actions must be made together to achieve the goals of the American Declaration on the Rights of Indigenous Peoples.

Thank you.

**For further information about the rights affirmed
in the American Declaration and how you can
support its implementation, contact the Indian
Law Resource Center.**

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