

**Canada's Comments of the Report on the First Round of
Consultations Concerning the Future Inter-American Legal
Instrument on the Rights of Indigenous Populations**

Canada was pleased to receive a copy of the Report on the First Round of Consultations Concerning the Future Inter-American Legal Instrument on the Rights of Indigenous Populations and would like to take this opportunity to comment on the paragraphs summarizing Canada's response to the questionnaire, as approved by the Inter-American Commission on Human Rights (IACHR) at its 83rd Period of Meetings, March 1993. Canada would ask that the IACHR incorporate these comments into any revised report or consider these comments during next steps in the process.

There are obvious translation problems in the document which will not be dealt with in detail, for example: the discussion of peoples and populations on pages 5 and 6 is not easily understandable due to the translation; attention should also be given to the use of the words "should", "could", and "must"; and "self-governance" should read "self-government".

On page 2, the paragraph on Canada's thoughts on the instrument does not capture some of the key points of our submission. Canada noted that, with rights other than human rights, it is possible to distinguish between different individuals or groups in their application, but "human rights" inhere to all individuals and can not be enjoyed to a "special extent" by certain groups. However, the special needs of indigenous people may require that extra measures be taken to ensure they have the full enjoyment of fundamental human rights.

Canada stressed that the new instrument should build upon existing international human rights instruments in order to achieve widespread support and suggested that basic human rights and fundamental freedoms be incorporated by reference to other human rights instruments. This instrument need not elaborate on rights contained in other instruments but could focus on certain areas which may not have been fully explored in other human rights instruments and which are appropriate to the situation of indigenous people in the Americas such as land rights.

Finally, Canada stated that there should be a clear statement of the obligations of states and suggested the inclusion of a "reasonable limits" clause, such as that included in the International Labour Organization (ILO) Convention 169 on Indigenous and Tribal Peoples, which provides that the nature and scope of the provisions of the instrument shall be interpreted in a flexible manner, having regard to the conditions characteristic of each country.