

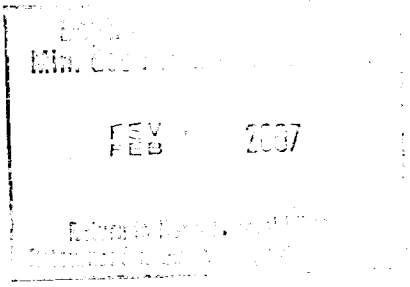
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**CONSULTATIONS BETWEEN
CANADIAN ABORIGINAL ORGANIZATIONS AND DFAIT
IN PREPARATION FOR THE 53RD SESSION
OF THE U.N. COMMISSION ON HUMAN RIGHTS
FEBRUARY 4, 1997**

**CONSULTATIONS ENTRE
LES ORGANISATIONS AUTOCHTONES CANADIENNES ET LE MAECI
EN PRÉVISION DE LA 53e SESSION
DE LA COMMISSION DES DROITS DE L'HOMME DE L'ONU
LE 4 FÉVRIER 1997**

- DOCUMENTATION -



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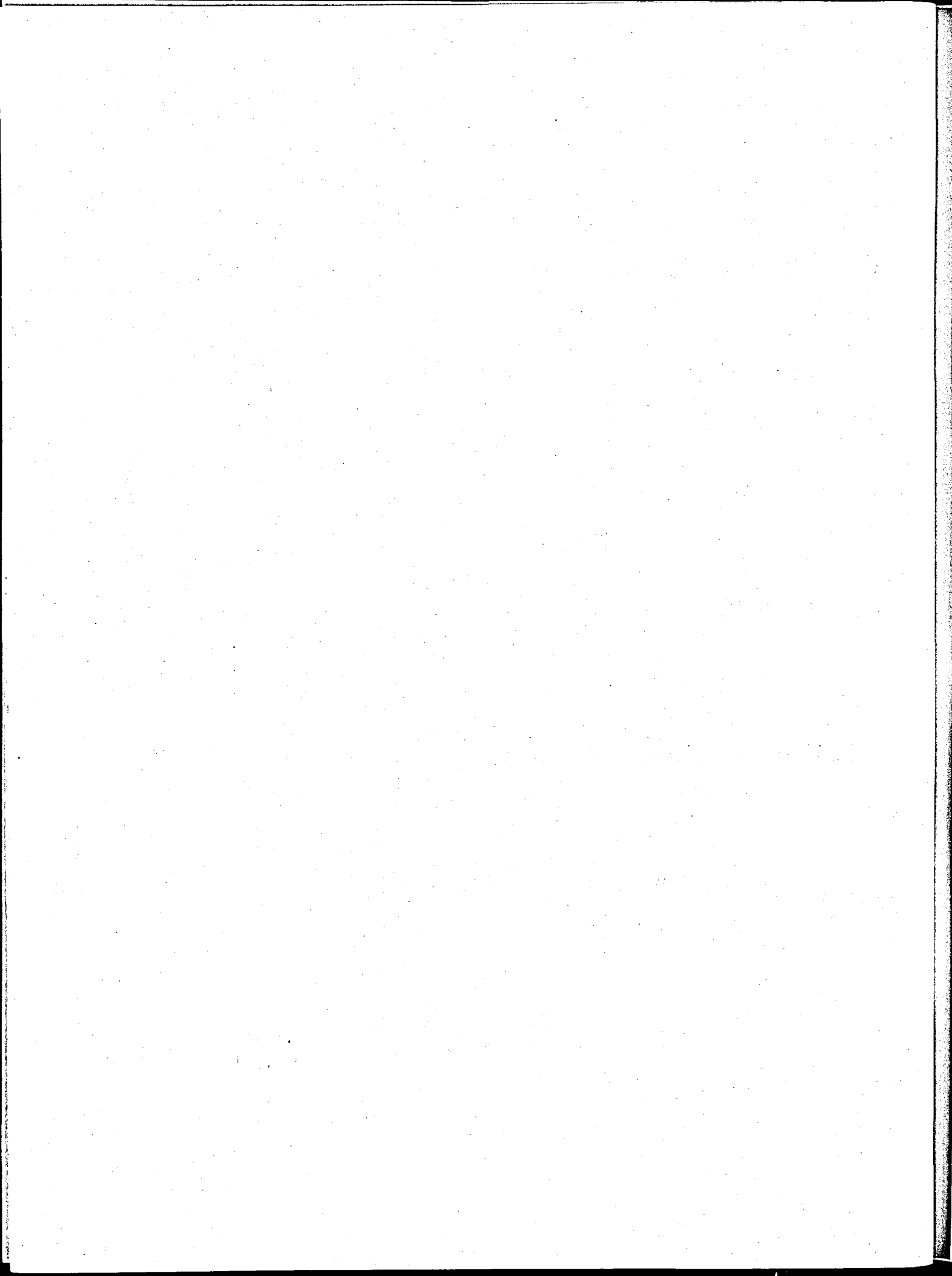
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LES ORGANISATIONS AUTOCHTONES CANADIENNES ET LE MAECI
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LE 4 FÉVRIER 1997**

- DOCUMENTATION -

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CONSULTATIONS BETWEEN CANADIAN ABORIGINAL ORGANIZATIONS AND
THE DEPARTMENTAL OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE
IN PREPARATION FOR THE UN COMMISSION ON HUMAN RIGHTS, 53RD SESSION
FEBRUARY 4, 1997 AT LESTER PEARSON BUILDING (ROBERTSON ROOM)

A G E N D A

- 09:00 Registration and Coffee
- 09:30 Invocation and Welcome
- 09:45 53rd Session of the UN Commission on Human Rights
- Review of CHR52, Outlook for Issues and Resolutions at CHR53
 - Working Group on Indigenous Populations (WGIP)
 - Permanent Forum
- 10:45 Coffee
- 11:00 UN Draft Declaration on the Rights of Indigenous Peoples
- Second Session of UN Working Group (21 October - 1 November)
 - Standards and Articles
 - Participation and Dialogue
- 12:00 Draft Inter-American Declaration on Rights of Indigenous Peoples (OAS)
- 12:30 Buffet Lunch (Skelton Lobby)
- 14:00 Arctic Council
- 14:30 Indigenous Issues and the Environment
- UNGA Special Session on the Environment and Development
 - Convention on Biological Diversity, Article 8(j)
- 15:00 Coffee
- 15:15 International Decade of the World's Indigenous People
- 15:45 Promotion of Aboriginal Trade
- 16:15 Concluding Remarks and Closing Invocation

CONSULTATIONS ENTRE LES ORGANISATIONS AUTOCHTONES CANADIENNES

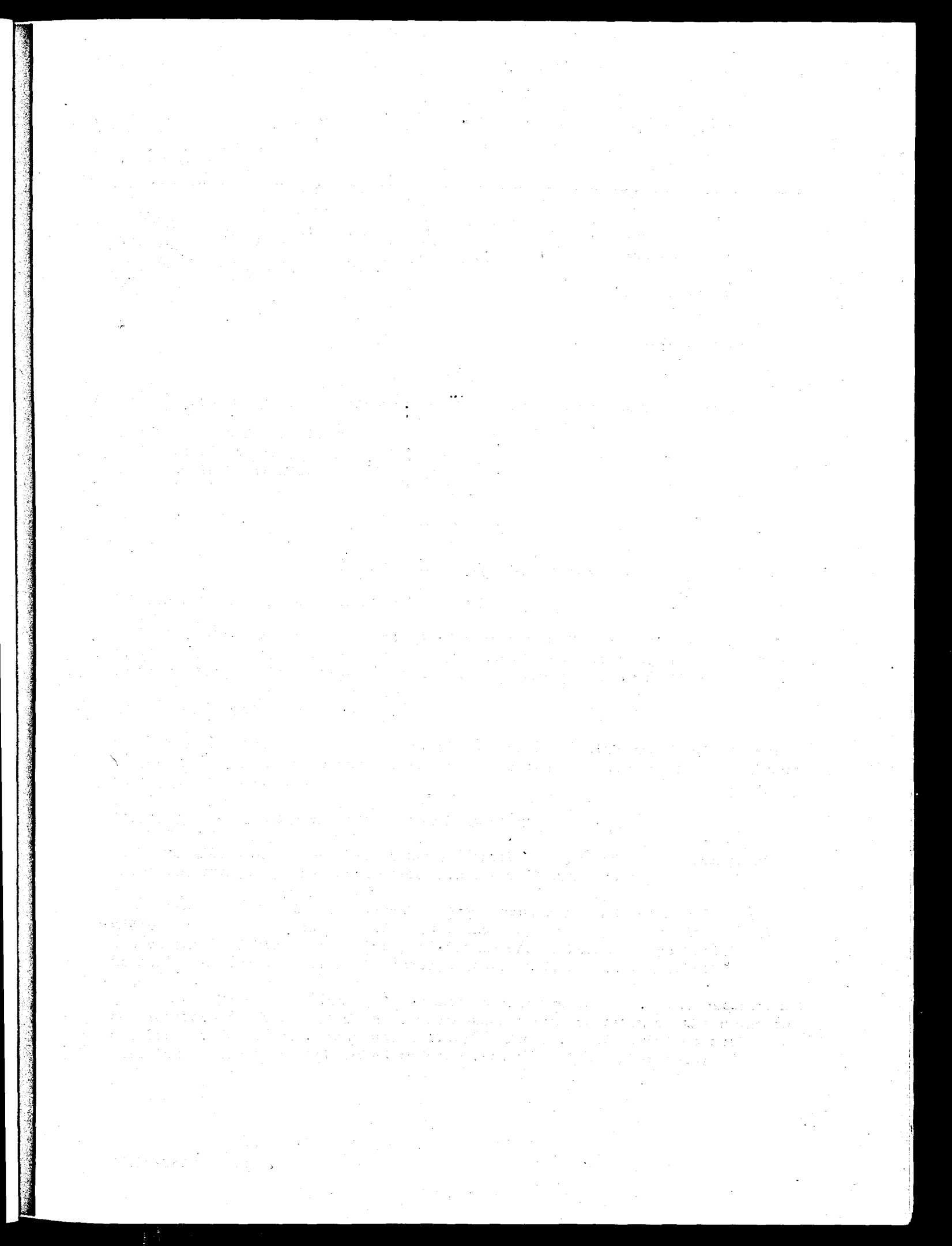
**ET LE MINISTÈRE DES AFFAIRES ÉTRANGÈRES
ET DU COMMERCE INTERNATIONAL**

**EN PRÉVISION DE LA 53^E SESSION
DE LA COMMISSION DES DROITS DE L'HOMME DE L'ONU**

LE 4 FÉVRIER 1997 - ÉDIFICE LESTER B. PEARSON (SALLE ROBERTSON)

ORDRE DU JOUR

- 9 h Inscription et café
- 9 h 30 Prière et allocution d'ouverture
- 9 h 45 53^e session de la Commission des droits de l'homme de l'ONU
- Revue des travaux de la 52^e session, et examen des questions et résolutions à promouvoir en vue de la 53^e session
 - Groupe de travail des populations autochtones
 - Forum permanent
- 10 h 45 Café
- 11 h Projet de déclaration sur les droits des peuples autochtones de l'ONU
- Deuxième séance du groupe de travail de l'ONU (21 octobre - 1^{er} novembre)
 - Normes et articles
 - Participation et dialogue
- 12 h Projet de déclaration interaméricaine sur les droits des peuples autochtones (OEA)
- 12 h 30 Buffet (Hall Skelton)
- 14 h Conseil de l'Arctique
- 14 h 30 Les questions autochtones et l'environnement
- Session extraordinaire de l'AGNU consacrée à l'environnement et au développement
 - Convention sur la diversité biologique, article 8(j)
- 15 h Café
- 15 h 15 Décennie internationale des populations autochtones
- 15 h 45 Promotion du commerce autochtone
- 16 h 15 Allocution et prière de clôture.





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1 November 1996

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COMMISSION ON HUMAN RIGHTS
Fifty-third session
10 March-18 April 1997

PROVISIONAL AGENDA

Note by the Secretary-General

Duration and venue of the session

1. The fifty-third session of the Commission on Human Rights will be held at the United Nations Office at Geneva from 10 March to 18 April 1997. The first meeting will be convened at 11 a.m. on Monday, 10 March 1997.

Provisional agenda

2. The provisional agenda, prepared in accordance with rule 5 of the rules of procedure of the functional commissions of the Economic and Social Council, is reproduced below.

Inter-sessional and pre-sessional working groups

3. The fifty-third session of the Commission is preceded by meetings of eight working groups in connection with the following items:

(a) Item 5: An open-ended working group established to elaborate policy guidelines on structural adjustment programmes and economic, social and cultural rights (Commission decision 1996/103, Economic and Social Council decision 1996/289) is scheduled to meet from 3 to 7 March 1997;

(b) Item 6: An intergovernmental working group of experts established to elaborate a strategy for the implementation and promotion of the right to development (Commission resolution 1996/15, Economic and Social Council decision 1996/258) is scheduled to meet from 4 to 15 November 1996;

(c) Item 8 (d): An open-ended working group established to elaborate a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Commission resolution 1996/37, Economic and Social Council resolution 1996/22) met from 14 to 25 October 1996.

(d) Item 10 (b): The Working Group on Situations, composed of five members of the Commission, is scheduled to meet from 3 to 7 March 1997 to examine situations referred to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities pursuant to Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 (Commission resolution 1990/55, Economic and Social Council resolution 1990/41);

(e) Item 20: An open-ended working group established to draft a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (Commission resolution 1996/81, Economic and Social Council resolution 1996/25) is scheduled to meet from 24 to 28 February 1997;

(f) Item 21: An open-ended working group for the elaboration of a draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts (Commission resolution 1996/85, Economic and Social Council decision 1996/288) is scheduled to meet from 20 to 31 January 1997;

(g) Item 21 (d): An open-ended inter-sessional working group for the elaboration of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Commission resolution 1996/85, Economic and Social Council decision 1996/288) is scheduled to meet from 3 to 14 February 1997;

(h) Item 24: An open-ended inter-sessional working group established to elaborate a draft United Nations declaration on the rights of indigenous peoples (Commission resolution 1996/38, Economic and Social Council resolution 1996/23) met from 21 October to 1 November 1996.

4. Any decisions and resolutions affecting the provisional agenda of the fifty-third session of the Commission that may be adopted by the General Assembly at its fifty-first session will be brought to the attention of the Commission in an addendum to the present document. The annotations to the items listed in the provisional agenda will also be issued in an addendum.

Provisional agenda

1. Election of officers.
2. Adoption of the agenda.
3. Organization of the work of the session.
4. Question of the violation of human rights in the occupied Arab territories, including Palestine.
5. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:
 - (a) Problems related to the right to enjoy an adequate standard of living; foreign debt, economic adjustment policies and their effects on the full enjoyment of human rights and, in particular, on the implementation of the Declaration on the Right to Development;
 - (b) The effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms.
6. Question of the realization of the right to development.
7. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation.
8. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular:
 - (a) Torture and other cruel, inhuman or degrading treatment or punishment;
 - (b) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
 - (c) Question of enforced or involuntary disappearances;
 - (d) Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

9. Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission:
 - (a) Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;
 - (b) National institutions for the promotion and protection of human rights;
 - (c) Coordinating role of the Centre for Human Rights within the United Nations bodies and machinery dealing with the promotion and protection of human rights;
 - (d) Human rights, mass exoduses and displaced persons.
10. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:
 - (a) Question of human rights in Cyprus;
 - (b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII): report of the Working Group on Situations established by Economic and Social Council resolution 1990/41 of 25 May 1990.
11. Measures to improve the situation and ensure the human rights and dignity of all migrant workers.
12. Human rights and scientific and technological developments.
13. Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination.
14. Status of the International Covenants on Human Rights.
15. Effective functioning of bodies established pursuant to United Nations human rights instruments.
16. Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-seventh session.
17. Rights of persons belonging to national or ethnic, religious and linguistic minorities.
18. Advisory services in the field of human rights.
19. Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

20. Drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms.
21. Rights of the child, including:
 - (a) Status of the Convention on the Rights of the Child;
 - (b) Report of the Special Rapporteur on the sale of children, child prostitution and child pornography;
 - (c) Programme of Action for the Elimination of the Exploitation of Child Labour;
 - (d) Question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, as well as the basic measures needed for their prevention and eradication.
22. Follow-up to the World Conference on Human Rights.
23. The question of conscientious objection to military service.
24. Indigenous issues.
25. Draft provisional agenda for the fifty-fourth session of the Commission.
26. Report to the Economic and Social Council on the fifty-third session of the Commission.



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FRANCAIS
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COMMISSION DES DROITS DE L'HOMME
Cinquante-troisième session
10 mars - 18 avril 1997

ORDRE DU JOUR PROVISOIRE

Note du Secrétaire général

Durée et lieu de la session

1. La cinquante-troisième session de la Commission des droits de l'homme se tiendra à l'Office des Nations Unies à Genève du 10 mars au 18 avril 1997. La première séance s'ouvrira le lundi 10 mars 1997 à 11 heures.

Ordre du jour provisoire

2. L'ordre du jour provisoire, établi conformément à l'article 5 du règlement intérieur des commissions techniques du Conseil économique et social, est reproduit ci-dessous.

Groupes de travail préparatoires et intersessions

3. Huit groupes de travail se sont réunis ou se réuniront avant l'ouverture de la cinquante-troisième session de la Commission pour examiner les points suivants :

a) Point 5 - Un groupe de travail à composition non limitée créé pour élaborer des principes directeurs sur les programmes d'ajustement structurel et les droits économiques, sociaux et culturels (décision 1996/103 de la Commission et décision 1996/289 du Conseil économique et social) doit se réunir du 3 au 7 mars 1997;

b) Point 6 : Un groupe intergouvernemental d'experts créé pour élaborer une stratégie d'application et de promotion du droit au développement (résolution 1996/15 de la Commission et décision 1996/258 du Conseil économique et social) doit se réunir du 4 au 15 novembre 1996;

c) Point 8 d) : Un groupe de travail à composition non limitée créé pour élaborer un projet de protocole facultatif se rapportant à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (résolution 1996/37 de la Commission et résolution 1996/22 du Conseil économique et social) s'est réuni du 14 au 25 octobre 1996;

d) Point 10 b) : Le Groupe de travail des situations, composé de cinq membres de la Commission, doit se réunir du 3 au 7 mars 1996 pour examiner les situations renvoyées à la Commission par la Sous-Commission de la lutte contre les mesures discriminatoires et de la protection des minorités en vertu de la résolution 1503 (XLVIII) du Conseil économique et social, en date du 27 mai 1970 (résolution 1990/55 de la Commission et résolution 1990/41 du Conseil);

e) Point 20 : Un groupe de travail à composition non limitée créé pour rédiger un projet de déclaration sur le droit et la responsabilité des individus, groupes ou organes de la société de promouvoir et de protéger les droits de l'homme et les libertés fondamentales universellement reconnus (résolution 1996/81 de la Commission et résolution 1996/25 du Conseil économique et social) doit se réunir du 24 au 28 février 1997;

f) Point 21 : Un groupe de travail à composition non limitée, chargé d'élaborer un projet de protocole facultatif se rapportant à la Convention relative aux droits de l'enfant, concernant la situation des enfants dans les conflits armés (résolution 1996/85 de la Commission, et décision 1996/288 du Conseil économique et social) doit se réunir du 20 au 31 janvier 1997;

g) Point 21 d) : Un groupe de travail intersessions à composition non limitée, chargé d'élaborer un projet de protocole facultatif se rapportant à la Convention relative aux droits de l'enfant, concernant la vente d'enfants, la prostitution des enfants et la pornographie impliquant des enfants (résolution 1996/85 de la Commission et décision 1996/288 du Conseil économique et social) doit se réunir du 3 au 14 février 1997;

h) Point 24 : Un groupe de travail intersessions à composition non limitée créé pour rédiger un projet de déclaration des Nations Unies sur les droits des peuples autochtones (résolution 1996/38 de la Commission et résolution 1996/23 du Conseil économique et social) s'est réuni du 21 octobre au 1er novembre 1996;

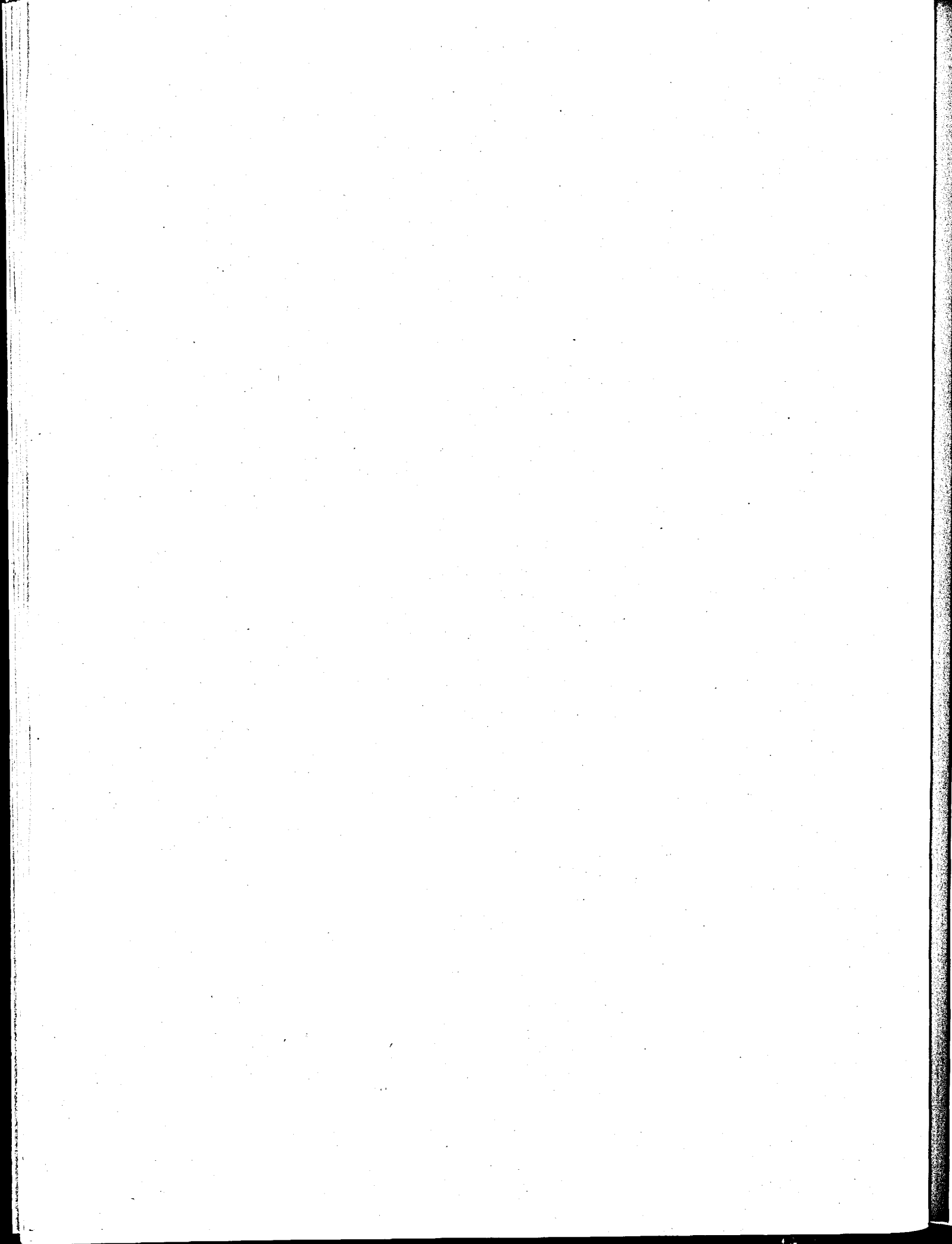
4. Toutes décisions et résolutions susceptibles de modifier l'ordre du jour provisoire de la cinquante-troisième session de la Commission que pourrait prendre l'Assemblée générale à sa cinquante et unième session seront portées à l'attention de la Commission dans un additif au présent document. L'ordre du jour annoté se rapportant aux points énoncés dans l'ordre du jour provisoire sera aussi publié dans un additif.

Ordre du jour provisoire

1. Election du bureau
2. Adoption de l'ordre du jour
3. Organisation des travaux de la session
4. Question de la violation des droits de l'homme dans les territoires arabes occupés, y compris la Palestine
5. Question de la jouissance effective, dans tous les pays, des droits économiques, sociaux et culturels proclamés dans la Déclaration universelle des droits de l'homme et dans le Pacte international relatif aux droits économiques, sociaux et culturels, et étude des problèmes particuliers que rencontrent les pays en développement dans leurs efforts tendant à la réalisation de ces droits de l'homme, et notamment :
 - a) Les problèmes relatifs au droit à un niveau de vie suffisant, la dette extérieure, les politiques d'ajustement économique et leurs effets quant à la jouissance effective des droits de l'homme, en particulier quant à l'application de la Déclaration sur le droit au développement;
 - b) Les effets de l'ordre économique international injuste qui existe actuellement sur les économies des pays en développement, et les obstacles que cela représente pour la mise en oeuvre des droits de l'homme et des libertés fondamentales.
6. Question de la réalisation du droit au développement
7. Le droit des peuples à disposer d'eux-mêmes et son application aux peuples assujettis à une domination coloniale ou étrangère, ou à l'occupation étrangère
8. Question des droits de l'homme de toutes les personnes soumises à une forme quelconque de détention ou d'emprisonnement, en particulier :
 - a) Torture et autres peines ou traitements cruels, inhumains ou dégradants;
 - b) Etat de la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants;
 - c) Question des disparitions forcées ou involontaires;
 - d) Question concernant un projet de protocole facultatif se rapportant à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants.

9. Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission:
 - (a) Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;
 - (b) National institutions for the promotion and protection of human rights;
 - (c) Coordinating role of the Centre for Human Rights within the United Nations bodies and machinery dealing with the promotion and protection of human rights;
 - (d) Human rights, mass exoduses and displaced persons.
10. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:
 - (a) Question of human rights in Cyprus;
 - (b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII): report of the Working Group on Situations established by Economic and Social Council resolution 1990/41 of 25 May 1990.
11. Measures to improve the situation and ensure the human rights and dignity of all migrant workers.
12. Human rights and scientific and technological developments.
13. Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination.
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15. Effective functioning of bodies established pursuant to United Nations human rights instruments.
16. Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-seventh session.
17. Rights of persons belonging to national or ethnic, religious and linguistic minorities.
18. Advisory services in the field of human rights.
19. Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

19. Application de la Déclaration sur l'élimination de toutes les formes d'intolérance et de discrimination fondées sur la religion ou la conviction
 20. Elaboration d'une déclaration sur le droit et la responsabilité des individus, groupes et organes de la société de promouvoir et de protéger les droits de l'homme et les libertés fondamentales universellement reconnus
 21. Droits de l'enfant, notamment :
 - a) Etat de la Convention relative aux droits de l'enfant;
 - b) Rapport du Rapporteur spécial chargé d'étudier la question de la vente d'enfants, la prostitution des enfants et la pornographie impliquant des enfants;
 - c) Programme d'action pour l'élimination de l'exploitation de la main-d'oeuvre enfantine;
 - d) Question d'un projet de protocole facultatif se rapportant à la Convention relative aux droits de l'enfant, concernant la vente d'enfants, la prostitution des enfants et la pornographie impliquant des enfants, ainsi que les mesures de base nécessaires pour prévenir et éliminer ces pratiques.
 22. Suivi de la Conférence mondiale sur les droits de l'homme
 23. La question de l'objection de conscience au service militaire
 24. Questions se rapportant aux populations autochtones
 25. Projet d'ordre du jour provisoire de la cinquante-quatrième session de la Commission
 26. Rapport de la Commission au Conseil économique et social sur les travaux de sa cinquante-troisième session
-



Annex I

DRAFT DECLARATION AS AGREED UPON BY THE MEMBERS
OF THE WORKING GROUP AT ITS ELEVENTH SESSION

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

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

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

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

Concerned that indigenous peoples have been deprived of their human rights and fundamental freedoms, resulting, inter alia, in their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

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

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

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

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

Emphasizing the need for demilitarization of the lands and territories of indigenous peoples, which will contribute to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

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

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

Considering that treaties, agreements and other arrangements between States and indigenous peoples are properly matters of international concern and responsibility,

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 affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right of self-determination,

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

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

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

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples:

PART I

Article 1

Indigenous peoples have the right to the full and effective enjoyment of all human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

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

Article 3

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

Article 4

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

Article 5

Every indigenous individual has the right to a nationality.

PART II

Article 6

Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and to full guarantees against genocide or any other act of violence, including the removal of indigenous children from their families and communities under any pretext.

In addition, they have the individual rights to life, physical and mental integrity, liberty and security of person.

Article 7

Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide, including prevention of and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative, administrative or other measures;
- (e) Any form of propaganda directed against them.

Article 8

Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such.

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 disadvantage of any kind may arise from the exercise of such a right.

Article 10

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

Article 11

Indigenous peoples have the right to special protection and security in periods of armed conflict.

States shall observe international standards, in particular the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not:

- (a) Recruit indigenous individuals against their will into the armed forces and, in particular, for use against other indigenous peoples;
- (b) Recruit indigenous children into the armed forces under any circumstances;
- (c) Force indigenous individuals to abandon their lands, territories or means of subsistence, or relocate them in special centres for military purposes;
- (d) Force indigenous individuals to work for military purposes under any discriminatory conditions.

PART III

Article 12

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

intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs.

Article 13

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

States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.

Article 14

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.

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

PART IV

Article 15

Indigenous children have the right to all levels and forms of education of the State. All indigenous peoples also have this right and 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.

Indigenous children living outside their communities have the right to be provided access to education in their own culture and language.

States shall take effective measures to provide appropriate resources for these purposes.

Article 16

Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information.

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

Article 17

Indigenous peoples have the right to establish their own media in their own languages. They also have the right to equal access to all forms of non-indigenous media.

States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.

Article 18

Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislation.

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

PART V

Article 19

Indigenous peoples have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies 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 20

Indigenous peoples have the right to participate fully, if they so choose, through procedures determined by them, in devising legislative or administrative measures that may affect them.

States shall obtain the free and informed consent of the peoples concerned before adopting and implementing such measures.

Article 21

Indigenous peoples have the right to maintain and develop their political, economic and social systems, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. Indigenous peoples who have been deprived of their means of subsistence and development are entitled to just and fair compensation.

Article 22

Indigenous peoples have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security.

Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and disabled persons.

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 determine and develop all health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

Indigenous peoples have the right to their traditional medicines and health practices, including the right to the protection of vital medicinal plants, animals and minerals.

They also have the right to access, without any discrimination, to all medical institutions, health services and medical care.

PART VI

Article 25

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

Article 26

Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws, traditions and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by States to prevent any interference with, alienation of or encroachment upon these rights.

Article 27

Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged

without their free and informed consent. Where this is not possible, they have the right to just and fair compensation. 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.

Article 28

Indigenous peoples have the right to the conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources, as well as to assistance for this purpose from States and through international cooperation. Military activities shall not take place in the lands and territories of indigenous peoples, unless otherwise freely agreed upon by the peoples concerned.

States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands and territories of indigenous peoples.

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 29

Indigenous peoples are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property.

They have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs and visual and performing arts.

Article 30

Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. Pursuant to agreement with the indigenous peoples concerned, just and fair compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

PART VII

Article 31

Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters

relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.

Article 32

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

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

Article 33

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognized human rights standards.

Article 34

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

Article 35

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 other peoples across borders.

States shall take effective measures to ensure the exercise and implementation of this right.

Article 36

Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors, according to their original spirit and intent, and to have States honour and respect such treaties, agreements and other constructive arrangements. Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies agreed to by all parties concerned.

PART VIII

Article 37

States shall take effective and appropriate measures, in consultation with the indigenous peoples concerned, to give full effect to the provisions of this Declaration. The rights recognized herein shall be adopted and included in national legislation in such a manner that indigenous peoples can avail themselves of such rights in practice.

Article 38

Indigenous peoples have the right to have access to adequate financial and technical assistance, from States and through international cooperation, to pursue freely their political, economic, social, cultural and spiritual development and for the enjoyment of the rights and freedoms recognized in this Declaration.

Article 39

Indigenous peoples have the right to have access to and prompt decision through mutually acceptable and fair procedures for the resolution of conflicts and disputes with States, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall take into consideration the customs, traditions, rules and legal systems of the indigenous peoples concerned.

Article 40

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 41

The United Nations shall take the necessary steps to ensure the implementation of this Declaration including the creation of a body at the highest level with special competence in this field and with the direct participation of indigenous peoples. All United Nations bodies shall promote respect for and full application of the provisions of this Declaration.

PART IX

Article 42

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

Article 43

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

Article 44

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

Article 45

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations.

Annexe

Projet de déclaration des Nations Unies
sur les droits des peuples autochtones

Affirmant que les peuples autochtones sont égaux à tous les autres peuples en dignité et en droits, tout en reconnaissant le droit de tous les peuples à être différents, à s'estimer différents et à être respectés en tant que tels,

Affirmant aussi que tous les peuples contribuent à la diversité et à la richesse des civilisations et des cultures, qui constituent le patrimoine commun de l'humanité,

Affirmant en outre que toutes les doctrines, politiques et pratiques qui invoquent ou prônent la supériorité de peuples ou d'individus en se fondant sur des différences d'ordre national, racial, religieux, ethnique ou culturel sont racistes, scientifiquement fausses, juridiquement sans valeur, moralement condamnables et socialement injustes,

Réaffirmant que les peuples autochtones, dans l'exercice de leurs droits, ne doivent faire l'objet d'aucune forme de discrimination,

Préoccupée par le fait que les peuples autochtones ont été privés de leurs droits de l'homme et de leurs libertés fondamentales et qu'entre autres conséquences, ils ont été colonisés et dépossédés de leurs terres, territoires et ressources, ce qui les a empêchés d'exercer, notamment, leur droit au développement conformément à leurs propres besoins et intérêts,

Reconnaissant la nécessité urgente de respecter et de promouvoir les droits et caractéristiques intrinsèques des peuples autochtones, en particulier leurs droits à leurs terres, à leurs territoires et à leurs ressources, qui découlent de leurs structures politiques, économiques et sociales et de leur culture, de leurs traditions spirituelles, de leur histoire et de leur philosophie,

Se félicitant du fait que les peuples autochtones s'organisent pour améliorer leur situation sur les plans politique, économique, social et culturel et mettre fin à toutes les formes de discrimination et d'oppression partout où elles se produisent,

Convaincue que le contrôle par les peuples autochtones des événements qui les concernent, eux et leurs terres, territoires et ressources, leur permettra de renforcer leurs institutions, leur culture et leurs traditions et de promouvoir leur développement selon leurs aspirations et leurs besoins,

Reconnaissant aussi que le respect des savoirs, des cultures et des pratiques traditionnelles autochtones contribue à une mise en valeur durable et équitable de l'environnement et à sa bonne gestion,

Soulignant la nécessité de démilitariser les terres et territoires des peuples autochtones et de contribuer ainsi à la paix, au progrès et au développement économiques et sociaux, à la compréhension et aux relations amicales entre les nations et les peuples du monde,

Reconnaissant, en particulier, le droit des familles et des communautés autochtones à conserver la responsabilité partagée de l'éducation, de la formation, de l'instruction et du bien-être de leurs enfants,

Reconnaissant aussi que les peuples autochtones ont le droit de déterminer librement leurs rapports avec les Etats, dans un esprit de coexistence, d'intérêt mutuel et de plein respect,

Considérant que les traités, accords et autres arrangements entre les Etats et les peuples autochtones sont un sujet légitime de préoccupation et de responsabilité internationales,

Reconnaissant que la Charte des Nations Unies, le Pacte international relatif aux droits économiques, sociaux et culturels et le Pacte international relatif aux droits civils et politiques affirment l'importance fondamentale du droit de tous les peuples à disposer d'eux-mêmes, droit en vertu duquel ils déterminent librement leur statut politique et assurent librement leur développement économique, social et culturel,

Considérant qu'aucune disposition de la présente Déclaration ne pourra être invoquée pour dénier à un peuple quel qu'il soit son droit à l'autodétermination,

Exhortant les Etats à respecter et à mettre en oeuvre tous les instruments internationaux, en particulier ceux relatifs aux droits de l'homme, qui sont applicables aux peuples autochtones, en consultation et en coopération avec les peuples concernés,

Soulignant que l'Organisation des Nations Unies a un rôle important et continu à jouer dans la promotion et la protection des droits des peuples autochtones,

Convaincue que la présente Déclaration est une nouvelle étape importante dans la voie de la reconnaissance, de la promotion et de la protection des droits et libertés des peuples autochtones et dans le développement des activités pertinentes des organismes des Nations Unies dans ce domaine,

Proclame solennellement la Déclaration des Nations Unies sur les droits des peuples autochtones dont le texte suit :

PREMIERE PARTIE

Article premier

Les peuples autochtones ont le droit de jouir pleinement et effectivement de l'ensemble des droits de l'homme et des libertés fondamentales reconnus par

la Charte des Nations Unies, la Déclaration universelle des droits de l'homme et le droit international relatif aux droits de l'homme.

Article 2

Les autochtones, peuples ou individus, sont libres et égaux à tous les autres en dignité et en droits et ne doivent faire l'objet d'aucune forme de discrimination défavorable fondée, en particulier, sur leur origine ou identité.

Article 3

Les peuples autochtones ont le droit de disposer d'eux-mêmes. En vertu de ce droit, ils déterminent librement leur statut politique et assurent librement leur développement économique, social et culturel.

Article 4

Les peuples autochtones ont le droit de maintenir et de renforcer leurs spécificités d'ordre politique, économique, social et culturel, ainsi que leurs systèmes juridiques, tout en conservant le droit, si tel est leur choix, de participer pleinement à la vie politique, économique, sociale et culturelle de l'Etat.

Article 5

Tout autochtone a droit, à titre individuel, à une nationalité.

DEUXIEME PARTIE

Article 6

Les peuples autochtones ont le droit, à titre collectif, de vivre dans la liberté, la paix et la sécurité en tant que peuples distincts et d'être pleinement protégés contre toute forme de génocide ou autre acte de violence, y compris l'enlèvement d'enfants autochtones à leurs familles et communautés, sous quelque prétexte que ce soit.

Ils ont aussi droit, à titre individuel, à la vie, à l'intégrité physique et mentale, à la liberté et à la sûreté de la personne.

Article 7

Les peuples autochtones ont le droit, à titre collectif et individuel, d'être protégés contre l'ethnocide ou le génocide culturel, notamment par des mesures visant à empêcher et à réparer :

a) tout acte ayant pour but ou pour effet de les priver de leur intégrité en tant que peuples distincts ou de leurs valeurs culturelles ou identité ethnique;

- b) tout acte ayant pour but ou pour effet de les déposséder de leurs terres, de leurs territoires ou de leurs ressources;
- c) toute forme de transfert de population ayant pour but ou pour effet de violer ou d'éroder l'un quelconque de leurs droits;
- d) toute forme d'assimilation ou d'intégration à d'autres cultures ou modes de vie imposée par des mesures législatives, administratives ou autres; et
- e) toute forme de propagande dirigée contre eux.

Article 8

Les peuples autochtones ont le droit, à titre collectif et individuel, de conserver et de développer leurs spécificités et identités distinctes, y compris le droit de revendiquer leur qualité d'autochtones et d'être reconnus en tant que tels.

Article 9

Les autochtones ont le droit, en tant que peuples et en tant qu'individus, d'appartenir à une communauté ou à une nation autochtone conformément aux traditions et coutumes de la communauté ou de la nation considérée. Aucun désavantage quel qu'il soit ne saurait résulter de l'exercice de ce droit.

Article 10

Les peuples autochtones ne peuvent être contraints de quitter leurs terres et territoires. Il ne peut y avoir de réinstallation qu'avec le consentement, exprimé librement et en toute connaissance de cause, des peuples autochtones concernés et après accord sur une indemnisation juste et équitable et, si possible, avec possibilité de retour.

Article 11

Les peuples autochtones ont droit à une protection spéciale et à la sécurité en période de conflit armé.

Les Etats doivent respecter les normes internationales relatives à la protection des populations civiles dans les situations d'urgence et de conflit armé, en particulier la quatrième Convention de Genève de 1949 et s'abstenir :

- a) de recruter contre leur gré des autochtones dans leurs forces armées, en particulier pour les utiliser contre d'autres peuples autochtones;
- b) de recruter des enfants autochtones dans leurs forces armées, quelles que soient les circonstances;

c) de contraindre des autochtones à abandonner leurs terres, territoires ou moyens de subsistance, ou de les réinstaller dans des centres spéciaux à des fins militaires;

d) de contraindre des autochtones à travailler à des fins militaires dans des conditions discriminatoires, quelles qu'elles soient.

TROISIEME PARTIE

Article 12

Les peuples autochtones ont le droit d'observer et de revivifier leurs traditions culturelles et leurs coutumes. Ils ont notamment le droit de conserver, protéger et développer les manifestations passées, présentes et futures de leurs cultures, telles que les sites archéologiques et historiques, l'artisanat, les dessins et modèles, les rites, les techniques, les arts visuels et les arts du spectacle et la littérature. Ils ont aussi droit à la restitution des biens culturels, intellectuels, religieux et spirituels qui leur ont été pris sans qu'ils y aient consenti librement et en toute connaissance de cause, ou en violation de leurs lois, traditions et coutumes.

Article 13

Les peuples autochtones ont le droit de manifester, pratiquer, promouvoir et enseigner leurs traditions, coutumes et rites religieux et spirituels; le droit d'entretenir et de protéger leurs sites religieux et culturels et d'y avoir accès en privé; le droit d'utiliser leurs objets rituels et d'en disposer; et le droit au rapatriement des restes humains.

Les Etats doivent, en collaboration avec les peuples autochtones concernés, prendre les mesures qui s'imposent pour faire en sorte que les lieux sacrés pour les autochtones, y compris les lieux de sépulture, soient préservés, respectés et protégés.

Article 14

Les peuples autochtones ont le droit de revivifier, d'utiliser, de développer et de transmettre aux générations futures leur histoire, leur langue, leurs traditions orales, leur philosophie, leur système d'écriture et leur littérature, ainsi que de choisir ou de conserver leurs propres dénominations pour les communautés, les lieux et les personnes.

Chaque fois qu'un des droits des peuples autochtones sera menacé, les Etats prendront les mesures qui s'imposent pour le protéger et aussi pour faire en sorte que les intéressés puissent comprendre le déroulement des procédures politiques, juridiques et administratives et se faire eux-mêmes comprendre, en leur fournissant, le cas échéant, les services d'un interprète ou par d'autres moyens appropriés.

QUATRIEME PARTIE

Article 15

Les enfants autochtones ont le droit d'accéder à tous les niveaux et à toutes les formes d'enseignement public. Tous les peuples autochtones ont aussi ce droit et celui d'établir et de contrôler leurs propres systèmes et établissements scolaires où l'enseignement sera dispensé dans leurs propres langues, conformément à leurs méthodes culturelles d'enseignement et d'apprentissage.

Les enfants autochtones vivant à l'extérieur de leurs communautés doivent avoir accès à un enseignement conforme à leur propre culture et dispensé dans leur propre langue.

Les Etats feront en sorte que des ressources appropriées soient affectées à cette fin.

Article 16

Les peuples autochtones ont droit à ce que toutes les formes d'enseignement et d'information publique reflètent fidèlement la dignité et la diversité de leurs cultures, de leurs traditions, de leur histoire et de leurs aspirations.

Les Etats prendront les mesures qui s'imposent, en concertation avec les peuples autochtones concernés, pour éliminer les préjugés et la discrimination, promouvoir la tolérance et la compréhension et instaurer de bonnes relations entre les peuples autochtones et tous les secteurs de la société.

Article 17

Les peuples autochtones ont le droit d'établir leurs propres organes d'information dans leurs propres langues. Ils ont aussi le droit d'accéder, sur un pied d'égalité, à toutes les formes de médias non autochtones.

Les Etats prendront les mesures qui s'imposent pour faire en sorte que les organes d'information publics donnent une idée juste de la diversité culturelle des peuples autochtones.

Article 18

Les peuples autochtones ont le droit de jouir pleinement de tous les droits établis en vertu du droit du travail, aux niveaux international et national.

Les autochtones, ont le droit, à titre individuel, d'être protégés contre toute discrimination en matière de conditions de travail, d'emploi ou de rémunération.

CINQUIEME PARTIE

Article 19

Les peuples autochtones ont le droit, s'ils le souhaitent, de participer pleinement et à tous les niveaux à la prise des décisions qui peuvent avoir des incidences sur leurs droits, leur mode de vie et leur avenir, par l'intermédiaire de représentants qu'ils auront eux-mêmes choisis conformément à leurs propres procédures. Ils ont aussi le droit de conserver et de développer leurs propres institutions décisionnelles.

Article 20

Les peuples autochtones ont le droit de participer pleinement, s'ils le souhaitent, suivant des procédures qu'ils auront déterminées, à l'élaboration de mesures législatives ou administratives susceptibles de les concerner.

Avant d'adopter et d'appliquer de telles mesures, les Etats doivent obtenir le consentement, exprimé librement et en toute connaissance de cause, des peuples intéressés.

Article 21

Les peuples autochtones ont le droit de conserver et de développer leurs systèmes politiques, économiques et sociaux, de jouir en toute sécurité de leurs propres moyens de subsistance et de développement et de se livrer librement à toutes leurs activités économiques, traditionnelles et autres. Les peuples autochtones qui ont été privés de leurs moyens de subsistance ont droit à une indemnisation juste et équitable.

Article 22

Les peuples autochtones ont droit à des mesures spéciales visant à améliorer de façon immédiate, effective et continue leur situation économique et sociale, y compris dans les domaines de l'emploi, de la formation et de la reconversion professionnelles, du logement, de l'assainissement, de la santé et de la sécurité sociale.

Il convient d'accorder une attention particulière aux droits et aux besoins particuliers des personnes âgées, des femmes, des jeunes, des enfants et des handicapés autochtones.

Article 23

Les peuples autochtones ont le droit de définir et d'élaborer des priorités et des stratégies en vue d'exercer leur droit au développement. En particulier, ils ont le droit de définir et d'élaborer tous les programmes de santé, de logement et autres programmes économiques et sociaux les concernant et, autant que possible, de les administrer au moyen de leurs propres institutions.

Article 24

Les peuples autochtones ont droit à leurs pharmacopées et pratiques médicales traditionnelles, y compris le droit à la protection des plantes médicinales, des animaux et des minéraux d'intérêt vital.

Ils doivent aussi avoir accès, sans aucune discrimination, à tous les établissements médicaux, services de santé et soins médicaux.

SIXIEME PARTIE

Article 25

Les peuples autochtones ont le droit de conserver et de renforcer les liens particuliers, spirituels et matériels, qui les unissent à leurs terres, à leurs territoires, à leurs eaux fluviales et côtières, et aux autres ressources qu'ils possèdent ou qu'ils occupent ou exploitent traditionnellement, et d'assumer leurs responsabilités en la matière à l'égard des générations futures.

Article 26

Les peuples autochtones ont le droit de posséder, de mettre en valeur, de gérer et d'utiliser leurs terres et territoires, c'est-à-dire l'ensemble de leur environnement comprenant les terres, l'air, les eaux, fluviales et côtières, la banquise, la flore, la faune et les autres ressources qu'ils possèdent ou qu'ils occupent ou exploitent traditionnellement. Ils ont notamment droit à la pleine reconnaissance de leurs lois, traditions et coutumes, de leur régime foncier et des institutions chargées d'exploiter et de gérer leurs ressources, ainsi qu'à des mesures de protection efficaces de la part des Etats contre toute ingérence ou toute aliénation ou limitation de ces droits ou tout obstacle à leur exercice.

Article 27

Les peuples autochtones ont droit à la restitution des terres, des territoires et des ressources qu'ils possédaient ou qu'ils occupaient ou exploitaient traditionnellement et qui ont été confisqués, occupés, utilisés ou dégradés sans leur consentement donné librement et en connaissance de cause. Lorsque cela n'est pas possible, ils ont droit à une indemnisation juste et équitable. Sauf si les peuples concernés en ont librement décidé autrement, l'indemnisation se fera sous forme de terres, de territoires et de ressources équivalents du point de vue de leur qualité, de leur étendue et de leur régime juridique.

Article 28

Les peuples autochtones ont droit à la préservation, à la restauration et à la protection de leur environnement dans son ensemble et de la capacité de production de leurs terres, territoires et ressources, ainsi qu'à une

assistance à cet effet de la part des Etats et par le biais de la coopération internationale. Il ne pourra y avoir d'activités militaires sur les terres et territoires des peuples autochtones sans leur accord librement exprimé.

Les Etats feront en sorte qu'aucune matière dangereuse ne soit stockée ou déchargée sur les terres ou territoires des peuples autochtones.

Les Etats prendront aussi les mesures qui s'imposent pour assurer la mise en oeuvre des programmes de contrôle, de prévention et de soins médicaux destinés aux peuples autochtones affectés par ces matières, et conçus et exécutés par eux.

Article 29

Les peuples autochtones ont droit à ce que la pleine propriété de leur biens culturels et intellectuels leur soit reconnue ainsi que le droit d'en assurer le contrôle et la protection.

Les peuples autochtones ont droit à des mesures spéciales destinées à leur permettre de contrôler, de développer et de protéger leurs sciences, leurs techniques et les manifestations de leur culture, y compris leurs ressources humaines et autres ressources génétiques, leurs semences, leur pharmacopée, leur connaissance des propriétés de la faune et de la flore, leurs traditions orales, leur littérature, leurs dessins et modèles, leurs arts visuels et leurs arts du spectacle.

Article 30

Les peuples autochtones ont le droit de définir des priorités et d'élaborer des stratégies pour la mise en valeur et l'utilisation de leurs terres, territoires et autres ressources. Ils ont notamment le droit d'exiger que les Etats obtiennent leur consentement, exprimé librement et en toute connaissance de cause, avant l'approbation de tout projet ayant une incidence sur leurs terres, territoires et autres ressources, notamment en ce qui concerne la mise en valeur, l'utilisation ou l'exploitation des ressources minérales, des ressources en eau ou de toutes autres ressources. En accord avec les peuples autochtones concernés, des indemnités justes et équitables leur seront accordées pour atténuer les effets néfastes de telles activités et mesures sur les plans écologique, économique, social, culturel ou spirituel.

SEPTIEME PARTIE

Article 31

Les peuples autochtones, dans l'exercice spécifique de leur droit à disposer d'eux-mêmes, ont le droit d'être autonomes et de s'administrer eux-mêmes en ce qui concerne les questions relevant de leurs affaires intérieures et locales, et notamment la culture, la religion, l'éducation, l'information, les médias, la santé, le logement, l'emploi, la protection

sociale, les activités économiques, la gestion des terres et des ressources, l'environnement et l'accès de non-membres à leur territoire, ainsi que les moyens de financer ces activités autonomes.

Article 32

Les peuples autochtones ont le droit, à titre collectif, de choisir leur propre citoyenneté conformément à leurs coutumes et traditions. La citoyenneté autochtone n'affecte en rien le droit des autochtones d'obtenir, à titre individuel, la citoyenneté de l'Etat dans lequel ils résident.

Les peuples autochtones ont le droit de déterminer les structures de leurs institutions et d'en choisir les membres selon leurs propres procédures.

Article 33

Les peuples autochtones ont le droit de promouvoir, de développer et de conserver leurs structures institutionnelles ainsi que leurs propres coutumes, traditions, procédures et pratiques juridiques en conformité avec les normes internationalement reconnues dans le domaine des droits de l'homme.

Article 34

Les peuples autochtones ont le droit, à titre collectif, de déterminer les responsabilités des individus envers leurs communautés.

Article 35

Les peuples autochtones, en particulier ceux qui sont divisés par des frontières internationales, ont le droit d'entretenir et de développer, à travers ces frontières, des contacts, des relations et des liens de coopération avec les autres peuples, notamment dans les domaines spirituel, culturel, politique, économique et social.

Les Etats prendront les mesures qui s'imposent pour garantir l'exercice et la jouissance de ce droit.

Article 36

Les peuples autochtones ont le droit d'exiger que les traités, accords et autres arrangements constructifs conclus avec des Etats ou leurs successeurs soient reconnus, honorés, respectés et appliqués par les Etats conformément à leur esprit et à leur but originels. Les différends qui ne peuvent être réglés par d'autres moyens doivent être soumis à des instances internationales compétentes choisies d'un commun accord par toutes les parties concernées.

HUITIEME PARTIE

Article 37

Les Etats doivent prendre, en consultation avec les peuples autochtones concernés, les mesures nécessaires pour donner plein effet aux dispositions de la présente Déclaration. Les droits qui y sont énoncés doivent être adoptés et incorporés dans leur législation interne de manière que les peuples autochtones puissent concrètement s'en prévaloir.

Article 38

Les peuples autochtones ont le droit de recevoir une assistance financière et technique adéquate, de la part des Etats et au titre de la coopération internationale, pour poursuivre librement leur développement politique, économique, social, culturel et spirituel et pour jouir des droits et libertés reconnus dans la présente Déclaration.

Article 39

Les peuples autochtones ont le droit de recourir à des procédures mutuellement acceptables et équitables pour le règlement des conflits et des différends avec les Etats et d'obtenir de promptes décisions en la matière. Ils ont également droit à des voies de recours efficaces pour toutes violations de leurs droits individuels et collectifs. Toute décision tiendra compte des coutumes, traditions, règles et systèmes juridiques des peuples autochtones concernés.

Article 40

Les organes et institutions spécialisées du système des Nations Unies et les autres organisations intergouvernementales doivent contribuer à la pleine mise en oeuvre des dispositions de la présente Déclaration par la mobilisation, entre autres, de la coopération financière et de l'assistance technique. Les moyens d'assurer la participation des peuples autochtones aux questions les concernant doivent être mis en place.

Article 41

L'Organisation des Nations Unies prendra les mesures nécessaires pour assurer l'application de la présente Déclaration, notamment en créant au plus haut niveau un organe investi de compétences particulières dans ce domaine, avec la participation directe de peuples autochtones. Tous les organes des Nations Unies favoriseront le respect et la pleine application des dispositions de la présente Déclaration.

NEUVIEME PARTIE

Article 42

Les droits reconnus dans la présente Déclaration constituent les normes minimales nécessaires à la survie, à la dignité et au bien-être des peuples autochtones du monde.

Article 43

Tous les droits et libertés reconnus dans la présente Déclaration sont garantis de la même façon à tous les autochtones, hommes et femmes.

Article 44

Aucune disposition de la présente Déclaration ne peut être interprétée comme entraînant la diminution ou l'extinction de droits que les peuples autochtones peuvent déjà avoir ou sont susceptibles d'acquérir.

Article 45

Aucune disposition de la présente Déclaration ne peut être interprétée comme conférant à un Etat, à un groupe ou à un individu le droit de se livrer à une activité ou à un acte contraire à la Charte des Nations Unies.

1994/46. Discrimination à l'encontre des populations autochtones

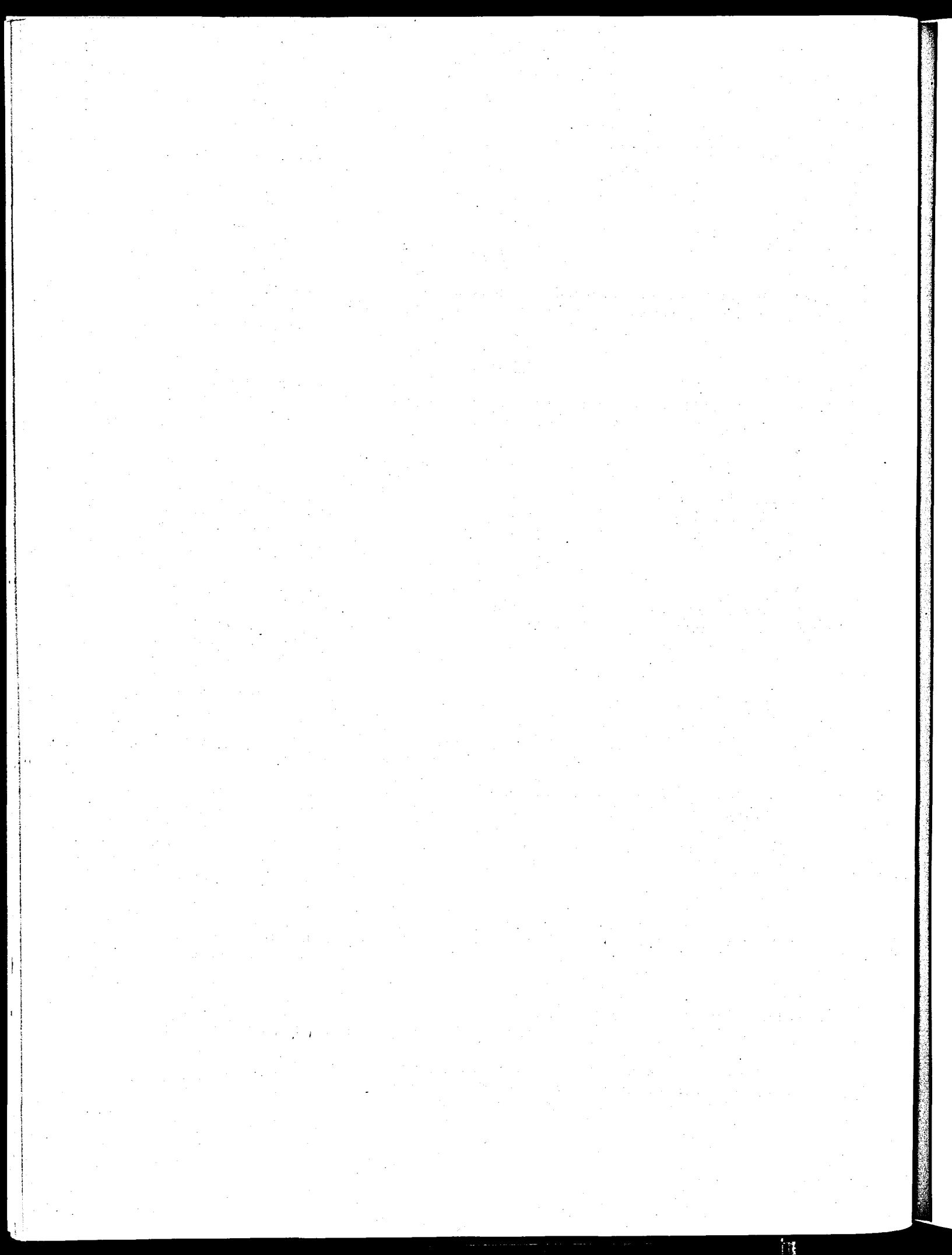
La Sous-Commission de la lutte contre les mesures discriminatoires et de la protection des minorités,

Sachant que l'un des buts des Nations Unies énoncés dans la Charte est de réaliser la coopération internationale en résolvant les problèmes internationaux d'ordre économique, social, culturel ou humanitaire et en développant et en encourageant le respect des droits de l'homme et des libertés fondamentales pour tous sans distinction de race, de sexe, de langue ou de religion,

Réaffirmant la nécessité urgente de reconnaître, promouvoir et protéger plus efficacement les droits de l'homme et les libertés fondamentales des peuples autochtones,

Rappelant la résolution 1982/34 du Conseil économique et social, en date du 7 mai 1982, par laquelle le Conseil l'a autorisée à constituer annuellement un groupe de travail sur les populations autochtones,

Rappelant également la résolution 48/163 de l'Assemblée générale, en date du 21 décembre 1993, sur la Décennie internationale des populations autochtones,



Commission on Human Rights
Fifty-third session
Working Group established in
accordance with Commission
on Human Rights resolution 1995/32
of 3 March 1995
Second session
Geneva, 21 October - 1 November 1996

Statements of the Canadian delegation

Mr. Chairperson

My delegation has listened carefully to the interventions made by the representatives of indigenous groups and wishes to reiterate Canada's commitment to achieving the goal of a Declaration that reflects the unique place of indigenous people in the world; that is universal in application; that promotes reconciliation and the protection of indigenous rights; that works effectively against discrimination; and that provides clear and practical guidance for the development of effective and harmonious relationships between indigenous people and states - in short, a declaration that addresses a number of the very issues that have been raised this morning. The world would indeed be a richer one if there were an effective declaration. We would not wish there to be any doubt about Canada's fundamental position. That is why we are here. And we do not regard the last two days as time wasted. It is time invested. We are dealing with complex issues; and these do take time.

Like our Australian colleagues, we believe that the Working Group session last year was a success and a significant landmark. Under your leadership, the groundwork was laid and conditions set for us to move forward and make measured, tangible progress toward our goal. In particular, it was clearly established that the basis for our work would be the "Draft Declaration on the Rights of Indigenous Peoples" which was produced by the Working Group on Indigenous Populations. This recognized the dedicated effort and commitment of indigenous groups as well as the members of the WGIP and, in particular, the chairperson Madame Erica Daes.

Most importantly, organizations of indigenous people from around the world were accredited to this Working Group with some receiving financial assistance to attend. Once here, these groups used the opportunity to participate fully and effectively and made valuable contributions to the deliberations of the Working Group.

Last year, we completed an overview of the draft declaration which demonstrated broad support for the development of this important human rights instrument and the need for careful attention to its provisions. Your report, Mr. Chairperson, comprehensively outlined the issues; clearly reflected the expressed views of states and indigenous groups; and pointed out where consensus was emerging and where further deliberation is needed. Last year the Canadian delegation to the Working Group expressed preliminary views on a number of fundamental issues raised by the draft Declaration.

Mr. Chairperson,

My delegation warmly welcomes your stated intention to have

this session of the Working Group make solid progress and build upon the work done last year. We are pleased that you have been able to reflect the interests of all participants in the Working Group by rescheduling time for general statements.

We know that you will continue to maintain an open and transparent process which will allow for the crucial and effective contribution of the many organizations of indigenous people present. Their input will be indispensable to developing a strong and durable Declaration. In that regard, we also support your efforts and those of the Centre to provide facilities and services in order to assist the participation of those organizations. We are confident that, with patience and understanding for the interests of all participants, we can work together to achieve our common goal.

On 11 October, the Honourable Lloyd Axworthy, Minister of Foreign Affairs, met with Canadian Aboriginal leaders and stated that our delegation would play an active and constructive role in this Working Group. He also made a commitment to them to establish an ongoing intersessional process of dialogue and consultation on the Draft Declaration in Canada. As the Canadian delegation stated last year, we will wish once again to discuss the outcome of this session of the Working Group, as well as the various provisions of the draft Declaration, with interested stakeholders in Canada, including Canadian indigenous groups, and provinces and territories.

Mr. Chairperson,

My delegation is here to work hard, to show demonstrable progress and to build momentum towards next year. We look forward to hearing from all delegations and indigenous representatives present for, if we are to make progress, it is imperative that the full range of positions be voiced. The free expression of all points of view is an essential part of our deliberations. My delegation is confident that your final report on this session again will reflect the full range of views expressed and will be a positive, forward looking guide to next year.

All of us here, states and organizations of indigenous people alike, must take up the challenge, and bear the responsibility for taking this Working Group significantly closer to our goal. Thank you.

Canada
23 octobre 1996

Monsieur le Président,

Ma délégation a écouté avec attention les interventions faites par les représentants des groupes autochtones et souhaite réaffirmer notre détermination d'arriver à une déclaration qui reflète la place unique qu'occupent les populations autochtones dans le monde; qui soit appliquée universellement; qui favorise la réconciliation et la protection des droits des autochtones; qui permette de combattre efficacement la discrimination; et qui fournisse des conseils clairs et pratiques quant à l'établissement de relations efficaces et harmonieuses entre les peuples autochtones et les États.- En résumé, une déclaration qui traite de plusieurs des enjeux qui ont été soulevés ce matin. - Le monde sera enrichi par une déclaration efficace. Nous ne voulons pas que subsiste quelque doute que ce soit au sujet de la position fondamentale du Canada. C'est la raison pour laquelle nous sommes ici. Nous ne considérons pas les deux derniers jours comme une perte de temps, mais comme un investissement. Nous travaillons sur des questions complexes et cela exige du temps.

Comme notre collègue Australien, nous croyons que la session de l'an dernier a été très fructueuse et est devenue un important point de repère. Sous votre gouverne, nous avons effectué le travail préparatoire et instauré les conditions nécessaires pour effectuer une avancée et progresser de façon mesurée et tangible vers notre but. En particulier, il a été clairement établi que nous utiliserions, comme base de nos travaux, le « Projet de déclaration sur les droits des peuples autochtones », rédigé par le Groupe de travail des populations autochtones. Cela nous permet de reconnaître les efforts consciencieux et l'engagement des groupes autochtones et des membres du Groupe de travail, notamment de sa présidente, M^{me} Erica Daes.

Le plus important est que des organisations autochtones de partout dans le monde étaient accréditées auprès de ce Groupe de travail, certaines bénéficiant d'une aide financière pour assister à ses travaux. Une fois ici, ces groupes ont pu être entendus et ont eu la possibilité de contribuer et de participer pleinement et efficacement aux délibérations du Groupe de travail.

L'an dernier, nous avons effectué un survol du projet de déclaration, exercice qui a démontré le large appui accordé à l'élaboration de cet important instrument et la nécessité d'y consacrer d'intenses efforts à l'avenir. Votre rapport, Monsieur le Président, a bien fait ressortir les enjeux et a clairement démontré les points où un consensus commençait à se dégager et ceux sur lesquels il fallait continuer de travailler. L'an dernier, la délégation canadienne au Groupe de travail a fait état d'observations préliminaires sur plusieurs des enjeux fondamentaux que soulève le projet de déclaration.

Monsieur le Président,

Ma délégation accueille avec satisfaction votre volonté de faire que cette session du Groupe de travail permette d'accomplir de solides progrès et de tirer parti du travail réalisé l'an dernier. Nous nous réjouissons de ce que vous ayez pu tenir compte des intérêts de tous les participants au Groupe de travail en ajustant le moment où des commentaires généraux pourront être faits.

Nous savons que vous continuerez d'assurer l'ouverture et la transparence du processus, ce qui permettra aux nombreuses organisations autochtones présentes d'apporter une contribution cruciale et efficace. Leur contribution est essentielle au développement d'une déclaration forte et durable. À cet égard, nous appuyons également les efforts que vous et le Centre avez déployés pour fournir des installations et des services à ces organisations afin de faciliter leur participation.

Le 11 octobre, l'honorable Lloyd Axworthy, ministre des Affaires étrangères, a rencontré les chefs autochtones du Canada et leur a fait savoir que notre délégation collaborerait activement aux délibérations de ce Groupe de travail. Il s'est également engagé à mettre sur pied un processus intersessionnel continu de dialogue et de consultation sur le Projet de déclaration au Canada. Comme la délégation canadienne le mentionnait l'an dernier, nous voudrions une fois de plus discuter des résultats des travaux de la présente session, tout comme des différentes dispositions du projet de déclaration, avec les intéressés au Canada, notamment les groupes autochtones canadiens, les provinces et les territoires.

Monsieur le Président,

Ma délégation a l'intention de travailler fort, de faire progresser de façon démontrable le processus et de créer une dynamique en prévision de l'an prochain. Nous sommes impatients d'entendre ce qu'ont à dire les autres délégations présentes car, si nous voulons accomplir des progrès, il faut absolument que votre rapport final sur cette session présente et reflète l'ensemble des positions. L'expression, en toute liberté, de tous les points de vue, est une partie essentielle de nos délibérations. Ma délégation est confiante que votre rapport sur la présente session reflètera l'éventail des opinions exprimées et servira de guide positif pour l'an prochain.

Nous tous réunis ici, États comme organisations autochtones, devons relever le défi et faire en sorte que ce Groupe de travail fasse un grand pas de plus vers la réalisation de notre but. Merci.

My government acknowledges the critical nature of the principles enunciated in Part III of the draft Declaration for the survival of indigenous people. Indigenous representatives, like parents of all cultures, stress that they must have the opportunity to teach their children about the religion, language and culture of their community, in order for their culture to survive. These rights then are of universal concern, and as such, are protected in the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, and the *Convention on the Rights of the Child*, which apply to indigenous and non-indigenous alike. We support the elaboration of these principles in Part III which sets out how these rights may be exercised by indigenous people and clarifies the role of States in ensuring that indigenous people may enjoy fully their cultural, linguistic and religious rights.

Article 12

Article 12 in dealing with the right to practise and revitalize cultural traditions and customs identifies two elements: the protection and development of culture; and the restitution and return of property. These are important issues and perhaps should be addressed in two separate paragraphs.

The right to practise one's language and culture in community with others is a vital right. My delegation believes that states should facilitate, subject to national laws, the efforts of indigenous people to maintain, protect and develop manifestations of their cultures, while respecting the legitimate rights of others.

With respect to the return of cultural property, there is an evolution at both international and national levels. A number of international instruments now relate to the return of cultural property, including the *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970*, the recent *UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects*, which specifically refers to property created by indigenous artists, and the recent *Commonwealth Scheme of the Protection of Cultural Heritage within the Commonwealth*. There are positive developments in international law and the domestic practices of states in this area. The provisions in this declaration should build on those developments and in this context we believe that states should make best efforts, in accordance with applicable international and domestic law, to facilitate the return to indigenous people of their cultural property.

Article 13

Canada supports the principles of Article 13 on the practice and development of spiritual and religious traditions, access to sacred sites for these purposes and the repatriation of human remains. We note, however, that access to sacred sites in privacy in some cases will require a balancing of interests which respects the legal rights of others protected under domestic laws.

Article 14

My delegation fully agrees with the principle contained in the first paragraph of this Article. We hope that your report will be able to reflect a broad consensus on this principle.

The second paragraph of this article deals with political and civil rights, rather than cultural, religious and linguistic rights and on that basis, we would suggest that it be moved to Part V. As well, we believe that on this issue we should strive for consistency with international instruments, notably international humanitarian law. Finally, my delegation is not clear what "other appropriate means" might be, beyond the provision of translation, and would be grateful to hear from others on this point. We intend to comment more substantively in the discussion of Article 19.

In concluding our comments on these articles, we would add our support to the suggestion of the Technical Review that Article 29 on intellectual property be moved into Part III and we will be prepared to discuss this when you wish, Mr. Chairman.

Article 24

Article 24 deals with traditional medicine and health practices and access to health care. Canada does not agree with the suggestion of the Technical Review that this article be moved to Part III. We believe that the contribution and complementary nature of traditional medicines and health practices to modern medical care can be better emphasized by retaining the article's structure and position.

We suggest that consideration be given to addressing the rights of the indigenous child here, through reference to their rights under international law such as the *Convention on the Rights of the Child*.

Canada strongly supports full access by all indigenous people, without discrimination, to health services and medical care. My delegation understands this to constitute a broad, holistic reference that would include programs such as those addressing nutrition, pre and post-natal care and substance abuse programs.

Article 29

My delegation recognizes that this paragraph deals with issues of critical concern to indigenous communities. We support its placement in Part III of the declaration which addresses cultural rights.

The question of how best to address the protection, use and development of the traditional knowledge of indigenous people is receiving a great deal of attention by indigenous people and states at the present time. A number of recent international instruments, including Article 8(j) of the *Convention on Biological Diversity*, include provisions on this matter. May I take this opportunity to thank the Secretariat for arranging the meeting (today) on the *Convention on Biological Diversity*. We are sure that this will be a meeting of great value. The third Conference of the Parties of that Convention will be considering implementation of 8(j) in early November in Buenos Aires. In addition, the Chairperson of the UN Working Group on Indigenous Populations has made a significant contribution to the analysis of the protection of indigenous traditional knowledge and culture.

States and indigenous people will want to consider this area of international law further, and address what appropriate mechanisms might be used or developed. Efforts in this regard may be undertaken in international fora over the next short while.

There is in place today a complex multilateral system for the protection of intellectual property rights. Consideration

will need to be given by states party to existing international agreements relating to intellectual property regimes before changes could be made. Rights of third parties, already recognized under such regimes, must also be acknowledged and addressed in any discussion which proposes to amend them.

Ultimately, however, it may be determined that alternative mechanisms to the current intellectual property regime could be utilized to better address the concerns of indigenous communities in this area. My delegation is concerned that the Working Group find a means to take into account the outcome of future work in other fora.

We believe that this is an important issue and merits detailed consideration. We believe, as well, that at present only a broad statement of principle should be included in the draft declaration. Such a principle might be to the effect that indigenous people have the right to a fair and equitable sharing of the benefits arising from the utilization, including commercial utilization, of their traditional knowledge.

Article 1

Mr. Chairman, before starting our comments on Article 1 of the Draft Declaration, I would like to make some preliminary comments on the general principles contained in Part I of the Declaration.

In Canada's view, as we stated in our intervention on Part I last year, we believe that the purpose of the Declaration is to guide states in their relationship with the indigenous people who live within their borders, and to assist states and indigenous people in developing arrangements by which they can live together harmoniously, with respect for the rights of all.

The issue of the general principles to be included in the declaration is of critical concern given the role of these general principles in determining how the specific provisions of the declaration should be interpreted.

Article 1 is an important affirmation of the importance of the human rights system to our world, and the role which that system plays in the protection of the rights of individuals. We recognize that there are many instances in which the rights of indigenous people are denied or violated, and through this Declaration, we will work to ensure the promotion and protection of indigenous rights.

In order to conclude a declaration which does this, we must bear in mind the importance of consistency with existing instruments of international law. By consistency, we do not mean seeking the lowest common denominator but that where the rights of indigenous people are already protected in international law, we should retain these standards. This also means that we must consider that where there are no standards, or the standards are observed more in theory than in practice, we must decide whether special protection for indigenous people would be warranted. This review will have to be done on a article-by-article basis.

Mr. Chairman, we note that there may be some confusion caused by the use in various places in the draft of the terms "indigenous individuals" and "indigenous peoples", both alone and in combination. As affirmed at the Vienna Conference on Human Rights, individuals are the primary object of international human rights law. We believe that there should be a provision included in this article which recognizes the importance of individual rights.

The traditional view of human rights law has been that with the protection of individual rights, the rights of the collectivities are also protected. We are here, however, to consider a declaration which was drafted specifically with the

rights of indigenous people in mind. We have all acknowledged the unique nature of the indigenous communities and collectivities, their relationship with each other and with the land.

The Canadian Constitution recognizes and affirms aboriginal and treaty rights, which are acknowledged by the Canadian Government as primarily collective rights. We believe that recognition of certain rights of indigenous people as collective rights merits further consideration. We will have to do this on an article-by-article basis.

Article 2

Mr. Chairman, this article states the principle of non-discrimination. Its connection with Article 1 is important as a reaffirmation that indigenous people share equally with non-indigenous people in all human rights. Equally, indigenous people must not be the subject of discriminatory treatment by states or their citizens.

As we mentioned in our statement on Article 1, we will have to review the document with respect to the use of the terms "indigenous peoples" and "indigenous individuals" to ensure consistency. In this case, we agree that this right of non-discrimination should be enjoyed by both the individuals and their collectivities.

We recognize that many indigenous groups have not achieved the same standard of social or economic progress as have other sectors of society. With a view to addressing historic or systemic discrimination, states may need to institute special measures for the purpose of improving the situation of indigenous individuals or people. If this were done, we might include a statement that such special measures would not be considered discriminatory, in line with the similar provisions included in the Convention on the Elimination of Discrimination and the Declaration on the Rights of Minorities.

Article 43

Mr. Chairman, Canada strongly supports the principle of equal rights for men and women, and we believe that this principle should enjoy a prominent place in the Declaration. We would thus support the recommendation of the Technical Review that this article be moved to Part I which contains general principles of international law.

Article 1

Monsieur le Président, avant de commenter l'article 1, je voudrais faire quelques remarques préliminaires sur les principes généraux contenus dans la Partie I du projet de déclaration.

Dé l'avis du Canada, comme nous l'avons dit l'an dernier lors de notre intervention sur la Partie I, le but de la déclaration est de guider les États dans leurs relations avec les populations autochtones qui vivent à l'intérieur de leurs frontières et d'aider les États et les populations autochtones à parvenir à des ententes qui leur permettent de vivre ensemble en harmonie en respectant les droits de chacun.

La teneur des principes généraux devant figurer dans la déclaration est une question cruciale, étant donné que ces principes serviront à déterminer comment les dispositions de la déclaration devront être interprétées.

L'article 1 affirme l'importance pour le monde dans lequel nous vivons du système des droits de la personne et du rôle qu'il joue dans la protection des droits des individus. Dans bien des cas, reconnaissons-le, les droits des autochtones sont contestés ou violés; avec cette déclaration, nous tenterons de promouvoir et de protéger ces droits.

Afin qu'une telle déclaration voit le jour, il importe que nous ne perdions pas de vue l'importance de la cohérence avec les instruments juridiques qui existent en droit international. Pour être cohérent, il ne s'agit pas de rechercher le plus petit dénominateur commun avec ces derniers mais, si les droits des autochtones sont déjà protégés par le droit international, nous devons conserver les normes en vigueur. Par ailleurs, s'il n'existe pas de normes, ou si les normes sont suivies davantage en théorie qu'en pratique, nous devons décider si une protection spéciale doit être garantie aux populations autochtones. Notre examen, à cet égard, devra se faire au cas par cas.

Monsieur le Président, nous sommes conscients de la confusion que pourrait causer l'usage, à maints endroits, des termes « individus autochtones » et « populations autochtones », séparément et ensemble. Comme l'ont affirmé les participants à la Conférence de Vienne sur les droits de l'homme, les individus sont visés au premier chef par le droit international en la matière. Nous croyons important d'inclure dans cet article une disposition qui reconnaisse l'importance des droits individuels.

Traditionnellement, les lois sur les droits de la personne voulaient que si les droits individuels étaient protégés, les droits des collectivités l'étaient aussi. Toutefois, nous

sommes ici pour examiner une déclaration qui porte expressément sur les droits des populations autochtones. Nous avons tous reconnu le caractère distinct des communautés et des collectivités autochtones, ainsi que leurs rapports entre eux et avec la terre.

La Constitution du Canada reconnaît et affirme les droits des autochtones et les droits issus de traités, que le gouvernement canadien reconnaît principalement comme droits collectifs. Nous estimons qu'il y a lieu d'examiner plus avant la reconnaissance de certains droits autochtones comme droits collectifs. Pour cela, nous devons procéder article par article.

Article 2

Monsieur le Président, cet article énonce le principe de non-discrimination. Le lien important qui existe entre son contenu et celui de l'article 1 réaffirme que tous les droits humains sont partagés également par les populations autochtones et non autochtones. De même, les autochtones ne doivent pas être traités de manière discriminatoire par les États ou leurs citoyens.

Comme nous l'avons mentionné dans nos observations sur l'article 1, il nous faudra revoir le document au sujet de l'emploi des termes « populations autochtones » et « individus autochtones » afin d'en assurer l'uniformité. En l'occurrence, nous convenons que ce droit à la non-discrimination doit s'appliquer à la fois aux individus et aux collectivités.

Nous reconnaissons que de nombreux groupes autochtones n'ont pas atteint le même niveau de progrès économique et social que d'autres secteurs de la société. Pour lutter contre la discrimination historique ou systémique, les États devraient peut-être adopter des mesures spéciales susceptibles d'améliorer la situation des individus et des populations autochtones. Si de telles mesures étaient adoptées, nous pourrions inscrire dans le texte que ces dernières ne seraient pas considérées discriminatoires, conformément aux dispositions similaires incluses dans la Convention sur l'élimination de la discrimination raciale et la Déclaration sur les droits des minorités.

Article 43

Monsieur le Président, le Canada appuie fermement l'égalité des hommes et des femmes, et nous sommes d'avis que ce principe devrait occuper une place prépondérante dans la Déclaration. Aussi, nous souscrivons à la recommandation faite lors de l'examen technique et voulant que cet article soit intégré à la Partie I de la Déclaration, qui contient les principes généraux du droit international.

Article 5

Canada supports Article 5 in the draft Declaration. This right to a nationality is recognized in several international instruments. We understand this right to apply to nationality within an existing state.

Article 9

Mr. Chairperson, Canada recognizes that a critical element of the indigenous identity is membership in an indigenous community or nation, in accordance with the traditions and customs of that community or nation. Closely connected to this is the question of self-identification by an individual and community acceptance, which is included in Article 8 of the draft.

In our view, Article 9 should recognize the principle that indigenous communities may determine their membership. The notion of a "right to belong" needs, in our view, some clarification as to how it would be consistent with existing human rights standards in international law.

Recognizing that the traditions and customs of indigenous communities and nations may change or develop, we believe that this Declaration should be flexible enough to allow for varied membership criteria. The article should affirm indigenous communities' ability to determine their membership in accordance with their traditions and customs, if they so choose; it should also affirm communities' ability to determine their membership in accordance with new or emerging customs.

The statement that "[n]o disadvantage of any kind may arise from the exercise of this right" seems to be directed at protecting indigenous individuals' right to nationality, but needs, perhaps, more precise interpretation. We recommend consideration be given to a more explicit reference to the right of each individual to a nationality. Related issues of non-discrimination are dealt with in Articles 2 and 16.

Although we recognize the community's right to determine membership, as with all other aspects of government, this power must be subject to the individual's right to fairness. We therefore believe that the article would be strengthened by a reference ensuring that the decisions to deny membership in a community to an individual are not made on an arbitrary or illegal basis.

Article 32

Mr. Chairperson, Article 32 deals with the right of indigenous people collectively to determine their own citizenship.

Canada understands this to mean the right to determine membership in the indigenous collectivity in question. As such, it appears to duplicate the provisions of Articles 8 and 9. To avoid such duplication and the potential confusion that can arise, we should consider whether Article 32 should be combined with these other articles, or whether, in fact, it is superfluous. In suggesting this, we would also note that the right to a nationality is protected in Article 5.

Canada
Articles 42, 44 & 45
October 25, 1996

Article 42

Mr. Chairperson, we support the principle contained in Article 42 in the Declaration. Once completed, this Declaration will be an important instrument reflecting the international community's agreement on the rights of indigenous people. As stated in the article, these rights are essential for the survival, dignity and well-being of indigenous people in the world, which is the goal of this group.

We must recognize that these are not goals which are attainable immediately in all circumstances. As with Article 37 of this Declaration, there should be some recognition of the flexible and progressive nature of the implementation. This is consistent with the provisions included in Article 34 of the International Labour Organization Convention 169 on *Indigenous and Tribal Peoples* and Article 2 of the *International Covenant on Economic, Social and Cultural Rights*. With this in mind, and given that they cover similar subject matter, the relationship between Articles 37 and 42 needs to be considered.

Article 44

Canada supports Article 44 and hopes that your final report will reflect a broad measure of support in the Working Group for this article.

Article 45

Canada supports the broad principle contained in Article 45. We would interpret this article as referring to, *inter alia*, the *Charter of the United Nations* and the *Declaration on Friendly Relations*.

Article 42

Monsieur le Président, nous appuyons le principe contenu dans l'article 42 de la Déclaration. Une fois complétée, cette déclaration constituera un instrument important reflétant les droits des autochtones sur lesquels la communauté internationale s'est entendue. Comme il est indiqué dans l'article, ces droits sont essentiels pour la survie, la dignité et le bien-être des populations autochtones du monde, ce qui constitue l'objectif visé.

Nous devons reconnaître que ces objectifs ne sont pas atteignables immédiatement, en toutes circonstances. Comme pour l'article 37, la nature flexible et progressive de la mise en oeuvre devrait être reconnue d'une certaine façon. Cela est cohérent avec les dispositions de l'article 34 de la Convention 169 concernant les peuples indigènes et tribaux dans les pays indépendants de l'Organisation internationale de travail et de l'article 2 du Pacte international relatif aux droits économiques, sociaux et culturels. Gardant cela à l'esprit et considérant que les articles 37 et 42 traitent de matières similaires, la relation entre les articles doit être considérée.

Article 44

Le Canada appuie l'article 44 et espère que votre rapport final reflétera la large support reçu au sein du groupe de travail pour cet article.

Article 45

Le Canada appuie le large principe contenu dans l'article 45. Nous considérons que cet article fait référence, entre autres, à la *Charte des Nations Unies* et à la *Déclaration touchant les relations amicales*.

Article 15

As stated last year, the Canadian delegation continues to support the concept of increased indigenous control over education contained in Article 15. The goal is to ensure education that is more reflective of indigenous cultures and to encourage the pursuit of education at all levels. It is also important to seek consistency with existing international instruments and the concept of non-discrimination. On this basis, Canada would like to make the following observations.

Education is important not only for children but also for youth and adults. Thus, the scope of paragraph 1 might be expanded by referring to indigenous individuals rather than indigenous children. This would more clearly encompass education at the post-secondary level, not just primary and secondary schooling. A second observation is that it may be preferable to refer to a right to access to education at all forms and levels, rather than to a right to all forms and levels of education.

The *Convention Against Discrimination in Education*, the *International Covenant on Economic, Social and Cultural Rights* and other international instruments have established conformity with minimum educational standards as an aspect of international law. This could be reflected in a second paragraph dealing with education systems and institutions, which could affirm the right to establish and control educational systems and institutions providing education in indigenous languages in a manner appropriate to indigenous culture, and which respect minimum educational standards.

Indigenous children, living outside their communities, should have adequate opportunities to education in their own culture and language, but the large number of indigenous languages and cultures present in some countries, the small number of children in particular areas, and the variety of demands on resources are factors which should be taken into account when establishing reasonable limits. Article 4 of *Declaration on the Rights of Minorities* might provide some useful inspiration.

As a final comment on Article 15, we need to reflect on the mention of resource requirements in an instrument which would not be legally binding.

Article 16

Canada is supportive of Article 16 and believes that the dignity and diversity of the cultures, traditions, histories and aspirations of indigenous people should be appropriately reflected in all forms of education, public information and state-owned media. More consideration is required to determine how this should be reflected in the article.

We also agree that states should take measures, in consultation with the indigenous people concerned, to combat prejudice, to eliminate discrimination and to promote tolerance, understanding and good relations among indigenous people and all segments of society.

Article 17

Article 17 is seen by Canada as dealing primarily with the issue of non-discrimination in the media. On this basis, Canada can support paragraph 1. Paragraph 2, dealing with cultural diversity, might be better included in Article 16.

Article 18

Canada reaffirms its support for the suggestion of the Technical Review to move Article 18 on labour rights to Part V, which deals with Economic and Social Rights. In addition, we would like to offer some observations with respect to internationally recognized labour rights and specifically with respect to protections for indigenous children who are especially vulnerable to abusive or exploitative child labour.

Rights under international labour law are often directed to the individual and his/her right to protections. This article should be oriented to the rights of indigenous individuals, and could reaffirm that indigenous individuals are entitled to all rights established under international labour law.

Secondly, there have been many recent events which have raised the problems of children who are subject to economic exploitation. Indigenous children are also vulnerable to this form of abuse. The Canadian delegation therefore suggests a special reference to indigenous children in the article on labour rights. Drawing on wording from the *Convention on the Rights of the Child*, the first paragraph might refer to the inclusion of the protection of indigenous children from economic exploitation or performing work harmful to the child's health, education or development.

As we said last year, it is our understanding that the prohibition in paragraph 2 of this article of discriminatory conditions would not affect the ability to implement affirmative action or equal opportunity programs, programs for positive discrimination until inequities have been addressed.

Article 4

Mr. Chairperson, Canada has accepted, in general, the principle included in Articles 4 and 8 regarding the maintenance and strengthening of indigenous institutions and systems, while allowing indigenous people to retain the right to participate fully in the life of the state. Given the overlap of the articles which deal with similar subject-matter as aspects of the implementation of the right of self-determination, such as Articles 8, 21 and 33, we support the recommendation of the Technical Review that these articles be considered together.

Article 8

The Canadian delegation supports the principle of self-identification and community acceptance included in Article 8. This principle is one which should be considered in conjunction with Article 9, which deals with issues of community membership.

One issue of concern to states relating to membership is the connection between an individual's membership in a community and his or her eligibility to benefit from some state-funded programs.

Article 21

Article 21 addresses the right of self-government. The Canadian government supports this concept as set out in this Article. As noted by my delegation last year, however, we must consider how best to address the issue of the sharing of roles and responsibilities between states and indigenous communities in the areas concerned.

My delegation believes that Article 21, in the first sentence, in fact articulates a principle, implementation of which is addressed in Article 31. For this reason, consideration could be given to combining Article 21 with Article 31, and addressed in Part VII of the Declaration.

The second sentence of Article 21 is very broadly worded. It states a right of compensation, which must entail an obligation to compensate; presumably this is an obligation of states. However, it includes no time-frame in which this right of compensation operates. How far back in the past can the right of compensation described here be rooted? It is worth noting here, with respect to this article and others in the draft Declaration, that usually instruments of international law do not apply retroactively.

As well, the sentence does not include limits on the causes of damage for which a state may be liable. Current wording may include causes or events in which the state had no

involvement, or damages arising, for example, from activities in another state which had an environmental or economic impact on the means of subsistence or development of the indigenous community. This kind of open-ended guarantee is problematic. Language in existing instruments could be used to reaffirm the principle that indigenous people have the right not to be deprived of their own means of subsistence.

Article 33

Mr. Chairperson, Article 33 sets out the right of indigenous people to their institutional structures and associated customs, procedures and practices, in accordance with international human rights standards.

In Canada's view, this clause speaks to the issue of self-government which is dealt with in various other Articles, notably Article 31. Canada believes the Declaration would benefit from having all the Articles dealing with self-government brought together. We would therefore suggest consideration be given to combining Article 33 and Article 31.

Article 6

We believe that the issue of genocide and the removal of children should be considered in conjunction with Article 7 on genocide. With this in mind, perhaps the focus of Article 6 should be on the guarantee of the right of indigenous individuals to life, liberty and security of the person. This is a right which is of basic importance for the survival of indigenous individuals and their communities, and is one which is included in other international instruments, such as Article 3 of the *Universal Declaration of Human Rights* and Article 9 of the *International Covenant on Civil and Political Rights*.

Although we have stated previously that there may be cases in which we could consider the formulation of collective rights, nevertheless, given the international acceptance of the international instruments securing a right to life, liberty and security of the person, we do not believe that a reference to a "collective right" would be necessary in this case.

Article 7

As the right to life, liberty and security of the person is essential for the continued well-being of indigenous individuals, so protection against genocide is essential for the continued existence of indigenous communities and cultures.

Rather than enumerating possible situations which might be considered genocide, this article might be strengthened if it contained a general reference to the *Genocide Convention* which, given its longevity and near-universal acceptance, forms part of customary law. Alternatively, the article could draw inspiration from the formulation used in the Convention. From that starting point, we must then consider if additional provisions are required for the protection of indigenous people.

Mr. Chairperson, we recognize the importance for indigenous people of the protection and promotion of indigenous cultures, which are central to the draft Declaration. However, we have some concerns about the use of the term "ethnocide". A declaration on human rights should, whenever possible, use terms that have generally accepted meanings. Where new terminology is used, we need to ensure that those terms are clearly understood. We will need to consider how best to include the goals of this article while maintaining consistency with other instruments of international law.

The draft Declaration recognizes the special and material relationship of the indigenous people with their lands and territories. For the sake of consistency, we may wish to consider whether the reference to lands and territories in Article 7 should be included in the part of the Declaration which contains other provisions on lands and territories.

Article 10

Mr. Chairperson, as we mentioned at the Working Group last year, Canada supports the purpose of Article 10.

There is some confusion regarding the use of the terms "removed" and "relocated". In our view, "removed" would suggest a temporary move while "relocation" would suggest a more permanent move. Whatever terms are used, we believe that the focus of this article should be on the constraints regarding permanent moves. There may be cases in which a move may need to be done on a temporary basis, such as where there is a natural disaster or war. For example, in emergencies, where rapid action may be needed to save lives, it may not be possible to obtain the consent of the affected groups or collectivities as a whole before the move.

We may wish to consider whether this article should be moved to Part VI of the Declaration which deals with lands and territories. We have comments on the issue of compensation in the context of that part of the Declaration.

Article 11

Article 11 mentions a right to special protection in periods of armed conflict. It may be useful to recall here that international humanitarian law is universal in its application. Is it the thrust of the article that indigenous people should have protection beyond that provided for under international humanitarian law? Perhaps this article could be an affirmation of the principle that in times of armed conflict, indigenous people have a right to all protections offered by international humanitarian law, in particular those included in the Fourth Geneva Convention.

Nevertheless, given the challenges faced by indigenous people world-wide during times of armed conflict, we believe that there may be circumstances in which special measures are required to ensure that indigenous people benefit from the protections offered by international humanitarian law. We may wish to consider an inclusion of such a principle in the Declaration.

While national policy on conscription is within the purview of states, we must recognize that indigenous people are sometimes used against each other in armed conflict in furtherance of domestic policies hostile to indigenous people. We should consider a statement that prohibits that type of policy.

There is some overlap with respect to sub-paragraph (c), which refers to the lands and territories of indigenous people. Perhaps this is an issue which should be considered in the context of Article 10 or Part VI of the Declaration (in particular Article 28), which deals with lands and territories.

We believe that the issue of non-discrimination, contained in sub-paragraph (d), is adequately covered in Article 2.

Canada
Articles 19, 20, 22 & 23
October 29, 1996

Mr. Chairperson,

These Articles of the Draft Declaration address the issues of political and social rights and the right to development. Clearly this is both a critical and complex part of the Declaration.

My delegation believes that to do justice to the objectives expressed in these Articles, we need to look carefully at the expression of these rights in other international instruments and be guided by them.

Articles 19 and 20

Articles 19 and 20 address the ways in which indigenous people can participate in the political life of the state in which they live. Our understanding is that these Articles are intended to state the right of indigenous individuals to participate in the general political processes of the states in which they live without discrimination. This is consistent with provisions included in other international instruments, such as the *International Covenant on Civil and Political Rights*.

However, Article 19 could be read as meaning that indigenous individuals have special rights in relation to matters that may affect them in the same way that they affect their non-indigenous neighbours. We do not think that such an interpretation would reflect the purpose of this Article, and would wish to avoid any ambiguity.

My delegation suggests that consideration be given to the question of whether these articles could be combined in one which would reflect the principle that indigenous individuals have the right to participate fully in public affairs, like any other citizen. As well, there may be special measures to allow participation in decisions of the state which directly affect certain areas of particular concern to indigenous people.

Article 25 of the *International Covenant on Civil and Political Rights*, and Article 2 of the *Declaration on the Rights of Minorities*, which address the right to participate in public affairs, could provide inspiration. Such an approach need not preclude indigenous people from selecting representatives through traditional methods.

Article 22

The first paragraph of Article 22 addresses the right to an adequate standard of living. This principle is already contained in Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights*, which could point the way for consideration of this article.

The second paragraph of Article 22 acknowledges that special attention may need to be paid to the rights of elders, women, youth, children and disabled persons. In many countries, it is the sole responsibility of the state to ensure that the rights of children are respected. My delegation suggests that consideration be given to including an acknowledgement of the role that the indigenous community may also play in ensuring that the rights of indigenous children are respected.

Article 23

Article 23 addresses the right to development. As my delegation has stated at other points in this discussion, we believe that it is critical that this Declaration be consistent with the expression of generally recognised human rights, as articulated in other international instruments. To that end, we suggest that attention be given to the *Declaration on the Right to Development* which, in Article 1, describes the content of the right to development, and acknowledges that it may be exercised both individually and collectively. That Declaration does however state, in Article 2, that the human person is central to the right to development and should be the active participant and beneficiary of the right. My delegation believes that these principles should be reflected in any provisions in the draft Declaration related to the right of development.

Finally, Mr. Chairperson, as we noted in our intervention of last year, this provision is broadly stated. We see the intent of this article as being related to the implementation of self-government. Thus, we will address these issues in the context of our comments on Part VII of the Declaration.

Canada has recognized on many occasions, including our statement to the Working Group last year, that lands and resources are fundamentally important for many indigenous people and are a central issue in their dealings with the larger society. The Declaration must therefore reflect the significance of this issue. It is also important that this Declaration take account of the many different land and resource arrangements between states and indigenous people for it to have universal application and provide guidance for states and indigenous people in all parts of the world.

We would note that the French text of several articles, particularly Articles 25, 26, and 28, does not correspond to the English wording.

Article 25

Due to the importance of lands and resources, this opening article in Part VI should recognize the close and traditional relationship of many indigenous people with the land and its resources.

Canada believes that more discussion is needed on this article and elsewhere concerning: the use of terminology; areas where legal rights have been or can be established, rather than areas in which such rights are claimed; and consideration of historical or contemporary treaty-making, land claims settlements or other arrangements between indigenous groups and states and existing rights.

Canada would recognize, in the context of the draft Declaration, that the term "lands" would refer to those areas which indigenous people may own, or have exclusive use of, and the rights to resources thereon. The term "territories" would refer to those areas which indigenous people do not own and do not have exclusive use of, but where they may conduct their traditional life-style, in accordance with domestic law.

Article 26

Discussions over past years have shown that this is one of the more complex provisions in the declaration. We need to look closely at this article and offer some preliminary comments now.

My delegation has already touched upon the question of terminology in the lands provisions. On the basis that an understanding is developed about land which refers to land owned by or set aside for the exclusive use of an indigenous group, my delegation strongly supports the principle that indigenous people have the right to own, control, develop and use their lands and resources. This should include the right to use their own land tenure systems and institutions for the

development and management of resources, to a standard consistent with domestic laws, notably environmental laws. This principle would reflect that indigenous people have the right to the quiet enjoyment of their lands and to the protection of their lands by domestic laws, on at least the same basis as others.

My delegation also supports the principle that indigenous people, in accordance with the laws of the state, may carry out their traditional lifestyles on territories which they have the legal right to use for these purposes, and to have their use of those territories taken into consideration by the state when planning for the development and use of that territory.

The recognition of laws, customs and traditions, land-tenure systems and institutions is related to self-government, and should be considered in the context of those complementary articles.

Article 27

Canada feels strongly that adequate processes for dealing with land claims and related resource issues should be available for indigenous groups. States should provide arrangements for dealing with valid claims and consideration could be given to a reference to this effect in this article.

While the article mentions the right to restitution or compensation in the form of lands and resources of equal quality, size and legal status, consideration might also be given to allowing for alternatives which provide for fair and just compensation for claims.

Article 28

Article 28 deals with environmental issues as well as military activities. Consideration might be given to separating these questions.

The environmental objectives in this article are supported by Canada. This article needs to reflect international, as well as domestic, standards on environmental matters. In line with this, the article might indicate that indigenous people have the right to the productive capacity of their lands. They also have the right to the protection of the environment of their lands and resources in accordance with international and domestic environmental law.

The article prohibits any storage or disposal of hazardous materials on indigenous lands. Some groups, however, may be willing to accept these materials as a means, for example, of generating economic activity. Perhaps this issue could be further considered to allow for this, on condition that there is full and informed consent.

With respect to military activities, the Declaration should recognize that indigenous people have rights, at least equivalent to those of other citizens, prohibiting military activities on their lands. At the same time, Canada believes that they should have the right to consent to military exercises being conducted on their lands, for example, to promote economic activity.

Article 30

Canada agrees that indigenous people have the right to determine and develop priorities and strategies for the development or use of their lands and resources. Moreover, states should consult with them, on at least the same basis as other people, prior to the approval of any project affecting their land, resources and territories. States should take measures to mitigate adverse impacts on the lands and resources of indigenous people.

Compensation is dealt with in Article 27. Consideration might be given to moving Article 30 to follow that article.

As a final point, we might also consider including the article on relocation, which is now Article 10 of the draft Declaration, in this part of the Declaration.

Article 35

Mr. Chairperson, Article 35 deals with the right of indigenous people to maintain international contacts and relations. States are called on to take appropriate measures to facilitate the exercise of this right.

In earlier drafts of the Declaration this right was limited to maintaining contacts and relations with other indigenous people. In this regard, Canada assumed its intent was similar to Article 2(5) of the Minorities Declaration.

However, the current draft speaks more broadly of the right of indigenous people to maintain international contacts with other people. The reasons for this change are not clear, and the article appears to describe a right which is generally understood to be a right of states.

Canada would welcome clarification of this point, and whether it would be desirable to consider including the word "indigenous" again to clarify that the intended right applies to contacts between indigenous people.

The requirement for states to ensure the exercise of this right may be too broad and onerous. Perhaps states could be called upon to facilitate contacts between indigenous people and groups, subject to reasonable and universal border control measures.

Article 38

Mr. Chairperson, Canada agrees that this Declaration should not merely be an empty recitation of the rights of indigenous people, without any obligations on states to promote and protect those rights. Nevertheless, Article 38 appears to create an open-ended obligation for state funding of indigenous development. As with our approach to Article 37, the Canadian delegation suggests a progressive, flexible approach with respect to this obligation, consistent with other instruments of international law. We may wish to consider whether Articles 37 and 38 could be consolidated.

Article 40

We support the inclusion of a statement in Article 40 reflecting the role of the UN and other intergovernmental organizations in contributing to the full realization of the provisions of this Declaration. A similar provision was included in Article 9 of the *Declaration on the Rights of Minorities*. We may wish to consider whether we should include a reference to the respective fields of competence of the organizations in question. This would be consistent with UN practice which recognizes the limited competence of its organs and specialized agencies.

As with other provisions of this draft Declaration, we support the principle that indigenous people have the right to participate in matters which directly affect them, reflecting the increasing practice of the UN in this regard. We may wish to consider further how to add precision here.

Article 41

Further consideration may be needed on the first sentence of Article 41, given that UN declarations are not the vehicle for creating UN bodies. We would note further that this issue is still at the very preliminary stages of discussion within the United Nations.

The second sentence of this article could be consolidated with Article 40, as they concern similar subject matter.

Article 36

Mr. Chairperson, Article 36, dealing with the recognition and enforcement of treaties and agreements between States and indigenous people, is an important provision of the draft Declaration. Canada made a number of comments on this Article in its statement to this Working Group last November.

Canada agreed then - and continues to believe - that valid treaties and agreements should be honoured. At the same time, we noted that Canada considers the treaties with its Aboriginal people to be domestic rather than international agreements. Disputes over their interpretation or implementation should therefore be dealt with in domestic fora.

Article 36 also suggests that treaties should be interpreted according to their "original spirit and intent". Canada acknowledges that "spirit and intent" is an issue in treaty interpretation.

However, it is not the only question that needs to be considered. In recent years, the Supreme Court of Canada has established several guiding principles for interpreting the treaties signed with Canada's Aboriginal people. The Court has held that the treaties should be liberally construed in a manner that upholds the honour of the Crown, and doubtful expressions resolved in favour of the Aboriginal people. At the same time, the Court has said that the written text must be interpreted in accordance with the ordinary meaning to be given to its terms, taking into account the context, object and purpose of the treaty. The interpretation must also reflect the intent of both parties. While extrinsic evidence may be used where the written text is ambiguous, it may not be used to alter the terms of the document.

For these reasons, Mr. Chairperson, Canada questions the reference to "spirit and intent" in Article 36 as the fundamental criterion for interpretation of treaties. At the least, it should be made clear that it is only one of a number of factors that need to be considered when dealing with treaties between states and indigenous people.

Finally, Mr. Chairperson, Canada's insistence on the use of domestic remedies to resolve disagreements over treaty interpretation is not intended to qualify or negate any rights indigenous people may have under existing or future international law. It is simply to emphasize that domestic mechanisms, which take into account the particular circumstances of the States and indigenous people concerned, are the appropriate fora for resolving disputes. This does not preclude indigenous people from having access to remedies under international law or international instruments, to the extent they are applicable.

Article 37

Mr. Chairperson, the Declaration, once completed, will contain provisions which will be essential for the protection and promotion of indigenous rights in international law. We must recognize that however important a declaration is in terms of recognizing and enhancing the norms of international law for indigenous people, it is not a legally-binding instrument in international law.

While the enactment of legislation, referred to Article 37, may be appropriate to implement some rights, others may be protected by ensuring that a state's laws or policies do not violate or restrict the enjoyment of rights. Therefore, we believe that the declaration should recognize the obligation on states to take effective measures as appropriate, to the maximum of their available resources, and in consultation with the indigenous people concerned, to give full effect to the provisions of the Declaration. This is consistent with the suggestion of the Technical Review that the provisions of the Declaration are to give guidance to states, not to impose mandatory measures.

We should also recognize that states should be guided by the provisions of the Declaration in determining the kinds of measures they should take to achieve progressively the full realization of some of the rights recognized therein. This concept of flexible and progressive implementation is consistent with the provisions included in Article 34 of the International Labour Organization Convention 169 on *Indigenous and Tribal Peoples* and Article 2 of *International Covenant on Economic, Social and Cultural Rights*.

Article 39

Mr. Chairperson, the Government of Canada supports the principle that both indigenous individuals and groups have the right to have access to, and prompt decisions in, fair procedures for the resolution of disputes with States, as well as to effective remedies for all infringements of their rights. In our view, such procedures would include various dispute settlement methods, which could include legal proceedings, administrative proceedings and alternative dispute resolution methods.

We support the principle that domestic legal processes shall take into account the customs and traditions of indigenous people, where appropriate. These domestic legal processes would include both criminal and civil law and a broad range of dispute resolution methods.

The question of indigenous "legal systems" is one which should be the subject of negotiations between states and indigenous groups, in the context of self-government arrangements. We are concerned that the reference in this article might prejudice those negotiations.

Article 3

Mr. Chairperson, as we noted in our intervention on Part I last year, the question of self-determination is central to the Declaration. It is a right which is fundamental to the international community, and its inclusion in the UN Charter, and in the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights* bears witness to the important role that it plays in the protection of human rights of all peoples. As a state party to the UN Charter and the Covenants, Canada is therefore legally and morally committed to the observance and protection of this right. We recognize that this right applies equally to all collectivities, indigenous and non-indigenous, which qualify as peoples under international law.

International law does not clearly define the terms "self-determination" or "peoples". Traditionally, the right of self-determination was understood to apply in the colonial context and was equated essentially to a right of statehood. The issue raised by the draft Declaration, however, is whether the right also applies to indigenous "peoples" living within existing, democratic states and, if so, what the right consists of.

Self-determination of a people is seen by many as an on-going right which can continue to be enjoyed in a functioning democracy in which citizens participate in the political system and have the opportunity to have input into political processes that affect them. Full enjoyment of the right of self-determination also presupposes the observance and protection of the full range of civil, political, social, economic and cultural rights.

In this context, a survey of state practice and academic literature suggests that the understanding of the right of self-determination is expanding to include the concept of an internal right, for groups living within existing states, that respects the territorial integrity of states. Thus, in accordance with the *Declaration on Friendly Relations and Cooperation Among States*, it could not be used to justify any action that would dismember or impair, totally or in part, the political unity of sovereign democratic states. The principle is aimed towards establishing a framework for the full enjoyment of all human rights while respecting the political and constitutional framework of states.

Our goal at this Working Group will be to develop a common understanding, consistent with evolving international law, of how this right is to apply to indigenous collectivities, and what the content of this right includes. Once achieved, this common understanding will have to be reflected in the wording of Article 3.

Mr. Chairman, I wish to state at this point that the Government of Canada accepts a right of self-determination for indigenous peoples which respects the political, constitutional and territorial integrity of democratic states. In that context, exercise of the right involves negotiations between states and the various indigenous peoples within those states to determine the political status of the indigenous peoples involved, and the means of pursuing their economic, social and cultural development. These negotiations must reflect the jurisdictions and competence of governments and must take account of the different needs, circumstances and aspirations of the indigenous peoples involved.

This right of self-determination is intended to promote harmonious arrangements for self-government within sovereign and independent states. Consistent with international law, the right shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states, possessed of a government representative of the whole people belonging to the territory, without distinction as to race, creed or colour. It will be important for the Declaration to reflect these principles clearly.

In reaching an agreement on this Declaration and its provisions on self-determination, including Article 3, we must take into account the variety of circumstances in which both states and indigenous groups find themselves world-wide. We must avoid any prescriptive solutions, as desirable as these may seem, but allow the right of self-determination to be implemented flexibly through negotiations between the governments and indigenous groups.

The draft Declaration contains detailed provisions on the implementation of the right of self-determination, which state clearly that indigenous peoples must have greater control over their own affairs, over their own culture and language and over their lands, and they must be able to use their own institutions should they choose to do so. As was stated last year at this meeting, my government supports these objectives and has taken steps to implement them in Canada.

The draft Declaration includes provisions on autonomy and self-government; recognition of the right of indigenous peoples to participate in decision-making, and the legislative or regulatory matters which may affect them; and a recognition of their right to maintain and develop their distinct political, economic and social systems. Other provisions include the right to development, and the right to determine priorities for the use or development of lands or territories. All of these articles are interrelated and must be considered when we discuss Article 3 and the right of self-determination.

As was evidenced from our discussions on this issue at the Working Group last year, the issue is complex. It is also extremely important to both indigenous peoples and the international community.

My government remains committed to working co-operatively with the participants at this Working Group to develop a common understanding of the right of self-determination and its application to indigenous peoples, living within existing states. We are paying close attention to the interventions of all participants in this meeting about how these goals can best be achieved.

Article 31

Mr. Chairperson, Article 31 describes a right of self-government or autonomy for indigenous peoples in internal and local affairs. This right is stated to be an expression of the right of self-determination contained in Article 3.

Clearly, the scope and content of the right of self-determination will be the subject of considerable discussion in the context of our review of Article 3.

With regard to Article 31, Canada interprets a right of self-government in internal and local affairs as a right of indigenous peoples to govern themselves on matters whose primary focus and impacts relate to their lands and communities.

On this basis, Canada can generally accept the proposed range of matters over which self-government should extend. However, it is equally Canada's view that the exercise of authority in these areas by indigenous governments should be based on negotiated arrangements, which ensure indigenous peoples have the powers necessary to protect their unique culture and identity, while at the same time respecting the integrity of the state and the interests of the population at large.

The intent of self-government is not to create a "state within a state". Rather, negotiated arrangements should ensure that indigenous jurisdiction and authority are exercised in harmony with those of other governments, so as to reduce confrontation and misunderstanding, and promote effective public administration. Nowhere is this more true than in areas such as the environment, where the effects of governmental action - or inaction - are rarely purely internal or local in their impact.

Canada is also prepared to recognize a role for the state, together with indigenous peoples, in financing the implementation of self-government. The precise arrangements for giving effect to this aspect of Article 31 will vary from state to state, and from indigenous group to indigenous group, and are therefore matters for negotiation between states and indigenous groups.

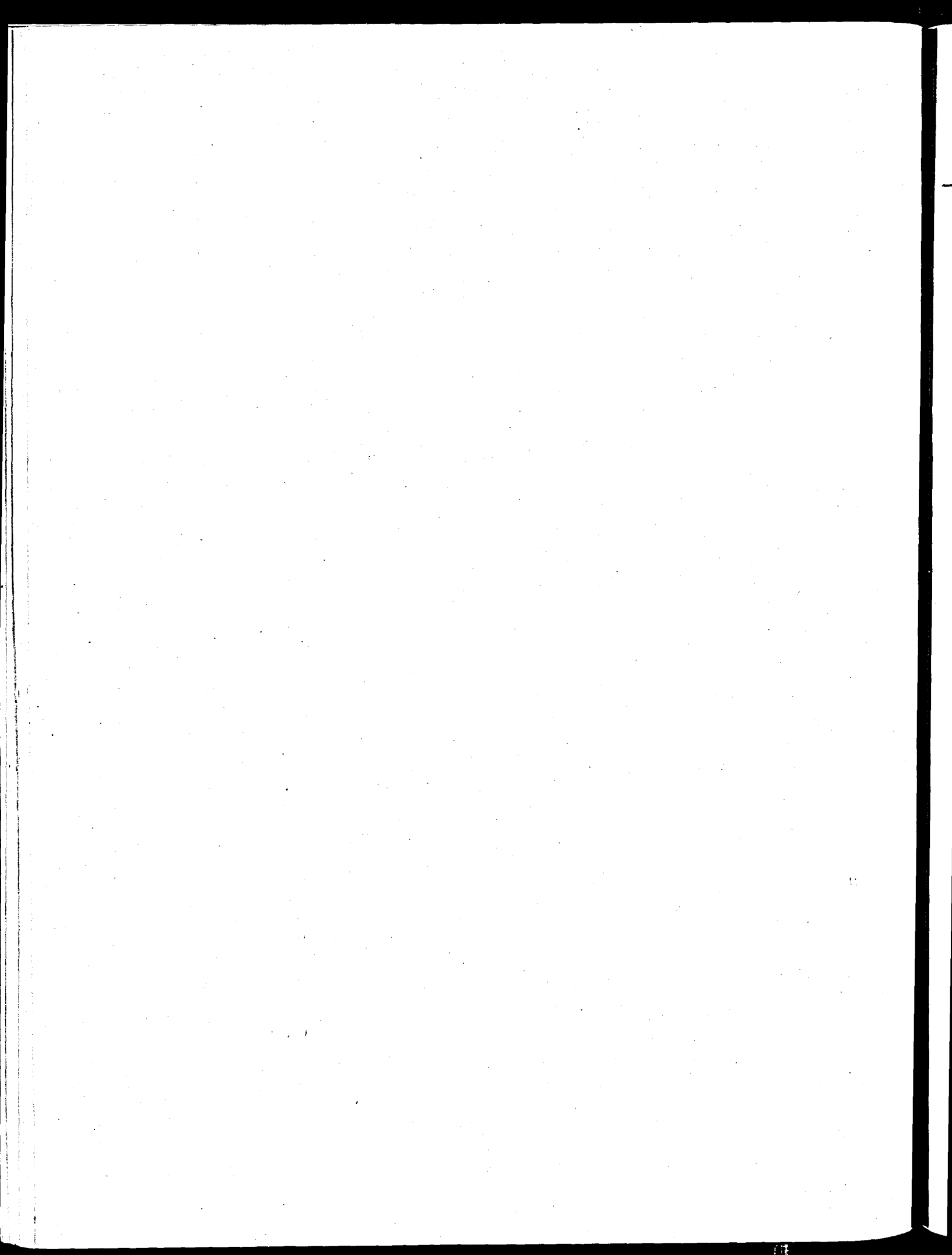
Finally, Mr. Chairperson, my delegation suggests that there may be need for further discussion to clarify the meaning of the terms "self-government" and "autonomy". For Canada, the two terms seem more or less synonymous. If this is not the case, the meanings of the two terms, and their interrelationship, should be clarified.

Article 34

Mr. Chairperson, in its statement to this Working Group last November, Canada noted the need to clarify the primacy of international human rights standards in relation to a number of provisions in the draft Declaration, including Article 34.

My delegation is sensitive to the importance of collective rights and responsibilities in indigenous societies. We support appropriate recognition of collective rights in this Declaration. However, Canada believes that Article 34 could be interpreted as subordinating the rights of the individual to those of the collectivity.

Canada has traditionally viewed the protection of individual rights as the primary concern of international law. This was affirmed at the Vienna Conference on Human Rights. We are acutely aware that, too often in the past, the alleged failure of individuals to honour obligations to the collectivity has been used as a rationale by states for human rights abuses. We believe it should be explicitly understood that the substance of the article is subject to international human rights standards.





ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C. 20006 U.S.A.

September 28, 1995

Excellency:

We have the honor to transmit to Your Excellency the Draft of the Inter-American Declaration on the Rights of Indigenous Peoples, approved by the IACHR in its 90th. Period of Session, prepared in order to advance the fulfillment of the recommendation of the General Assembly (AG/RES. 1022 (XIX-0/89)).

This Draft for Consultation about the future Declaration will be distributed to governments and indigenous organizations, and to experts, in order to obtain comments that will guide and facilitate the preparation of the final proposal by the Commission, to be presented to the General Assembly. The Commission expects this draft to be widely reviewed in the region, and it places itself at your disposal for any possible consultation your Government may undertake or require.

In order to fulfill the approved calendar for its preparation, the Commission requests that the Government of Your Excellency provide its comments on the Draft no later than the 30th of May, 1996.

Please accept, Excellency, the renewed assurances of my highest consideration.



David J. Padilla
Assistant Executive Secretary

His Excellency
Brian Dickson, Q.C.
Ambassador, Permanent Representative
of Canada to the Organization of
American States
Washington, D.C.

Enclosure

ORGANIZATION OF AMERICAN STATES

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

CIDH

OEA/Ser/L/V/II.90
Doc. 9 rev. 1
September 21, 1995
Original: English

90^o Session

**DRAFT OF THE INTER-AMERICAN
DECLARATION ON THE RIGHTS
OF INDIGENOUS PEOPLES**

Draft approved by the IACHR at the 1278 session
held on September 18, 1995

The present draft has been approved by the Inter-American Commission on Human Rights of the OAS for consultation about its text with Governments, indigenous organizations, other interested institutions and experts. On the basis of their answers and comments, the IACHR will prepare its final proposal to be presented to the General Assembly of the OAS.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Draft of the Inter-American Declaration on the Rights of Indigenous Peoples.
(AG/RES 1022 (XIX-0/89))

(Approved by the I.A.C.H.R. in its 90th. Period of Meetings, on the 18th. of July, 1995.)

PREAMBLE

1. Indigenous institutions and the strengthening of nations.

The Member States of the Organization of American States (hereafter: the States).

Recalling that the indigenous peoples of the Americas constitute an organized, distinctive and integral segment of their population and are entitled to be part of the countries' national identity, and have a special role to play in strengthening the institutions of the State and in establishing national unity based on democratic principles; and,

Further recalling that some of the democratic institutions and concepts embodied in the Constitutions of American States originate from institutions of the indigenous peoples, and that in many instances their present participatory systems for decision-making and the internal authority of the indigenous peoples contribute to improving democracies in the Americas.

2. Eradication of poverty.

Recognizing the severe and widespread poverty afflicting indigenous peoples in many regions of the Americas, and that their living conditions and social services are generally deplorable; and concerned that indigenous peoples have been deprived of their human rights and fundamental freedoms, resulting *inter alia* in 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.

Recalling that in the Declaration of Principles issued by the Summit of the Americas, in December 1994, the Heads of State and Governments declared that in observance of the International Decade of the World's Indigenous People, they will focus their energies on improving the exercise of democratic rights and the access to social services by indigenous peoples and their communities.

3. Indigenous culture and ecology.

Appreciating the respect for the environment accorded by the cultures of indigenous peoples of the Americas, and considering the special relationship between the indigenous peoples and the land on which they live.

4. Harmonious relations, respect and the absence of discrimination.

Mindful of the responsibility of all the States and peoples of the Americas to participate in the struggle against racism and racial discrimination.

5. Enjoyment of community rights.

Recalling the international recognition of rights that can only be enjoyed when exercised in community with other members of a group.

6. Indigenous survival and control of their territories.

Considering that in many indigenous cultures, traditional collective systems for control and use of land and territory, including bodies of water and coastal areas, are a necessary condition for their survival, social organization, development and their individual and collective well-being; and that the form of such control and ownership is varied and distinctive and does not necessarily coincide with the systems protected by the domestic laws of the States in which they live.

7. Demilitarization of indigenous areas.

Noting the presence of armed forces in many areas of the lands and territories of the indigenous peoples, and emphasizing the importance of withdrawing them from where they are not strictly needed for their specific functions.

8. Human rights instruments and other advances in international law.

Recognizing the preeminence and applicability of the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and international human rights law, to the States and peoples of the Americas; and

Mindful of the progress achieved by the States and indigenous organizations in codifying indigenous rights, especially in the sphere of the United Nations and the International Labor Organization, and in this regard recalling the ILO Agreement 169 and the Draft UN Declaration on the subject.

Affirming the principle of the universality and indivisibility of human rights, and the application of international human rights to all individuals.

9. Advances in the provisions of national instruments.

Noting the constitutional and legislative progresses achieved in some countries of the Americas in guaranteeing the rights and institutions of indigenous peoples.

Declare:

SECTION ONE. INDIGENOUS PEOPLES

Art. I. Definition.

1. In this Declaration indigenous peoples are those who embody historical continuity with societies which existed prior to the conquest and settlement of their territories by Europeans. (alternative 1) [, as well as peoples brought involuntarily to the New World who freed themselves and re-established the cultures from which they have been torn]. (alternative 2) [, as well as tribal peoples whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations].

2. Self identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Declaration apply.

3. The use of the term "peoples" in this Instrument shall not be construed as having any implication with respect to any other rights that might be attached to that term in international law.

SECTION TWO. HUMAN RIGHTS

Art. II. Full observance of human rights

1. Indigenous peoples have the right to the full and effective enjoyment of the human rights and fundamental freedoms recognized in the Charter of the OAS, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and international human rights law; and nothing in this Declaration shall be construed as in any way limiting or denying those rights or authorizing any action not in accordance with the instruments of international law including human rights law.

2. The States shall ensure for all indigenous peoples the full exercise of their rights.

3. The States also recognize that the indigenous peoples are entitled to collective rights insofar as they are indispensable to the enjoyment of the individual human rights of their members. Accordingly they recognize the right of the indigenous peoples to collective action, to their cultures; to profess and practice their spiritual beliefs and to use their languages.

Art III. Right to belong to an indigenous community or nation.

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 disadvantage of any kind may arise from the exercise of such a right.

Art. IV. Legal status of communities.

The States shall ensure that within their legal system personality is attributed to communities of indigenous peoples.

Art. V. No forced assimilation.

The States shall not take any action which forces indigenous peoples to assimilate and shall not endorse any theory, or engage in any practice, that imports discrimination, destruction of a culture or the possibility of the extermination of any ethnic group.

Art. VI. Special guarantees against discrimination.

1. The States recognize that, where circumstances so warrant, special guarantees against discrimination may have to be instituted to enable indigenous peoples to fully enjoy internationally and nationally-recognized human rights; and that indigenous peoples must participate fully in the prescription of such guarantees.

2. The States shall also take the measures necessary to enable both indigenous women and men to exercise, without any discrimination, civil, political, economic, social and cultural rights. The States recognize that violence exerted against persons because of their gender prevents and nullifies the exercise of those rights.

SECTION THREE. CULTURAL DEVELOPMENT

Art. VII. Right to Cultural integrity.

1. States shall respect the cultural integrity of indigenous peoples, their development in their respective habitats and their historical and archeological heritage, which are important to the identity of the members of their groups and their ethnic survival.

2. Indigenous peoples are entitled to restitution in respect of property of which they have been dispossessed, or compensation in accordance with international law.

3. States shall recognize, and respect, indigenous life-styles, customs, traditions, forms of social organization, use of dress, languages and dialects.

Art. VIII. Philosophy, outlook and language.

1. States recognize that indigenous languages, philosophy and outlook are a component of national and universal culture, and as such shall respect them and facilitate their dissemination.

2. The States shall take measures to see to it that broadcast radio and television programs are broadcast in the indigenous languages in the regions where there is a strong indigenous presence, and to support the creation of indigenous radio stations and other media.

3. The States shall take effective measures to enable indigenous peoples to understand administrative, legal and political rules and procedures and to be understood in relation to these matters. In areas where indigenous languages are predominant, States shall endeavor to establish the pertinent languages as official languages and to give them the same status that is given to non-indigenous official languages.

4. When indigenous peoples wish, educational systems shall be conducted in the indigenous languages and incorporate indigenous content, and that shall also provide the necessary training and means for complete mastery of the official language or languages.

Art. IX. Education.

1. Indigenous peoples shall be entitled to a) establish and set in motion their own educational programs, institutions and facilities, b) to prepare and implement their

own educational plans, programs, curricula and materials; c) to train, educate and accredit their teachers and administrators. The States shall endeavor to ensure that such systems guarantee equal educational and teaching opportunities for the entire population and complementarity with national educational systems.

2. States shall ensure that those educational systems are equal in all ways to that provided to the rest of the population.

3. States shall provide financial and any other type of assistance needed for the implementation of the provisions of this Article.

Art. X. Spiritual and religious freedom.

1. Indigenous peoples have the right to liberty of conscience, freedom of religion and spiritual practice for indigenous communities and their members, a right that implies freedom to conserve them, change them, profess and propagate them, both publicly and privately.

2. States shall take necessary measures to ensure that attempts are not made to forcibly convert indigenous peoples or to impose on them beliefs against the will of their communities.

3. In collaboration with the indigenous peoples concerned, the States shall adopt effective measures to ensure that their sacred sites, including burial sites, are preserved, respected and protected. When sacred graves and relics have been appropriated by state institutions, they shall be returned.

Art. XI. Family relations and family ties.

1. Families are a natural and basic component of societies and must be respected and protected by the State. Consequently the State shall protect and respect the various established forms of indigenous organizations relating to family and filiation.

2. In determining the child's best interest in matters relating to the protection and adoption of children of members of indigenous peoples, and in matters of breaking of ties and other similar circumstances, consideration shall be given by Courts and other relevant institutions to the views of the those peoples, including individual, family and community views.

Art. XII. Health and wellbeing

1. The States shall respect indigenous medicine, pharmacology, health practices and promotion, including preventive and rehabilitative practices.

2. They shall facilitate the dissemination of those medicines and practices of benefit to the entire population.

3. Indigenous peoples have the right to the protection of vital medicinal plants, animal and minerals.

4. Indigenous peoples shall be entitled to use, maintain, develop and manage their own health services, and they shall also have access, without any discrimination, to all health institutions and services and medical care

5. The states shall provide the necessary means to enable the indigenous peoples to eliminate such health conditions in their communities which fall below international accepted standards.

Art. XIII. Right to environmental protection

1. Indigenous peoples are entitled to a healthy environment, which is an essential condition for the enjoyment of the right to life and well-being.

2. Indigenous peoples are entitled to information on the environment, including information that might ensure their effective participation in actions and policies that might affect their environment.

3. Indigenous peoples shall have the right to conserve, restore and protect their environment, and the productive capacity of their lands, territories and resources.

4. Indigenous peoples shall participate fully in formulating and applying governmental programmes of conservation of their lands and resources.

5. Indigenous peoples shall be entitled to assistance from their states for purposes of environmental protection, and may request assistance from international organizations.

SECTION FOUR. ORGANIZATIONAL AND POLITICAL RIGHTS

Art. XIV. Rights of association, assembly, freedom of expression and freedom of thought.

1. The States shall promote the necessary measures to guarantee to indigenous communities and their members their right of association, assembly and expression in accordance with their usages, customs, ancestral traditions, beliefs and religions.

2. The States shall respect and enforce the right of assembly of indigenous peoples and to the use of their sacred and ceremonial areas, as well as the right to full contact and common activities with sectors and members of their ethnic groups living in the territory of neighboring states.

Art. XV. Right to self government, management and control of internal affairs.

1. States acknowledge that indigenous peoples have the right to freely determine their political status and freely pursue their economic, social and cultural development, and that accordingly they have the right to autonomy or self-government with regard to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resource management, the environment and entry by nonmembers; and to the ways and means for financing these autonomous functions.

2. Indigenous populations have the right to participate without discrimination, if they so decide, in all decision-making, at all levels, with regard to matters that might affect their rights, lives and destiny. They may do so through representatives elected by them in accordance with their own procedures. They shall also have the right to maintain and develop their own indigenous decision-making institutions, as well as equal opportunities to access to all national fora.

Art. XVI. Indigenous Law.

1. Indigenous law is an integral part of the States' legal system and of the framework in which their social and economic development takes place.

2. Indigenous peoples are entitled to maintain and reinforce their indigenous legal systems and also to apply them to matters within their communities, including systems pertaining to ownership of real property and natural resources, resolution of conflicts within and between indigenous communities, crime prevention and law enforcement; and maintenance of internal peace and harmony.

3. In the jurisdiction of any State, procedures concerning indigenous peoples or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law. This shall include observance of indigenous law and custom and, where necessary, use of the native language.

Art. XVII. National incorporation of indigenous legal and organizational systems.

1. The States shall promote the inclusion, in their national organizational structures, of institutions and traditional practices of indigenous peoples.

2. The institutions of each state in areas that are predominantly indigenous or that are serving in those communities, shall be designed and adapted as to reflect and reinforce the identity, culture and organization of those populations, in order to facilitate their participation.

SECTION V. SOCIAL, ECONOMIC AND PROPERTY RIGHTS.

Art. XVIII. Traditional forms of ownership and ethnic survival. Rights to land and territories.

1. Indigenous peoples have the right to the legal recognition of the various and specific forms of control, ownership and enjoyment of territories and property by indigenous peoples.

2. Indigenous peoples have the right to the recognition of their property and ownership rights with respect to lands and territories they have historically occupied, as well as to the use of those to which they have historically had access for their traditional activities and livelihood.

3. Where property and user rights of indigenous peoples arise from rights existing prior to the creation of those States, the States shall recognize the titles of indigenous peoples relative thereto as permanent, exclusive, inalienable, imprescriptible and indefeasible. This shall not limit the right of indigenous peoples to attribute ownership within the community in accordance with their customs, traditions, uses and traditional practices, nor shall it affect any collective community rights over them. Such titles may only be changed by mutual consent between the State and respective indigenous people when they have full knowledge and appreciation of the nature or attributes of such property.

4. The rights of indigenous peoples to existing natural resources on their lands must be especially protected. These rights include the right to the use, management and conservation of such resources.

5. In the event that ownership of the minerals or resources of the subsoil pertains to the State or that the State has rights over other resources on the lands, the governments must establish or maintain procedures for the participation of the peoples concerned in determining whether the interests of these people would be adversely affected and to what extent, before undertaking or authorizing any program for tapping or exploiting existing resources on their lands. The peoples concerned shall participate in the benefits of such activities, and shall receive compensation in accordance with international law, for any damages which they may sustain as a result of such activities.

6. The States shall not transfer or relocate indigenous peoples except in exceptional cases, and in those cases with the free, genuine and informed consent of those populations, with full and prior indemnity and prompt replacement of lands taken, which must be of similar or better quality and which must have the same legal status; and with guarantee of the right to return if the causes that gave rise to the displacement cease to exist.

7. Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged, or the right to compensation in accordance with international law when restitution is not possible.

8. The States shall take all measures, including the use of law enforcement personnel, to avert, prevent and punish, if applicable, any intrusion or use of those lands by unauthorized persons or by persons who take advantage of indigenous peoples or their lack of understanding of the laws, to take possession or make use of them. The States shall give maximum priority to the demarcation of properties and areas of indigenous use.

Art. XIX. Workers rights.

1. Indigenous peoples shall have the right to full enjoyment of the rights and guarantees recognized under international labor law or domestic labor law; they shall also be entitled, where circumstances so warrant, to special measures to correct, redress and prevent the discrimination to which they have historically been subject.

2. Where circumstances so warrant, the States shall take such special measures as may be necessary to:

- a. protect effectively the workers and employees who are members of indigenous communities in respect of fair and equal hiring and terms of employment, insofar as general legislation governing workers overall does not provide;
- b. to improve the work inspection service in regions, companies or paid activities involving indigenous workers or employees;
- c. ensure that indigenous workers:
 - i. enjoy equal opportunity and treatment as regards all conditions of employment, job promotion and advancement;
 - ii. are not subjected to racial, sexual or other forms of harassment;

- iii. are not subjected to coercive hiring practices, including servitude for debts or any other form of servitude, even if they have their origin in law, custom or a personal or collective arrangement which shall be deemed absolutely null and void in each instance;
- iv. are not subjected to working conditions that endanger their health, particularly as a result of their exposure to pesticides or other toxic or radioactive substances;
- v. receive special protection when they serve as seasonal, casual or migrant workers in agriculture or in other activities and also when they are hired by labor contractors in order that they benefit from national legislation and practice which must, itself be in accordance with firmly established international human rights standards in respect of seasonal workers, and
- vi. ensure that indigenous workers or employees are provided with full information on their rights, consistent with such national legislation and international standards, and on recourses available to them in order to protect those rights.

Art. XX. Intellectual property rights.

1. Indigenous peoples shall be entitled to recognition of the full ownership, control and protection of such intellectual property rights as they have in their cultural and artistic heritage, as well as special measures to ensure for them legal status and institutional capacity to develop, use, share, market and bequeath, that heritage on to future generations.

2. Where circumstances so warrant, indigenous peoples have the right to special measures to control, develop and protect, and full compensation for the use of their sciences and technologies, including their human and genetic resources in general, seeds, medicine, knowledge of plant and animal life, original designs and procedures.

Art. XXI. Right to development.

1. The states recognize the right of indigenous peoples to decide democratically what values, objectives, priorities and strategies will govern and steer their development course, even if they are different from those adopted by the national government or by other segments of society. Indigenous peoples shall be entitled to obtain on a non-discriminatory basis appropriate means for their own development according to their preferences and values, and to contribute by their own

means, as distinguishable societies, to national development and international cooperation.

2. The States shall take necessary measures to ensure that decisions regarding any plan, program or proposal affecting the rights or living conditions of indigenous people are not made without the free and informed consent and participation of those peoples, that their preferences are recognized and that no such plan, program or proposal that could have harmful effects on the normal livelihood of those populations is adopted. Indigenous communities have the right to restitution or compensation in accordance with international law, for any damage which, despite the foregoing precautions, the execution of those plans or proposal may have caused them; and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

SECTION SIXTH. GENERAL PROVISIONS.

ART. XXII. Treaties, agreements and other implied arrangements.

Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other arrangements concluded with States or their successors, according to their spirit and intent, and to have States honor and respect such treaties, agreements and other constructive arrangements. Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies (agreed to by all parties concerned).

Art. XXIII.

Nothing in this instrument shall be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire.

Art. XXIV.

Nothing in this instrument shall be construed as granting any rights to ignore boundaries between States.

September 18, 1995.

THE [illegible] OF [illegible]

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**June 1997 Special Session:
Reviewing the
United Nations Conference on Environment
and Development (UNCED)**

Canada: Looking Ahead

DISCUSSION PAPER

**Environment Canada &
Department of Foreign Affairs
and International Trade**

19 October 1996

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Introduction

Overview

In the spring of 1997, the United Nations (UN) General Assembly will hold a special session to review progress made on issues related to the environment and development since the United Nations Conference on Environment and Development (UNCED) was held in Rio de Janeiro, Brazil, in June 1992.

This session, tentatively scheduled for June 1997, will give interested parties around the world the opportunity to reflect on both the accomplishments and the inadequacies of local, national and international efforts to achieve sustainable development. It will help to provide direction for sustainable development strategies and prepare the global environmental agenda to meet the challenges of the next millennium.

Canada's Role

An active participant in the UN Commission on Sustainable Development (CSD) and numerous other international fora, Canada will play an equally active role at the special session. Canada has long demonstrated its commitment to advancing sustainability by integrating economic, social and environmental factors into all levels of decision-making.

This commitment was strengthened in December 1995 by amendments to the *Auditor General Act* creating a Commissioner of the Environment and Sustainable Development and requiring each federal department to table a sustainable development strategy in the House of Commons by December 1997. Strategies are to be developed in consultation with departmental stakeholders and will consist of an action plan with measurable performance indicators.

The federal government believes that multi-stakeholder participation is vital to determining issues of priority to this country, and to developing and achieving Canadian objectives. It is with this goal in mind that the government is preparing for the special session by seeking input from concerned Canadians.

Background

A benchmark for global efforts on development and the environment in the 1990s, UNCED spawned many significant initiatives, including the development of principles for the sustainable management of forests, the launching of conventions on climate change and biological diversity, and the adoption of the Rio Declaration and Agenda 21. Annual sessions of the CSD, created in 1992 by the UN General Assembly, provide a forum in which to review and promote the implementation of UNCED's goals. The

CSD's five-year mandate expires in 1997, raising questions about the future role of governance in these efforts.

Among other things, the Rio conference confirmed the fact that government alone does not bear the responsibility for achieving sustainable development. Industry, academia, non-governmental and community-based organizations and other interested parties have important roles to play and must work cooperatively to develop and implement effective sustainable development strategies.

The Purpose of this Discussion Paper

This paper provides an overview of some of the key areas Canada will focus on at the special session, and federal priorities and objectives for each. Its purpose is to provide a context for consultations by fostering discussion on these and other issues related to the environment and development. This will ensure that the concerns of Canadians are reflected in Canada's contributions to the special session. Questions to keep in mind when reading this paper are:

- Are the key issues identified in this paper the ones Canada should focus on at the special session?
- Has Canada's progress in these and other areas been sufficient?
- Do the objectives and goals proposed by the federal government set the proper direction for a sustainable future?

Environment Canada and the Department of Foreign Affairs and International Trade are hosting public consultations in Vancouver, Calgary, Winnipeg, Toronto, Ottawa, Montréal and Halifax during October and November 1996 to solicit input from interested stakeholders on these and other issues. Those who are unable to attend the consultations in person can send their comments to:

Ms. Carmel Whelton
Environment Division (AGE)
Department of Foreign Affairs and International Trade.
125 Sussex Drive
Ottawa K1A 0G2
Fax: (613) 944-0064

Key Issues

Following are brief summaries of some of the key issues Canada plans to address at the special session in 1997, presented in alphabetical order. This list is not exhaustive, and represents only some of the priority issues identified to date.

Arctic

As members of the newly-created Arctic Council, Canada, Denmark, Finland, Sweden, Norway, Iceland, the Russian Federation, Sweden and the United States have demonstrated their commitment to work together to promote sustainable development in the North and to enhance their efforts under the Arctic Environment Protection Strategy. Raising the profile of Arctic issues within the international community helps to garner global support for northern initiatives. Canada's priorities in the Arctic include:

- **Forging a sustainable development plan for the Arctic that balances environmental protection, cultural well-being and economic and social development.** To help departments create their own sustainable development strategies, Indian and Northern Affairs Canada (INAC) is coordinating northern consultations on their behalf. Phase I will be carried out in the fall of 1996 to determine key issues and to build a common understanding of sustainable development. Phase II will take place in the spring of 1997, and will focus on creating a draft strategy for the North. INAC recently invited Aboriginal groups, non-governmental organizations, industry, territorial governments and other key northern stakeholders to assist the department in developing its own strategy.
- **Using the Arctic's renewable and non-renewable resources in a sustainable manner.** This is crucial to relieving unemployment in the North and to ensuring the continued existence of these resources for future generations. Canada would like to see discussions on this issue lead to the adoption of policies by all national governments ensuring the continued viability of indigenous communities that rely on resource harvesting activities.
- **Highlighting and sharing information with the international community about local sustainable development initiatives and the progress of Aboriginal land claims.** As self-government continues to evolve, Canada is gaining valuable experience about integrating Indigenous ways and ideas into decision-making and capacity-building in the Arctic.

Chemicals

Since UNCED, steady progress has been made in addressing the sound management of chemicals. As noted in paragraph 19.1 of Agenda 21, "*A substantial use of chemicals is essential to meet the social and economic goals of the world community and today's best practice demonstrates that they can be used widely in a cost-effective manner and with a high degree of safety. However, a great deal remains to be done to ensure the environmentally sound management of toxic chemicals, within the principles of sustainable development and improved quality of life for humankind*"

Canada's objectives in the discussion of chemicals management issues at the Special Session include:

Proposing that, in discussion on possible mechanisms for new international initiatives on the sound management of chemicals, governments give serious consideration as to how more effective use may be built on existing activities including the IOMC (Interorganization Programme for the Sound Management of Chemicals) and the IFCS (Intergovernmental Forum on Chemical Safety). Noting that, these mechanisms were established to promote greater coordination and cooperation among international organizations and countries on all aspects of sound management of chemicals; and to provide opportunities for countries to exchange information on specific issues, to share experiences, identify priorities for action and to look for regional solutions to global issues in chemicals management.

Supporting efforts of the UN Environment Program (UNEP) and the UN Food and Agriculture Organization to conclude a legally binding instrument for the application of the Prior Informed Consent (PIC) procedure for the international trade in certain hazardous chemicals and pesticides in 1997, as mandated by their governing bodies to ensure expediency in bringing it into force.

Strongly supporting the proposal that UNEP and FAO initiate negotiations for a multilateral convention on Persistent Organic Pollutants (POPs)

Education

Education is a crucial building block for achieving sustainable development and for enabling all stakeholders to understand sustainable development issues. Canada supports the development of an international strategy on sustainability education that involves:

- Further developing, articulating and promoting the concept of education for sustainable development (ESD). To accomplish this, the focus of environmental education must be expanded to integrate concepts of economic, social and human development with environmental concerns. ESD has been a topic of discussion at several recent international fora, including the International Union for the Conservation of Nature (IUCN) World Congress, held in Montréal in October 1996.
- Ensuring that strategic alliances are forged among all partners concerned with ESD – at the international, national and local levels. This could be expanded to encourage academic institutions and research centres involved in sustainable development studies and related technological development to share information with a view to linking science-based activities with policy concerns. Responsibility for this strategic alliance initiative was given to the United Nations Educational, Scientific, and Cultural Organization – in partnership with UNEP, the IUCN and other key institutions – at the last meeting of the UN Committee on Sustainable Development. The promotion of ESD networks was also highlighted as a necessary initiative.
- Monitoring progress on the development of national ESD frameworks. Canada supports the development of national Plans of Action to implement new and innovative ESD strategies developed by governments, teachers, students, curricula designers, computer specialists, school boards and other interested parties. In response to a request made by Rescue Mission at the 1996 UNCSD, Canada launched a pilot project in several schools across the country in which students assess their school grounds and surrounding community based on a series of 16 environmental indicators. Each school plans to prepare a report on its findings and present it to the Minister of the Environment, the Honourable Sergio Marchi.

Forests

Ten percent of the world's forested land lies within Canada's borders. Our forests are, therefore, not only vital to Canada's environment and economy, but also fundamental to the health of the planet.

UNCED highlighted the importance of forests in global sustainable development strategies. By endorsing a set of non-legally binding forest principles, countries reached consensus – for the first time ever – on the need to manage this resource in a sustainable manner. Since then, slow but steady progress has been made in advancing the forest agenda, mainly through the Intergovernmental Panel on Forests (IPF) established by the CSD in 1995. The IPF's mandate is due to expire when it submits recommendations on 11 key policy issues to the fifth session of the CSD in April 1997.

As steward of a significant portion of the world's forests, Canada not only has a stake in global issues but is also playing a prominent role in the search for solutions. Canada is an active participant in international dialogues, and consistently underscores the lack of global governance of the forest agenda by the forest community as one of the most important concerns facing the sector today. The creation of the IPF as a single forum for deliberating forest issues has been a major step forward since debates on the subject became polarized and broke down at UNCED.

At the special session, Canada will highlight the importance of building a world vision of sustainable forest management through continued international collaboration in a number of areas. Specific initiatives it will promote include:

- **Reaching agreement on a common definition of sustainable forest management.** This will facilitate deliberations, promote a broader understanding of the concept within the global arena, and provide the means for measuring and reporting on progress toward achieving sustainable forest management. Canada is not only one of the few countries that has begun implementing criteria and indicators at the national level, but is also active in international exercises such as the Montréal, Pan-European and Tarapoto processes. Through its involvement in the IPF, Canada supports efforts to examine the need for compatibility and to determine the appropriateness of converging current initiatives.
- **Advocating the development, in all countries, of comprehensive national forest and land-use plans to guide sustainable forest management.** Canada believes that national forest and land-use planning is needed to: coordinate activities both inside and outside the forest sector; encourage long-term commitment to sustainability; and involve key stakeholders in decision making and implementation.
- **Determining non-discriminatory, multilateral rules for trade in forest products and for sustainable forest management.** Canada has long been the leading exporter of forest products and currently accounts for almost 20 percent of world trade in this sector. In 1994, the total value of Canadian forestry exports was approximately \$32 billion. Canada is, therefore, taking special interest in trade-related discussions at a variety of international fora.
- **Protecting, using and equitably sharing the benefits of traditional knowledge.** Canada is a key proponent of open, transparent and participatory decision-making in the sustainable management of forests. This includes involving local communities, indigenous people, forest dwellers and other stakeholders in the process. In IPF discussions, Canada supports the proposal to advance the issue of traditional knowledge through national capacity building. An important element of this approach is to provide all parties with an understanding of their roles and

responsibilities, so that they are well informed and prepared to enter into clearly-defined partnership agreements.

- **Negotiating a legally-binding international convention on forests that deals with all forests and forest values and is linked with other relevant instruments.** Canada believes that the global forest community has an improved understanding of the challenges of achieving sustainable forest management and is ready to move to a higher level of commitment. It also believes that a unifying, legally-binding instrument is needed to make further progress in many areas of international dialogue.

Gender Equality

The Beijing Platform for Action calls for the integration of gender concerns and perspectives in policies and programs for sustainable development, and identifies the need to strengthen mechanisms at the international, national and regional levels to assess the impact of development and environmental policies on women.

In the Federal Plan for Gender Equality, released in August 1995, the Canadian government reaffirmed its commitment to considering gender in the development of legislation and policies related to the environment and sustainable development. Gender equality initiatives Canada supports include:

- **Improving coordination between the Commission on the Status of Women and the Commission on Sustainable Development with regard to environmental and sustainable development issues.** This is particularly important within the context of the system-wide follow up to the fourth UN World Conference on Women.
- **Integrating a gender perspective in the design and implementation of environmentally-sound and sustainable resource management mechanisms at the international, national and regional levels.** The Commission on Sustainable Development could play an important role in assisting in the development of methodologies and data collection for this purpose.
- **Creating opportunities for women to participate in environmental decision-making at all levels.** Their involvement as managers, designers, planners, and evaluators is vital to the future implementation of Agenda 21.

Governance

As the CSD's five-year mandate approaches its end, it is appropriate to consider the continued need for such a commission. While it is hard to dispute the benefits of a high-profile body that brings together political leaders and provides direction and impetus to

strategies for global sustainable development, it is equally important that efforts be coordinated to avoid wasteful and expensive duplication. The appropriate institutional framework will be critical to advancing Canadian priorities and sustainable development in general. Questions related to this issue include:

- How might these objectives best be achieved? It has been suggested that the CSD would increase its profile by reporting directly to the Secretary General of the UN rather than to the Economic and Social Council (ECOSOC), as it now does.
- To what extent should the CSD be charged with monitoring and reporting on the social, economic and environmental policies of other UN agencies? After all, sustainable development requires all three.
- What should the CSD's relationship be with UNEP and UNDP? What kind of role should it play with regard to development banks and with other UN commissions such as the Status of Women, Population and Social Development?
- How can the high-level session of the CSD be most effective in mobilizing support for sustainable development policies?
- How can the results of recent UN conferences best be monitored and integrated?
- Should the mandate of the CSD remain unchanged? It can be argued that the CSD has achieved a certain measure of success because it has not been viewed as threatening to intrude on the mandate of other UN agencies.
- Are we satisfied with the involvement of civil society in the CSD?
- What lessons have we learned regarding integration and sectoral issues? Models such as the Intergovernmental Forum on Chemical Safety offer a practical means of improving governance and coordination in certain sectors without having to negotiate new international agreements or create new intergovernmental bodies.

Health

Health was considered to be an integral component of global sustainable development strategies at the Rio conference. To quote from its proceedings: "Both insufficient development leading to poverty and inappropriate development resulting in over consumption, coupled with an expanding world population, can result in severe environmental health problems in both developing and developed nations."

Canada is committed to building the link between human health and environmental sustainability. Current strategic priorities Canada would like to see emphasized include:

- **Controlling toxic substances in the environment.** Protecting the health of Canadians from the effects of environmental pollution means maintaining clean air, clean water and safe food.
- **Assessing and managing bio-regional health effects.** Environmental pollution issues are complex and require integrated solutions that combine the perspectives of health promotion and protection. Programs designed to meet these issues are based on risk assessment and risk management approaches. Partnerships are built on common objectives and sustained by commitments that are met.
- **Monitoring and controlling environmentally-related diseases.** Epidemiological and toxicological evidence indicate that cancer, poor reproductive health, problems in child development and asthma are major human health problems related to the environment. National surveillance programs for these problems are necessary to strengthen the national public health information infrastructure and to produce timely, reliable analyses that serve as the basis for decision making.
- **Creating a framework for health and the environment.** The overall goal of this initiative is to enable individual and collective action to improve human health by sustaining a healthy, diverse ecosystem and fostering healthy, active living and working conditions in all communities in Canada. The six main areas of activity under this strategy are: building alliances; public health policy; program and capacity development; knowledge development and information synthesis; support for community action; and public education and social marketing.

Indigenous Issues

Many indigenous communities have a strong relationship to the environment as a source of support for cultural, spiritual and economic well-being; consequently they have a direct interest in the development of conservation and sustainable development strategies. Furthermore there is a growing interest in the potential contribution to such sustainable development strategies from indigenous traditional knowledge.

At the Special Session, Canada will voice its support for:

- **The involvement of indigenous people in the planning and implementation of sustainable development and conservation strategies.** This direction follows on the development of the Arctic Environmental Strategy, the formation of the Arctic

Council and the Indian Environmental Partnership Program. Forest management, biological diversity and the prevention of marine pollution have been identified as areas of concern for indigenous people.

- The creation of sustainable development/conservation strategies that focus on indigenous issues through a variety of avenues. In Canada for example, federal departments are developing sustainable development strategies for their programs and services, as required by legislation. Departments are working in cooperation with Aboriginal people, as part of this process. Furthermore, environmental co-management and related environmental programs have become a significant feature of comprehensive land claims settlements and of self-government negotiations.
- A role for indigenous people as stakeholders when reviewing the progress achieved since UNCED and development of strong linkages among related international plans of action which have acknowledged a role for indigenous communities in the areas of sustainable development and conservation. The Biodiversity Convention, Habitat and the World Food Summit are a few examples.
- The exploration of roles for traditional knowledge of indigenous people in sustainable development programs and policies. This work will continue within Canada and will draw upon work from other States and international fora.

International Cooperation

As the world becomes increasingly interconnected, the role of developing countries in the international community grows ever more important. Encouraging international cooperation to advance the global sustainable development agenda therefore requires an effective development cooperation program that promotes sustainable development in the developing world by addressing environmental, economic, political and social issues in an integrated manner.

Enormous disparities in wealth threaten to undermine the prospects for sustainable development in many regions of the developing world. Asia, for example, has been home to the world's fastest growing economy for more than two decades – yet it continues to house half the world's poor. If economic growth and resource consumption in the developing world continue to increase as projected, the productive and absorptive capacities of the global ecosystem will soon be overwhelmed. Actions must be taken to ensure the environmental sustainability of all future development before it is too late.

Canada supports the following initiatives:

- Improving the effectiveness of development assistance programs and ensuring that they improve the capacity of developing countries to minimize the impact of their industrialization and economic growth on the global environment. As developing countries grow and their demands on the global ecosystem become greater, it is increasingly important to encourage them to become effective partners in global efforts to combat and reverse environmental degradation.
- Placing greater emphasis on poverty reduction to prevent the continuing marginalization of the poor and of developing countries.
- Strengthening trends towards democracy and greater respect for human rights, and taking action to prevent or resolve conflict.
- Helping developing countries better integrate themselves into the global economy.

Oceans

Bordering on three oceans, Canada has a considerable interest in the sustainable management of oceans because a large number of its citizens rely on marine resources for their livelihood, culture and recreation.

A number of ocean issues were discussed at the 1996 UNCSD meeting, including: improved fisheries policies, practices and management regimes and their effective implementation; coastal zone management; and the prevention of marine pollution. Canada would like the special session to determine what steps should be taken to act on the resolutions made at this meeting, and how ocean issues can be further advanced and integrated within the United Nations family. Specifically, Canada is interested in:

- Creating a single forum for ocean issues. At present there are a large number of conventions and fora dealing with ocean issues, but no single venue for bringing them together. A single forum, perhaps under the UN Law of the Sea Office, would be useful in promoting integrated discussions on the subject.
- Focusing on land-based sources of marine pollution. There is a need to focus on land based sources of marine pollution, particularly by following up on the Global Program of Action agreed upon at the 1995 Washington Conference.
- Focusing attention on coastal zone management and the sustainable development of coastal areas. Most of the world's population resides close to or in coastal areas and consumes ocean-related foods, making it even more important—as the UN International Year of the Ocean approaches in 1998—to recognize the global importance of coastal zone management.

- Promoting the early ratification by all states and entry into force of the UN Agreement on Straddling Fish Stocks and Highly-Migratory Fish Stocks. This agreement, forged at the conference of the same name, gives the international community the means to end the over fishing of straddling and highly-migratory stocks on the high seas.

Transportation

The transportation sector poses special challenges for sustainable development because of the actual and potential magnitude of its environmental effects. These include global climate change, depletion of the ozone layer, the spread of toxic inorganic and organic pollutants, urban pollution, congestion, noise, the accelerated depletion of world oil reserves, and damage to landscape, soil and other natural resources.

In March 1995, participants at the Organization for Economic Cooperation and Development (OECD) conference "Towards Sustainable Transportation" agreed on a set of sustainable transportation principles developed by Canada's National Round Table on the Environment and the Economy. These principles, later discussed at the April 1996 CSD, recognize the fundamental importance of:

- access;
- equity;
- individual and community responsibility;
- health and safety;
- education and public participation;
- integrated planning; and
- land and resource use.

The special session offers a unique opportunity for Canada to advance the acceptance of these principles and to encourage the development of environmentally-sustainable transportation policies and measures.

Youth

The social, economic and environmental needs of young people must be taken into account in order for this important sector of society to develop to its full potential and to contribute responsibly to our communities. Canada strongly supports programs and policies aimed at empowering youth, and is interested in:

- Encouraging young people to acquire the necessary education and skills needed to more actively participate in the social, economic and political components of society.

- In cooperation with other partners, increasing youth participation and representation in local, national and international policy development.
- Making international systems more responsive to the needs and concerns of young people. Canada supports the involvement of youth at the special session.
- Supporting further progress toward achieving the youth-related goals established at the last several United Nations World Conferences. This includes the goals and priorities set out at UNCED, the World Summit on Social Development, the fourth United Nations Conference on Women and, most recently, the second United Nations Conference on Human Settlements.

Séance spéciale de juin 1997 :
Examen subséquent à la
Conférence des Nations Unies sur l'environnement
et le développement (CNUED)

Le Canada : un regard sur l'avenir

DOCUMENT DE TRAVAIL

Environnement Canada
et le ministère des Affaires étrangères
et du Commerce international

19 octobre 1996

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Introduction

Aperçu

Au printemps de 1997, l'Assemblée générale des Nations Unies tiendra une séance spéciale afin d'examiner les progrès réalisés dans les dossiers ayant trait à l'environnement et au développement depuis la Conférence des Nations Unies sur l'environnement et le développement (CNUED), qui a eu lieu en juin 1992 à Rio de Janeiro, au Brésil.

Cette séance, dont la date provisoire a été fixée à juin 1997, permettra aux parties intéressées du monde entier de réfléchir sur le succès et l'insuffisance des efforts déployés à l'échelle locale, nationale et internationale pour réaliser le développement durable. Elle aidera à donner une orientation aux stratégies de développement durable dans tous les secteurs ainsi qu'à préparer le programme environnemental mondial dans le but de relever les défis du prochain millénaire.

Rôle du Canada

Le Canada a joué un rôle actif au sein de la Commission du développement durable des Nations Unies (CDD) ainsi qu'à bon nombre d'autres tribunes internationales, et il fera de même à la séance spéciale. Il a montré depuis longtemps qu'il était résolu à faire progresser l'idée du développement durable en intégrant des facteurs économiques, sociaux et environnementaux à tous les niveaux du processus décisionnel.

Il s'est engagé plus fermement dans cette voie en décembre 1995 lorsqu'il a modifié la *Loi sur le vérificateur général* en vue de créer un poste de commissaire à l'environnement et au développement durable et d'exiger que chaque ministère fédéral dépose à la Chambre des communes une stratégie de développement durable pour décembre 1997. Ces stratégies seront établies de concert avec les intervenants ministériels et comporteront un plan d'action assorti d'indicateurs de rendement mesurables.

Le gouvernement fédéral croit que la participation de multiples intervenants est essentielle à la détermination des questions d'intérêt prioritaire pour le pays ainsi qu'à la l'établissement et à la réalisation des objectifs canadiens. C'est dans cet esprit qu'il se prépare à la séance spéciale et cherche à obtenir l'opinion de Canadiens intéressés.

Contexte

La CNUED, qui est un point de référence pour les efforts déployés dans les années 90 à l'échelle de la planète en matière de développement et d'environnement, a donné naissance à bon nombre

d'initiatives importantes, dont l'établissement de principes de gestion durable des forêts, la mise en vigueur de conventions sur le changement climatique et la diversité biologique ainsi que l'adoption de la Déclaration de Rio et d'Action 21. Les séances annuelles de la CDD, mise sur pied en 1992 par l'Assemblée générale des Nations Unies, fournissent une tribune pour examiner les buts de la CNUED et promouvoir leur mise en oeuvre. Le mandat de cinq ans de la CDD prend fin en 1997, ce qui soulève des questions au sujet du futur rôle de gouvernance dans ces efforts.

Entre autres, la Conférence de Rio a confirmé qu'un gouvernement ne peut à lui seul se charger de réaliser le développement durable. L'industrie, le milieu universitaire, les organisations non gouvernementales et communautaires de même que d'autres parties intéressées ont d'importants rôles à jouer et doivent travailler en collaboration pour élaborer et mettre en application des stratégies efficaces de développement durable.

But du présent document

Le document donne un aperçu de certains grands dossiers sur lesquels le Canada mettra l'accent à la séance spéciale et indique quelles sont les priorités et les objectifs du gouvernement fédéral pour chacun d'entre eux. Il se veut un contexte de consultations en favorisant la discussion de ces dossiers et d'autres questions reliées à l'environnement et au développement. De cette façon, les préoccupations des Canadiens seront prises en compte lorsque le Canada présentera ses exposés à la séance spéciale. Les questions qu'il faut se poser en lisant le présent document sont les suivantes :

- Les grands dossiers dont il est ici question sont-ils ceux sur lesquels le Canada devrait mettre l'accent à la séance spéciale?
- Le Canada a-t-il réalisé suffisamment de progrès dans ces dossiers et en ce qui concerne d'autres domaines?
- Les objectifs et les buts proposés par le gouvernement fédéral permettent-ils de bien orienter le pays en vue d'un avenir durable?

Environnement Canada de même que le ministère des Affaires étrangères et du Commerce international tiennent des consultations publiques à Vancouver, Calgary, Winnipeg, Toronto, Ottawa, Montréal et Halifax en octobre et en novembre 1996, afin d'obtenir l'avis des intervenants intéressés sur ces dossiers et sur d'autres questions. Les personnes qui sont dans l'impossibilité d'y assister peuvent faire parvenir leurs commentaires à:

Madame Carmel Whelton
Division de l'Environnement (AGE)

(rien)

Les grands dossiers

Voici un bref résumé de quelques grands dossiers dont le Canada a l'intention de parler à la séance spéciale de 1997. La liste, présentée par ordre alphabétique, n'est pas exhaustive et comprend seulement certains dossiers prioritaires relevés jusqu'à présent.

L'Arctique

À titre de membres du nouveau Conseil de l'Arctique, le Canada, le Danemark, la Finlande, la Suède, la Norvège, l'Islande, la Fédération de Russie et les États-Unis ont montré qu'ils étaient résolus à travailler en collaboration pour promouvoir le développement durable dans le Nord et à accroître leurs efforts dans le cadre de la Stratégie de protection de l'environnement arctique. Sensibiliser davantage la communauté internationale aux questions concernant l'Arctique aide à obtenir l'appui mondial pour les projets à réaliser dans le Nord. Les priorités du Canada pour l'Arctique sont les suivantes :

- **Élaborer un plan de développement durable qui établit un équilibre entre la protection de l'environnement, le bien-être culturel et le développement socio-économique.** Pour aider les ministères à créer leur stratégie de développement durable, le ministère des Affaires indiennes et du Nord (MAIN) coordonne en leur nom les consultations sur le Nord. La phase I débutera à l'automne de 1996 et aura pour but de déterminer les questions clés ainsi que d'en arriver à une compréhension commune du développement durable. La phase II aura lieu au printemps de 1997 et portera sur la création d'une stratégie provisoire pour le Nord. Le MAIN a récemment invité des représentants de groupes autochtones, d'organisations non gouvernementales, de l'industrie et des gouvernements territoriaux ainsi que d'autres intervenants nordiques de première importance à l'aider à élaborer sa stratégie.
- **Utiliser de façon durable les ressources renouvelables et non renouvelables de l'Arctique.** C'est essentiel pour remédier au chômage dans le Nord et assurer l'existence continue de ces ressources pour les générations futures. Le Canada aimerait que les discussions portant sur cette question amènent l'adoption, par tous les gouvernements nationaux, de politiques assurant la viabilité permanente des communautés indigènes qui comptent sur les activités d'exploitation des ressources.
- **Mettre en évidence et faire connaître à la communauté internationale les projets locaux de développement durable et les progrès réalisés en vue de régler les revendications**

territoriales des Autochtones. À mesure que la question de l'autonomie gouvernementale évolue, le Canada acquiert une précieuse expérience en ce qui concerne l'intégration des méthodes et des idées autochtones au processus décisionnel et à la création de capacités dans l'Arctique.

Les Autochtones

Bon nombre de communautés autochtones ont des liens étroits avec l'environnement parce qu'il contribue à leur bien-être culturel, spirituel et économique; elles sont donc directement intéressées à l'établissement de stratégies de conservation et de développement durable. En outre, l'apport que les connaissances traditionnelles autochtones pourraient fournir à ces stratégies de développement durable suscite de plus en plus d'intérêt.

À la séance spéciale, le Canada appuiera :

- **La participation des populations autochtones à la planification et à la mise en oeuvre des stratégies de développement durable et de conservation.** Cette prise de position découle de l'élaboration de la Stratégie de l'environnement arctique et de la création du Conseil de l'Arctique et du Partenariat environnemental avec les Indiens. La gestion des forêts, la diversité biologique et la prévention de la pollution marine sont des questions considérées préoccupantes par les populations autochtones.
- **La création de stratégies de développement durable et de conservation qui, de diverses façons, sont axées sur les questions touchant les Autochtones.** Au Canada, par exemple, les ministères fédéraux mettent au point des stratégies de développement durable pour leurs programmes et leurs services comme l'exige la loi, et, dans le cadre de ce processus, ils travaillent en coopération avec les populations autochtones. En outre, la gestion conjointe de l'environnement et les programmes environnementaux connexes sont devenus un élément important du règlement complet des revendications territoriales et des négociations sur l'autonomie gouvernementale.
- **La participation des populations autochtones à titre d'intervenants lorsque la séance spéciale examinera les progrès réalisés depuis la CNUED, et l'établissement de liens étroits entre les plans d'action internationaux connexes qui ont reconnu le rôle des communautés autochtones dans les domaines du développement durable et de la conservation.** On peut mentionner entre autres la Convention sur la biodiversité, Habitat et le Sommet mondial de l'alimentation.

- L'étude du rôle que pourraient jouer les connaissances traditionnelles des populations autochtones dans les programmes et les politiques de développement durable. Ce travail se poursuit au Canada et fera fond sur celui d'autres États et enceintes internationales.

La coopération internationale

À mesure que les différentes régions du monde deviennent de plus en plus reliées les unes aux autres, le rôle des pays en développement dans la communauté internationale revêt une importance accrue. Afin d'encourager la coopération internationale dans le but de faire progresser le programme mondial pour le développement durable, il faut donc un programme efficace de coopération au développement qui vise à promouvoir le développement durable dans le Tiers-Monde en abordant de façon intégrée les problèmes environnementaux, économiques, politiques et sociaux.

Les énormes disparités entre les riches et les pauvres menacent d'amenuiser les perspectives de développement durable dans bien des régions du Tiers-Monde. Par exemple, l'Asie connaît depuis plus de deux décennies la croissance économique la plus rapide au monde, mais c'est là que l'on retrouve encore la moitié des pauvres de la planète. Si la croissance économique et la consommation de ressources dans le Tiers-Monde continuent d'augmenter tel que prévu, les capacités de production et d'absorption de l'écosystème global seront bientôt insuffisantes. Des mesures doivent être prises pour assurer la durabilité écologique de tout développement futur avant qu'il ne soit trop tard. Le Canada appuie les initiatives suivantes :

- Accroître l'efficacité des programmes d'aide au développement et voir à ce qu'ils donnent aux pays en développement de meilleurs moyens de réduire au minimum les effets de leur industrialisation et de leur croissance économique sur l'environnement mondial. À mesure que les pays en développement prennent de l'essor et font davantage appel à l'écosystème mondial pour répondre à leurs besoins, il devient de plus en plus important de les encourager à participer activement aux efforts déployés dans le monde entier pour lutter contre la dégradation de l'environnement et renverser cette tendance.
- Mettre davantage l'accent sur la réduction de la pauvreté afin de prévenir la marginalisation continue des pauvres et des pays en développement.
- Renforcer les tendances à la démocratisation et le respect des droits de la personne, et prendre des mesures pour prévenir ou régler les différends.

- **Aider les pays en développement à mieux s'intégrer à l'économie mondiale.**

L'éducation

L'éducation est essentielle à la réalisation du développement durable et à la compréhension par tous les intervenants des questions qui s'y rapportent. Le Canada appuie l'élaboration d'une stratégie internationale d'éducation en matière de développement durable qui comporte les volets suivants :

- **Développer, articuler et promouvoir davantage l'idée de l'éducation en matière de développement durable (EDD).** À cette fin, le domaine de l'éducation environnementale doit être élargi de façon à intégrer aux préoccupations environnementales des considérations se rapportant au développement économique, social et humain. La question de l'EDD a été discutée lors de plusieurs réunions internationales récentes, notamment au congrès mondial de l'Union internationale pour la conservation de la nature (UICN), qui a eu lieu à Montréal en octobre 1996.
- **Assurer, à l'échelle internationale, nationale et locale, la création d'alliances stratégiques entre tous les partenaires qui s'intéressent à l'EDD.** Ces alliances pourraient être élargies de façon à encourager les établissements universitaires et les centres de recherches qui font des études sur le développement durable et qui s'intéressent au développement technologique connexe à partager les résultats qu'ils obtiennent afin de relier les activités scientifiques aux préoccupations en matière de politique. Lors de la dernière réunion de la Commission du développement durable de l'ONU, c'est l'Organisation des Nations Unies pour l'éducation, la science et la culture qui, de concert avec le PNUE, l'UICN et d'autres institutions clés, a été chargée de cette initiative. On y a aussi souligné qu'il était nécessaire de promouvoir la création de réseaux d'EDD.
- **Suivre de près les progrès réalisés en vue de créer des structures nationales d'EDD.** Le Canada appuie la création de plans d'action nationaux ayant pour but de mettre en oeuvre les nouvelles stratégies d'EDD mises au point par les gouvernements, les enseignants, les étudiants, les spécialistes en élaboration de programmes d'études et en informatique, les commissions scolaires et d'autres parties intéressées. Pour donner suite à une demande formulée par Mission Terre à la CDDNU en 1996, le Canada a lancé dans plusieurs écoles partout au pays un projet pilote dans le cadre duquel les étudiants évaluent le terrain de leur école et leur communauté immédiate en utilisant un ensemble de 16

indicateurs environnementaux. Chaque école prévoit rédiger un rapport sur les résultats qu'elle aura obtenus et le présenter au ministre de l'Environnement, l'honorable Sergio Marchi.

L'égalité entre les sexes

D'après la plate-forme d'action adoptée à Beijing, il faut tenir compte des préoccupations et du point de vue des hommes et des femmes dans les politiques et les programmes de développement durable ainsi que renforcer, à l'échelle internationale, nationale et régionale, les mécanismes d'évaluation des répercussions sur les femmes du développement et des politiques environnementales.

Dans le Plan fédéral pour l'égalité entre les sexes, publié en août 1995, le gouvernement fédéral a réaffirmé son engagement à tenir compte des deux sexes dans l'élaboration de lois et de politiques ayant trait à l'environnement et au développement durable. En ce qui concerne l'égalité entre les sexes, le Canada appuie les initiatives suivantes :

- **Accroître la coordination entre la Commission de la condition de la femme et la Commission du développement durable en ce qui a trait aux questions relatives à l'environnement et au développement durable. Cette initiative est particulièrement importante dans le contexte de la suite à donner, à l'échelle du système, à la quatrième Conférence mondiale des Nations Unies sur les femmes.**
- **Tenir compte des sexospécificités dans la conception et la mise en application, à l'échelle internationale, nationale et régionale, de méthodes de gestion des ressources non préjudiciables à l'environnement et durables. À cette fin, la Commission du développement durable pourrait jouer un rôle important en aidant à la mise au point de méthodes et à la collecte de données.**
- **Fournir aux femmes l'occasion de participer à tous les niveaux du processus décisionnel. Leur participation à titre de gestionnaires, de conceptrices, de planificatrices et d'évaluatrices est essentielle à la mise en oeuvre future d'Action 21.**

Les forêts

Dix pour cent des terres forestières du monde entier se trouvent au Canada. Nos forêts sont donc essentielles non seulement à notre environnement et à notre économie, mais aussi à la santé de la planète.

La CNUED a souligné l'importance des forêts dans les stratégies mondiales de développement durable. En adoptant un ensemble de principes forestiers non contraignants sur le plan juridique, les pays en sont arrivés pour la première fois à un consensus sur la nécessité de gérer cette ressource de façon durable. Depuis lors, des progrès ont été réalisés, lentement mais constamment, en vue de faire progresser le programme pour les forêts, surtout grâce au Groupe intergouvernemental sur les forêts (GIF) créé par la CDD en 1995. Le mandat du GIF prendra fin lorsqu'il présentera ses recommandations au sujet de 11 importantes questions de principe à la cinquième séance de la CDD en avril 1997.

À titre d'intendant d'une importante partie des forêts du monde, le Canada, en plus de s'intéresser aux problèmes mondiaux, joue un rôle de premier plan dans la recherche de solutions. Il participe activement à des réunions internationales et souligne régulièrement que l'un des plus importants problèmes auxquels le secteur fait face aujourd'hui est le manque de direction générale que les communautés forestières devraient donner au programme pour les forêts. Un grand pas a été fait lorsque, à la suite de la polarisation et de l'échec des débats à la CNUED, il a été décidé que le GIF serait la seule tribune où les questions forestières seraient débattues.

À la séance spéciale, le Canada soulignera l'importance de créer une vision mondiale de la gestion durable des forêts grâce à la collaboration internationale permanente dans un certain nombre de domaines. Il préconisera entre autres les initiatives suivantes :

- **S'entendre sur une définition commune de la gestion durable des forêts.** Cette initiative facilitera les délibérations, aidera à mieux faire comprendre cette idée sur la scène internationale et permettra de mesurer les progrès réalisés en vue de la gestion durable des forêts ainsi que de produire des rapports à ce sujet. Non seulement le Canada est l'un des rares pays qui aient commencé à établir des critères et des indicateurs à l'échelle nationale, mais encore il participe à des activités internationales comme les processus de Montréal, paneuropéens et de Tarapoto. À titre de membre du GIF, le Canada appuie les efforts déployés pour déterminer si les initiatives convergentes

actuelles doivent être compatibles et si elles sont utiles.

- **Préconiser l'établissement, dans tous les pays, de plans nationaux détaillés d'exploitation forestière et d'utilisation des terres pour superviser la gestion durable des forêts.** Le Canada est d'avis que la planification nationale de l'exploitation forestière et de l'utilisation des terres est nécessaire pour coordonner les activités à l'intérieur et à l'extérieur du secteur forestier, encourager l'engagement à long terme à l'égard de la durabilité et faire participer les intervenants clés à la prise et à la mise en oeuvre des décisions.
- **Établir des règles non discriminatoires et multilatérales pour le commerce des produits forestiers et la gestion durable des forêts.** Le Canada est depuis longtemps le principal exportateur de produits forestiers, et, actuellement, près de 20 p. 100 du commerce mondial dans ce secteur passe entre ses mains. En 1994, la valeur totale des exportations forestières canadiennes s'élevait à environ 32 milliards de dollars. Le Canada s'intéresse donc particulièrement aux discussions ayant trait au commerce dans divers enceintes internationales.
- **Préserver, mettre à profit et partager équitablement les avantages des connaissances traditionnelles.** Le Canada est l'un des pays qui sont le plus en faveur d'un processus décisionnel ouvert, transparent et participatif pour la gestion durable des forêts. Il est d'avis que les communautés locales, les populations autochtones, les habitants de la forêt et d'autres intéressés doivent participer au processus. Lorsqu'il prend part aux discussions du GIF, le Canada appuie la proposition visant à faire progresser la question des connaissances traditionnelles en créant une capacité nationale. L'un des éléments importants de cette proposition consiste à faire connaître à toutes les parties leurs rôles et leurs responsabilités afin qu'elles soient bien informées et prêtes à conclure des accords de partenariat bien définis.
- **Négocier une convention internationale ayant force obligatoire, portant sur toutes les forêts et les valeurs forestières, et reliée à d'autres instruments pertinents.** Le Canada est d'avis que la communauté forestière mondiale comprend mieux les défis que comporte la gestion durable des forêts et est prête à s'engager davantage. Il croit aussi qu'un instrument uniforme ayant force obligatoire est nécessaire pour réaliser d'autres progrès au sujet de bon nombre de questions faisant l'objet de discussions internationales.

(rien)

La gouvernance

Maintenant que le mandat de cinq ans de la CDD tire à sa fin, il faut se demander si cet organisme est toujours nécessaire. Bien qu'il soit difficile de mettre en doute l'utilité d'un organisme de prestige qui réunit des dirigeants politiques tout en donnant une orientation et une impulsion aux stratégies mondiales de développement durable, il est également important de coordonner les efforts pour éviter un double emploi inutile et coûteux. La création d'une structure institutionnelle efficace sera essentielle pour faire progresser les projets prioritaires du Canada et l'idée du développement durable en général. À ce sujet, les questions à poser sont les suivantes :

- **Quelle est la meilleure façon de réaliser ces objectifs?** On a proposé que la CDD améliore son image de marque en relevant directement du Secrétaire général des Nations Unies plutôt que du Conseil économique et social, comme c'est le cas maintenant.
- **Dans quelle mesure la CDD devrait-elle être chargée de surveiller les politiques sociales, économiques et environnementales d'autres organisations des Nations Unies ainsi que de produire des rapports à ce sujet?** Après tout, ces trois politiques sont essentielles au développement durable.
- **Quelles devraient être les relations entre la CDD, le PNUE et le PNUD?** Quel rôle devrait-elle jouer vis-à-vis les banques de développement et d'autres commissions des Nations Unies comme celles de la condition de la femme, de la population et du développement social?
- **De quelle façon la séance de haut niveau de la CDD peut-elle le mieux recruter des appuis en faveur des politiques de développement durable?**
- **Quelle est la meilleure façon de surveiller et d'intégrer les résultats des récentes conférences des Nations Unies?**
- **Le mandat de la CDD devrait-il demeurer le même?** On peut dire que la CDD a connu un certain succès parce qu'elle n'a pas semblé menacer d'empiéter sur le mandat d'autres organismes des Nations Unies.
- **Sommes-nous satisfaits de la participation de la société civile aux délibérations de la CDD?**
- **Quelles leçons avons-nous tirées de l'intégration et des questions sectorielles?** Des mécanismes comme le Forum intergouvernemental chargé de la sécurité chimique

fournissent un moyen pratique d'améliorer la gouvernance et la coordination dans certains secteurs sans qu'il soit nécessaire de négocier de nouveaux accords internationaux ou de créer d'autres organismes intergouvernementaux.

La jeunesse

Les besoins sociaux, économiques et environnementaux des jeunes doivent être pris en compte afin que cet important secteur de la société puisse donner toute sa mesure et apporter une sérieuse contribution à nos communautés. Le Canada appuie fortement les programmes et les politiques permettant à la jeunesse de se prendre en main, et voici ce qui l'intéresse :

- Encourager les jeunes à acquérir l'instruction et les compétences nécessaires pour participer plus activement aux activités sociales, économiques et politiques de la société.
- En coopération avec d'autres partenaires, accroître la participation et la représentation des jeunes à l'élaboration de politiques locales, nationales et internationales.
- Sensibiliser davantage les organisations internationales aux besoins et aux préoccupations des jeunes. Le Canada appuie la participation des jeunes à la séance spéciale.
- Concourir à faire progresser davantage la réalisation des buts fixés pour la jeunesse lors de plusieurs conférences mondiales tenues récemment par les Nations Unies. Il s'agit des buts et des priorités dont il a été question à la CNUED, au Sommet mondial pour le développement social, à la quatrième Conférence mondiale des Nations Unies sur les femmes et, dernièrement, à la deuxième Conférence des Nations Unies sur les établissements humains.

Les océans

Le Canada s'intéresse grandement à la gestion durable des océans parce qu'un grand nombre de ses citoyens comptent sur les ressources marines pour leur subsistance, leur culture et leurs loisirs.

Lors de la réunion de la CDDUN en 1996, un certain nombre de questions relatives aux océans, dont les suivantes, ont été discutées : l'amélioration des politiques, des méthodes et des régimes de gestion se rapportant à la pêche ainsi que leur mise en oeuvre efficace, la gestion des zones côtières et la prévention de la pollution marine. Le Canada aimerait que la séance spéciale permette de déterminer les mesures à prendre pour

donner suite aux résolutions qui seront prises et de savoir comment les questions relatives aux océans peuvent être davantage étudiées et intégrées à la famille des Nations Unies. Plus précisément, voici ce qui intéresse le Canada :

- **Créer une seule tribune pour les questions ayant trait aux océans.** Actuellement, ces questions sont étudiées dans beaucoup de conventions et à de nombreuses tribunes, mais il n'existe pas un seul endroit où tous ces problèmes peuvent être discutés. Une seule tribune, peut-être sous l'égide du Bureau du droit de la mer des Nations Unies, serait utile pour promouvoir des discussions intégrées sur le sujet.
- **Se pencher sur les sources terrestres de pollution marine.** Il est nécessaire de se pencher sur les sources terrestres de pollution marine, notamment en donnant suite au Programme d'action mondial adopté d'un commun accord à la Conférence de Washington en 1995.
- **Attirer l'attention sur la gestion des zones côtières et le développement durable des régions côtières.** La plus grande partie de la population mondiale vit dans les régions côtières ou à proximité de ces dernières et se nourrit de produits de l'océan, ce qui rend encore plus fondamentale la reconnaissance de l'importance mondiale de la gestion des zones côtières étant donné que l'année internationale de la mer sera proclamée par les Nations Unies dès 1998.
- **Préconiser la ratification prochaine par tous les États et la mise en vigueur de l'Accord des Nations Unies sur les stocks transzones et les espèces migratrices (?).** Cet accord, élaboré lors de la conférence du même nom, permet à la communauté internationale de mettre fin à la surpêche en haute mer des stocks transzones et des espèces migratrices.

Les produits chimiques

Depuis la CNUED, des progrès constants ont été réalisés en vue de la saine gestion des produits chimiques. Comme l'indique le paragraphe 19.1 d'Action 21, «*Les produits chimiques jouent aujourd'hui un rôle essentiel dans le progrès social et économique de la communauté mondiale, et il est prouvé que, quand on y recourt à bon escient, ils peuvent être largement utilisés dans de bonnes conditions de rentabilité et pratiquement sans danger. Toutefois, il reste beaucoup à faire pour assurer la gestion écologiquement rationnelle des substances chimiques toxiques, dans le cadre du respect des principes d'un développement durable et de l'amélioration de la qualité de la vie de l'humanité.*»

Les objectifs visés par le Canada lorsque les questions relatives à la gestion des produits chimiques seront discutées à la séance spéciale sont les suivants :

- Proposer que, pendant les discussions sur les mécanismes possibles à mettre sur pied pour les nouvelles initiatives internationales concernant la saine gestion des produits chimiques, les gouvernements envisagent sérieusement des moyens de rendre plus efficaces les mécanismes existants, y compris le PIGPC (Programme interorganisationnel sur la saine gestion des produits chimiques) et le FISC (Forum intergouvernemental chargé de la sécurité chimique). Faire remarquer que ces mécanismes ont été créés afin de promouvoir une plus grande coordination et une meilleure coopération entre les organisations internationales et les pays en ce qui concerne tous les aspects de la saine gestion des produits chimiques ainsi que pour fournir aux pays l'occasion d'échanger des renseignements sur certaines questions, de partager leur expérience, de déterminer les mesures à prendre en priorité et de chercher des solutions régionales aux problèmes mondiaux de gestion des produits chimiques.
- Appuyer les efforts déployés par le PNUE et la FAO pour conclure une entente ayant force obligatoire en vue de l'application de la procédure de consentement éclairé préalable (CEP) pour le commerce international de certains produits chimiques et pesticides dangereux en 1997, comme l'ont recommandé les organes directeurs de ces organisations pour assurer l'opportunité de sa mise en vigueur.
- Appuyer fortement la proposition à l'effet que le PNUE et la FAO amorcent des négociations en vue d'une convention multilatérale sur les polluants organiques persistants (POP).

La santé

À la Conférence de Rio, la santé a été considérée comme une partie intégrante des stratégies mondiales de développement durable. On peut lire dans le compte rendu de la conférence qu'un développement insuffisant donnant lieu à la pauvreté et qu'un développement excessif occasionnant une surconsommation, en plus de l'accroissement de la population mondiale, peuvent causer de graves problèmes de santé associés à l'environnement dans les pays industrialisés et dans les pays en développement.

Le Canada est déterminé à établir un lien entre la santé humaine et la durabilité de l'environnement. Voici quelles sont les priorités stratégiques actuelles que le Canada aimerait voir souligner :

- **Réglementer les substances toxiques présentes dans l'environnement.** Pour protéger la santé des Canadiens contre les effets des polluants de l'environnement, l'air, l'eau et les aliments ne doivent pas être contaminés.
- **Évaluer et gérer les effets biorégionaux sur la santé.** Les problèmes de pollution de l'environnement sont complexes et exigent des solutions intégrées qui font appel à la fois à la promotion et à la protection de la santé. Les programmes mis au point pour trouver des solutions à ces problèmes sont fondés sur l'évaluation des risques et les méthodes de gestion des risques. Les partenariats sont créés en fonction d'objectifs communs et maintenus grâce au respect des engagements.
- **Surveiller et contrôler les maladies reliées à l'environnement.** Les résultats d'études épidémiologiques et toxicologiques indiquent que le cancer, le mauvais état du système de reproduction, les troubles du développement chez les enfants et l'asthme comptent parmi les importants problèmes de santé reliés à l'environnement. Des programmes nationaux de surveillance de ces problèmes sont nécessaires pour renforcer le système national d'information sur la santé publique et produire à temps des analyses fiables qui servent à prendre des décisions.
- **Établir un cadre pour la santé et l'environnement.** Cette initiative a pour but général de permettre aux gens de prendre des mesures individuelles et collectives afin d'améliorer la santé humaine en assurant celle des écosystèmes et leur diversité de même qu'en encourageant la création de conditions de vie et de travail saines et actives dans toutes les communautés du Canada. Cette stratégie comporte six principaux domaines d'activité : la conclusion d'alliances, une politique sur la santé publique, la mise au point de programmes et la création de capacités, le perfectionnement des connaissances et la synthèse de l'information, l'appui à l'action communautaire, l'éducation du public et le marketing social.

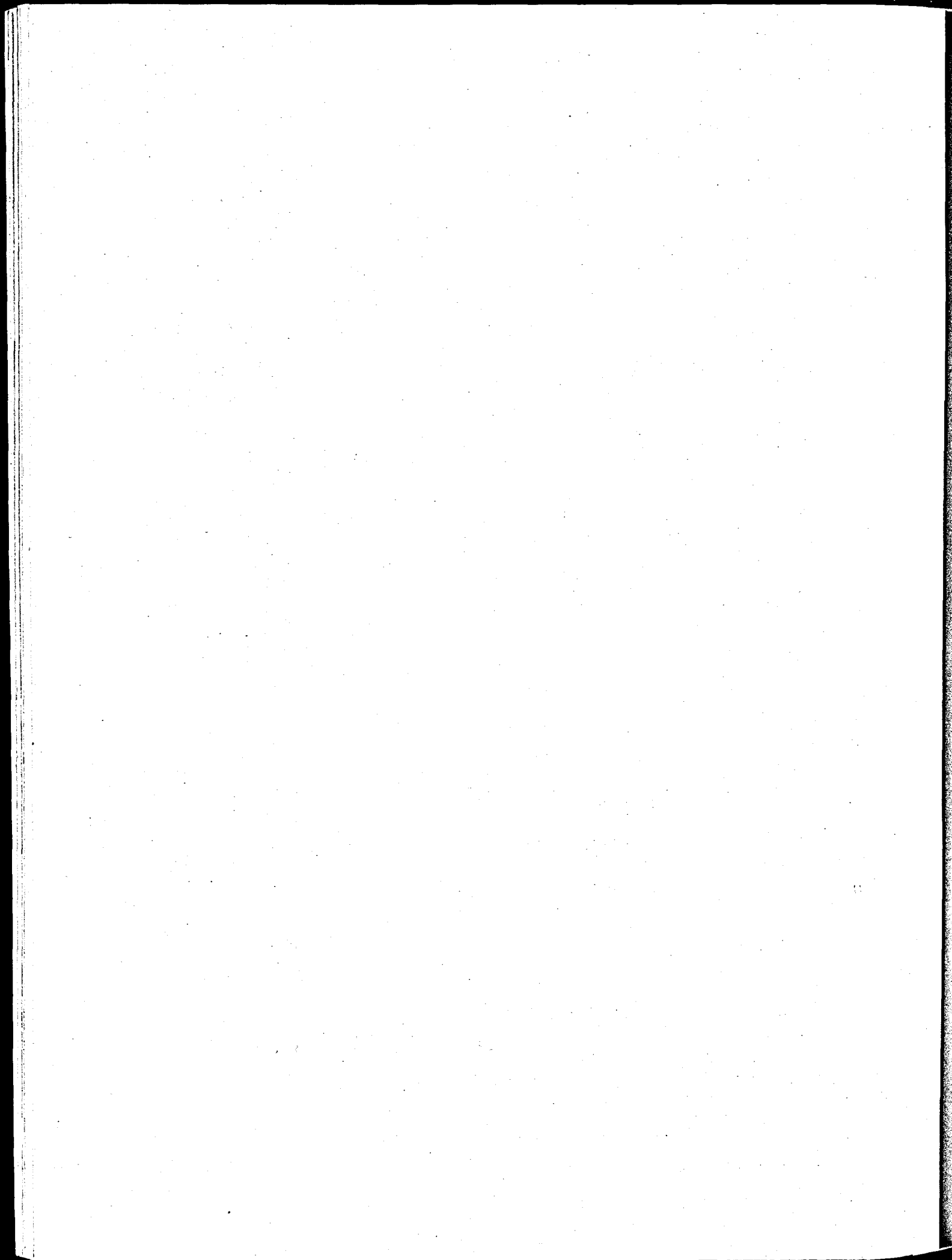
Le transport

Le secteur du transport occasionne des problèmes particuliers pour le développement durable en raison de l'ampleur réelle et potentielle de ses effets sur l'environnement, qui comprennent le changement climatique mondial, l'appauvrissement de la couche d'ozone, la dissémination des polluants toxiques inorganiques et organiques, la pollution urbaine, la congestion, le bruit, la réduction accélérée des réserves mondiales d'hydrocarbures ainsi que les dommages causés au paysage, au sol et à d'autres ressources naturelles.

En mars 1995, les participants à la conférence de l'Organisation de coopération et de développement économiques (OCDE) portant sur le transport durable se sont entendus sur un ensemble de principes de transport durable établis par la Table ronde nationale sur l'environnement et l'économie. Ces principes, discutés par la suite en avril 1996 lors d'une réunion d'experts de la CDD, reconnaissent l'importance fondamentale :

- de l'accès;
- de l'équité;
- de la responsabilité individuelle et collective;
- de la santé et de la sécurité;
- de l'éducation et de la participation du public;
- de la planification intégrée;
- de l'utilisation des terres et des ressources.

La séance spéciale offre une occasion unique pour le Canada de promouvoir l'acceptation de ces principes et d'encourager l'élaboration de politiques et de mesures sur le transport durable qui ne sont pas préjudiciables à l'environnement.





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PROGRAMME OF ACTIVITIES OF THE INTERNATIONAL DECADE
OF THE WORLD'S INDIGENOUS PEOPLE

Report of the Third Committee

Rapporteur: Ms. Victoria SANDRU (Romania)

I. INTRODUCTION

1. At its third plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-first session the item entitled "Programme of activities of the International Decade of the World's Indigenous People" and to allocate it to the Third Committee.
2. The Third Committee considered the item at its 29th, 31st, 40th and 42nd meetings, on 8, 11, 15 and 18 November 1996. An account of the Committee's discussion of the item is contained in the relevant summary records (A/C.3/51/SR.29, 31, 40 and 42).
3. For its consideration of the item, the Committee had before it the following documents:
 - (a) Report of the Secretary-General on a review of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous people (A/51/493);
 - (b) Report of the Secretary-General on progress made at the national, regional and international levels in accomplishing the objectives of the Decade and the programme of activities for the Decade (A/51/499);
 - (c) Report of the Secretary-General on status of the United Nations Voluntary Fund for Indigenous Populations (A/51/565);

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(d) Note verbale dated 5 August 1996 from the Permanent Representative of the Philippines to the United Nations addressed to the Secretary-General (A/51/293).

4. At the 29th meeting, on 8 November, the Assistant Secretary-General for Human Rights made an introductory statement.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.3/51/L.30

5. At the 40th meeting, on 15 November 1996, the representative of Australia, on behalf of Antigua and Barbuda, Argentina, Armenia, Australia, Bhutan, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cyprus, Denmark, Ecuador, El Salvador, Estonia, Fiji, Finland, Greece, Guatemala, Guyana, Iceland, Mexico, New Zealand, Nicaragua, Norway, Peru, Solomon Islands, Spain, Sweden and Uruguay, introduced a draft resolution entitled "International Decade of the World's Indigenous People" (A/C.3/51/L.30). Subsequently, the Congo, Kyrgyzstan, the Netherlands and the Philippines joined in sponsoring the draft resolution.

6. At the same meeting, the representative of Australia orally revised the draft resolution as follows:

(a) In operative paragraph 5, the word "meetings" was replaced with "sessions";

(b) In operative paragraph 15, the words "in order to assist indigenous representatives in participating in the Working Group on Indigenous Populations and the Working Group charged with elaborating a draft declaration on the rights of indigenous people" were added at the end of the paragraph;

(c) A new operative paragraph 20 was added, reading as follows:

"20. Encourages Governments to consider contributing, as appropriate, to the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean, in support of the achievement of the Decade"

and the subsequent paragraphs were renumbered accordingly.

7. At its 42nd meeting, on 18 November, the Committee adopted draft resolution A/C.3/51/L.30, as orally revised, without a vote (see para. 10).

8. Before the adoption of the draft resolution, the representatives of the Russian Federation and the United States of America made statements (see A/C.3/51/SR.42).

9. After the adoption of the draft resolution, the representative of Japan made a statement (see A/C.3/51/SR.42).

III. RECOMMENDATION OF THE THIRD COMMITTEE

10. The Third Committee recommends to the General Assembly the adoption of the following draft resolution:

International Decade of the World's Indigenous People

The General Assembly,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling its previous resolutions on the International Decade of the World's Indigenous People, as well as those of the Commission on Human Rights,

Recalling also that the goal of the Decade is to strengthen international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health, and that the theme of the Decade is "Indigenous people: partnership in action",

Recognizing the importance of consultation and cooperation with indigenous people in planning and implementing the programme of activities for the Decade, the need for adequate financial support from the international community, including support from within the United Nations and the specialized agencies, and the need for adequate coordination and communication channels,

Taking note of Economic and Social Council decision 1992/255 of 20 July 1992, in which the Council requested United Nations bodies and specialized agencies to ensure that all technical assistance financed or provided by them was compatible with international instruments and standards applicable to indigenous people, and encouraged efforts to promote coordination in this field and greater participation of indigenous people in the planning and implementation of projects affecting them,

Recalling its resolution 50/156 of 21 December 1995,

1. Affirms its conviction of the value and diversity of the cultures and forms of social organization of indigenous people, and that the development of indigenous people within their countries will contribute to the socio-economic, cultural and environmental advancement of all the countries of the world;

2. Notes that the programme of activities for the International Decade of the World's Indigenous People may be reviewed and updated throughout the Decade and that at the mid-point of the Decade the Economic and Social Council and the General Assembly should review the results of the activities in order to identify obstacles to achievement of the goals of the Decade and to recommend solutions for overcoming those obstacles;

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3. Takes note of the report of the Secretary-General on the implementation of the programme of activities for the Decade;¹
4. Welcomes the resolve of the United Nations High Commissioner for Human Rights to strengthen efforts to achieve the goals of the programme of activities for the Decade;²
5. Reaffirms as a major objective of the Decade the adoption of a declaration on the rights of indigenous people, and notes that there have been two sessions of the open-ended inter-sessional Working Group of the Commission on Human Rights established pursuant to Commission resolution 1995/32 of 3 March 1995³ with the sole purpose of elaborating a draft declaration, considering the draft United Nations declaration on the rights of indigenous peoples, annexed to resolution 1994/45 of 26 August 1994 of the Subcommission on Prevention of Discrimination and Protection of Minorities;
6. Underlines the importance of effective participation by indigenous representatives in the Working Group, and encourages organizations of indigenous people that are not already registered to participate and wish to do so to apply for authorization in accordance with the procedure set out in the annex to Commission on Human Rights resolution 1995/32;
7. Welcomes the Secretary-General's review of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous people,⁴ and requests the Secretary-General to transmit the review, prior to the fifty-third session of the Commission on Human Rights, to Governments, indigenous people and relevant international organizations for their comments;
8. Recognizes amongst the objectives of the Decade, as listed in the programme of activities, the consideration of the establishment of a permanent forum for indigenous people in the United Nations system;
9. Recalls its recommendation as contained in General Assembly resolution 50/157 of 21 December 1995 that the Commission on Human Rights, drawing on the results of the Copenhagen workshop⁵ and the Secretary-General's review, consider the convening of a second workshop on the possible establishment of a permanent forum for indigenous people;
10. Recommends in the light of the review that efforts be made to ensure that relevant United Nations bodies and agencies, as well as other relevant

¹ A/51/499.

² Resolution 50/157, annex.

³ Official Records of the Economic and Social Council, 1995, Supplement No. 3 and corrigenda (E/1995/23 and Corr.1 and 2), chap. II, sect. A.

⁴ A/51/493.

⁵ E/CN.4/Sub.2/AC.4/1995/7 and Add.1-3.

United Nations organizations, take part in any further consultations on the issue, and welcomes the offer of the Government of Chile to host a second workshop;

11. Emphasizes the important role of international cooperation in promoting the goals and activities of the Decade and the rights, well-being and sustainable development of indigenous people;

12. Reaffirms the importance of strengthening the human and institutional capacity of indigenous people to develop their own solutions to their problems and, for these purposes, its recommendation that the United Nations University consider the possibility of sponsoring, in each region, one or more institutions of higher education as centres of excellence and the diffusion of expertise, and invites the Commission on Human Rights to recommend appropriate means of implementation;

13. Emphasizes the importance of action at the national level for the implementation of the goals and activities of the Decade;

14. Encourages Governments to support the Decade by:

(a) Contributing to the United Nations Trust Fund for the Decade;

(b) Preparing relevant programmes, plans and reports in relation to the Decade, in consultation with indigenous people;

(c) Seeking means, in consultation with indigenous people, of giving indigenous people greater responsibility for their own affairs and an effective voice in decisions on matters that affect them;

(d) Establishing national committees or other mechanisms involving indigenous people to ensure that the objectives and activities of the Decade are planned and implemented on the basis of full partnership with indigenous people;

15. Encourages Governments and other donors to contribute to the United Nations Voluntary Fund for Indigenous Populations in order to assist indigenous representatives in participating in the Working Group on Indigenous Populations and the Working Group charged with elaborating a draft declaration on the rights of indigenous people;

16. Appeals to Governments and intergovernmental and non-governmental organizations to support the Decade by identifying resources for activities designed to implement the goals of the Decade, in cooperation with indigenous people;

17. Invites the United Nations financial and developmental institutions, operational programmes and specialized agencies, in accordance with the existing procedures of their governing bodies:

(a) To give increased priority and resources to improving the conditions of indigenous people, with particular emphasis on the needs of those people in developing countries, including by preparation of specific programmes of action

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for the implementation of the goals of the Decade, within their areas of competence;

(b) To launch special projects, through appropriate channels and in collaboration with indigenous people, for strengthening their community-level initiatives, and to facilitate the exchange of information and expertise amongst indigenous people and other relevant experts;

(c) To designate focal points for coordination with the Centre for Human Rights of the Secretariat of activities related to the Decade;

18. Recommends that the Secretary-General ensure coordinated follow-up to the recommendations concerning indigenous people of relevant world conferences, namely, the World Conference on Human Rights, the United Nations Conference on Environment and Development, the International Conference on Population and Development, the Fourth World Conference on Women and the World Summit for Social Development;

19. Requests the United Nations High Commissioner for Human Rights when developing programmes within the framework of the Human Rights Education Decade to give due regard to the dissemination of information on the situation, cultures, languages, rights and aspirations of indigenous people;

20. Encourages Governments to consider contributing, as appropriate, to the Fund for the Development of Indigenous Peoples in Latin America and the Caribbean, in support of the achievement of the goals of the Decade;

21. Decides to include in the provisional agenda of its fifty-second session the item entitled "Programme of activities of the International Decade of the World's Indigenous People".



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PROGRAMME D'ACTIVITÉ DE LA DÉCENNIE INTERNATIONALE
DES POPULATIONS AUTOCHTONES
Rapport de la Troisième Commission

Rapporteur : Mme Victoria SANDRU (Roumanie)

I. INTRODUCTION

1. L'Assemblée générale, à sa troisième séance plénière, le 20 septembre 1996, a décidé, sur la recommandation du Bureau d'inscrire à l'ordre du jour de sa cinquante et unième session la question intitulée "Programme d'activité de la Décennie internationale des populations autochtones" et de la renvoyer à la Troisième Commission.

2. La Troisième Commission a examiné la question à ses 29e, 31e, 40e et 42e séances, les 8, 11, 15 et 18 novembre 1996. On trouvera un résumé de ses débats dans les comptes rendus analytiques correspondants (A/C.3/51/SR.29, 31, 40 et 42).

3. Pour l'examen de cette question, la Commission était saisie des documents suivants :

a) Rapport du Secrétaire général intitulé "Examen des mécanismes, procédures et programmes relatifs aux populations autochtones existant au sein du système des Nations Unies" (A/51/493);

b) Rapport du Secrétaire général sur la mise en oeuvre du programme d'activité de la Décennie y compris les progrès faits aux niveaux national, régional et international dans la réalisation de ses objectifs (A/51/499);

c) Rapport du Secrétaire général sur l'état du Fonds de contributions volontaires des Nations Unies pour les populations autochtones (A/51/565);

d) Note verbale datée du 5 août 1996, adressée au Secrétaire général par le Représentant permanent des Philippines auprès de l'Organisation des Nations Unies (A/51/293).

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4. À la 29e séance, le 8 novembre, le Sous-Secrétaire général aux droits de l'homme a fait une déclaration liminaire.

II. EXAMEN DU PROJET DE RÉSOLUTION A/C.3/51/L.30

5. À la 40e séance, le 15 novembre 1996, le représentant de l'Australie, au nom d'Antigua-et-Barbuda, de l'Argentine, de l'Arménie, de l'Australie, du Bhoutan, de la Bolivie, du Brésil, du Canada, du Chili, de la Colombie, du Costa Rica, de Chypre, du Danemark, d'El Salvador, de l'Équateur, de l'Espagne, de l'Estonie, de Fidji, de la Finlande, de la Grèce, du Guatemala, de la Guyane, des îles Salomon, de l'Islande, du Mexique, du Nicaragua, de la Norvège, de la Nouvelle-Zélande, du Pérou, de la Suède et de l'Uruguay a présenté un projet de résolution intitulé "Décennie internationale des populations autochtones" (A/C.3/51/L.30). Le Congo, le Kirghizistan, les Pays-Bas et les Philippines se sont par la suite joints aux auteurs de ce projet de résolution.

6. À la même séance, le représentant de l'Australie a révisé oralement le projet de résolution comme suit :

a) Au paragraphe 5, remplacer le mot "réunions" par le mot "sessions";

b) Au paragraphe 15, ajouter à la fin du paragraphe le membre de phrase suivant : "afin d'aider les représentants de ces populations à participer au Groupe de travail sur les populations autochtones et au Groupe de travail chargé d'élaborer un projet de déclaration sur les droits des populations autochtones";

c) Ajouter un nouveau paragraphe 20 se lisant comme suit :

"20. Encourage les gouvernements à envisager de contribuer, selon qu'il conviendra, au Fonds pour le développement des peuples autochtones en Amérique latine et dans les Caraïbes, à l'appui des objectifs de la Décennie;"

et renuméroter en conséquence les paragraphes suivants.

7. À sa 42e séance, le 18 novembre, la Commission a adopté, sans le mettre aux voix, le projet de résolution A/C.3/51/L.30, tel que révisé oralement (voir par. 10).

8. Les représentants de la Fédération de Russie et des États-Unis d'Amérique ont fait des déclarations avant l'adoption du projet de résolution (voir A/C.3/51/SR.42).

9. Le représentant du Japon a fait une déclaration après l'adoption du projet de résolution (voir A/C.3/51/SR.42).

III. RECOMMANDATION DE LA TROISIÈME COMMISSION

10. La Troisième Commission recommande à l'Assemblée générale d'adopter le projet de résolution suivant :

Décennie internationale des populations autochtones

L'Assemblée générale,

Considérant que l'un des buts des Nations Unies, tels qu'ils sont énoncés dans la Charte, est de réaliser la coopération internationale en résolvant les problèmes internationaux d'ordre économique, social, international ou humanitaire, et en développant et en encourageant le respect des droits de l'homme et des libertés fondamentales pour tous, sans distinction de race, de sexe, de langue ou de religion,

Rappelant ses résolutions antérieures relatives à la Décennie internationale des populations autochtones, ainsi que celles de la Commission des droits de l'homme,

Rappelant également que la Décennie a pour but de renforcer la coopération internationale afin de résoudre les problèmes qui se posent aux communautés autochtones en matière de droits de l'homme et dans les domaines de l'environnement, du développement, de l'éducation et de la santé, et qu'elle a pour thème "Populations autochtones : partenariat dans l'action",

Estimant qu'il importe de consulter les populations autochtones et de coopérer avec elles aux fins de la planification et de l'exécution du programme d'activité de la Décennie et qu'il est nécessaire d'obtenir un appui financier adéquat de la communauté internationale, notamment des organismes des Nations Unies et des institutions spécialisées, et de s'assurer les mécanismes de coordination et de communication appropriés,

Prenant note de la décision 1992/255 du Conseil économique et social, en date du 20 juillet 1992, dans laquelle celui-ci demandait aux organismes des Nations Unies et aux institutions spécialisées de veiller à ce que toute l'assistance technique qu'ils financent ou fournissent soit compatible avec les instruments internationaux et les normes internationales applicables aux populations autochtones et encourageait les efforts tendant à promouvoir la coordination dans le domaine considéré ainsi qu'une plus grande participation de ces populations à la planification et à la mise en oeuvre de projets les concernant,

Rappelant sa résolution 50/156 du 21 décembre 1995,

1. Se déclare profondément consciente de la valeur et de la diversité des cultures et des formes d'organisation sociale des populations autochtones et convaincue que le progrès de celles-ci dans leur propre pays contribuera à celui de tous les pays du monde dans les domaines socio-économique, culturel et de l'environnement;

2. Note que le programme d'activité de la Décennie internationale des populations autochtones pourra être revu et mis à jour tout au long de la Décennie et que le Conseil économique et social et elle-même devraient, à mi-parcours de la Décennie, en dresser un bilan, afin de déterminer les obstacles qui s'opposent à la réalisation des objectifs fixés et de recommander des solutions pour les surmonter;

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3. Prend acte du rapport du Secrétaire général sur la mise en oeuvre du programme d'activité de la Décennie¹;

4. Se félicite que le Haut Commissaire des Nations Unies aux droits de l'homme soit déterminé à redoubler d'efforts pour réaliser les objectifs du programme d'activité de la Décennie²;

5. Réaffirme que l'adoption d'une déclaration sur les droits des populations autochtones est l'un des grands objectifs de la Décennie et constate que le Groupe de travail intersessions à composition non limitée de la Commission des droits de l'homme, créé en application de la résolution 1995/32 de la Commission en date du 3 mars 1995³, a tenu deux sessions dans le seul but d'élaborer un projet de déclaration à la lumière du projet de déclaration des Nations Unies sur les droits des peuples autochtones, qui figure dans l'annexe à la résolution 1994/45 de la Sous-Commission de la lutte contre les mesures discriminatoires et de la protection des minorités, en date du 26 août 1994;

6. Souligne qu'il importe d'assurer la participation effective de représentants des populations autochtones aux travaux du Groupe de travail, et encourage les organisations de populations autochtones qui n'ont pas encore été autorisées à y participer et qui le souhaitent à en faire la demande, conformément à la procédure énoncée dans l'annexe à la résolution 1995/32 de la Commission des droits de l'homme;

7. Accueille avec satisfaction l'examen des mécanismes, procédures et programmes relatifs aux populations autochtones existant dans le système des Nations Unies⁴ qu'a entrepris le Secrétaire général et prie ce dernier d'en communiquer avant la cinquante-troisième session de la Commission des droits de l'homme les résultats aux gouvernements, aux populations autochtones et aux organisations internationales compétentes, pour observations;

8. Constata que le programme d'activité de la Décennie prévoit, entre autres tâches, que l'on envisage la création au sein du système des Nations Unies, d'une instance permanente consacrée aux populations autochtones;

9. Rappelle qu'elle avait recommandé dans sa résolution 50/157 du 21 décembre 1995, que la Commission des droits de l'homme, en se fondant sur les résultats de l'atelier de Copenhague⁵ et de l'examen entrepris par le Secrétaire général, envisage la convocation d'un deuxième atelier chargé d'examiner la

¹ A/51/499.

² Résolution 50/157, annexe.

³ Documents officiels du Conseil économique et social, 1995, Supplément No 3 et rectificatifs (E/1995/23 et Corr. 1 et 2), chap. II, sect. A.

⁴ A/51/493.

⁵ E/CN.4/Sub.2/AC.4/1995/7 et Add.1 à 3.

possibilité de créer une instance permanente consacrée aux populations autochtones;

10. Recommande, à la lumière de l'examen susmentionné, que des dispositions soient prises pour faire en sorte que les institutions et organismes compétents des Nations Unies, ainsi que d'autres organisations intéressées, prennent part à toutes nouvelles consultations sur la question, et accueille avec satisfaction l'invitation du Gouvernement chilien qui a offert d'accueillir le deuxième atelier;

11. Souligne le rôle important que peut jouer la coopération internationale en ce qui concerne la promotion des objectifs et activités de la Décennie ainsi qu'en faveur des droits, du bien-être et d'un développement durable des populations autochtones;

12. Réaffirme qu'il importe de développer les capacités dont disposent sur le plan des ressources humaines et des institutions les populations autochtones pour résoudre elles-mêmes leurs problèmes et, à cette fin, recommande à nouveau que l'Université des Nations Unies envisage la possibilité de parrainer, dans chaque région, un ou plusieurs établissements d'enseignement supérieur en tant que centres d'excellence et de diffusion de connaissances spécialisées, et invite la Commission des droits de l'homme à recommander les moyens d'exécution appropriés;

13. Souligne également l'importance des mesures prises au niveau national pour mettre à exécution les activités de la Décennie et en atteindre les objectifs;

14. Encourage les gouvernements à appuyer la Décennie en prenant les dispositions suivantes :

a) Alimenter le Fonds d'affectation spéciale des Nations Unies pour la Décennie;

b) Établir des programmes, plans et rapports relatifs à la Décennie, en consultation avec les populations autochtones;

c) Rechercher, en consultation avec les intéressés, de quelle manière les populations autochtones pourraient assumer de plus grandes responsabilités dans leurs propres affaires et avoir effectivement voix au chapitre pour les questions qui les concernent;

d) Créer des comités nationaux ou d'autres structures comprenant des représentants des populations autochtones de telle sorte que les objectifs et les activités de la Décennie soient conçus et réalisés en totale concertation avec celles-ci;

15. Encourage également les gouvernements et donateurs divers à contribuer au Fonds de contributions volontaires des Nations Unies pour les populations autochtones, afin d'aider les représentants de ces populations à participer au Groupe de travail des populations autochtones et au Groupe de travail chargé d'élaborer un projet de résolution sur les droits des populations autochtones;

16. Engage les gouvernements et les organisations intergouvernementales et non gouvernementales à appuyer la Décennie en dégageant des ressources pour les activités visant la réalisation, en collaboration avec les populations autochtones, les objectifs de la Décennie;

17. Invite les institutions financières, les organismes de développement, les programmes opérationnels et les institutions spécialisées des Nations Unies, agissant conformément aux procédures définies par leurs organes directeurs :

a) À accorder une plus haute priorité et à allouer davantage de ressources à l'amélioration de la situation des populations autochtones, eu égard en particulier aux besoins de ces populations dans les pays en développement, notamment en élaborant, dans leurs domaines de compétence respectifs, des programmes d'action concrets pour la réalisation des objectifs de la Décennie;

b) À lancer des projets spéciaux par les voies appropriées et en collaboration avec les populations autochtones, pour soutenir leurs initiatives au niveau communautaire, et à favoriser les échanges d'informations et de connaissances spécialisées entre ces populations et les experts compétents;


c) À désigner des responsables chargés de coordonner les activités relatives à la Décennie avec le Centre pour les droits de l'homme du Secrétariat;

18. Recommande que le Secrétaire général assure la coordination du suivi des recommandations concernant les populations autochtones faites lors des conférences mondiales pertinentes, à savoir la Conférence mondiale sur les droits de l'homme, la Conférence des Nations Unies sur l'environnement et le développement, la Conférence internationale sur la population et le développement, la quatrième Conférence mondiale sur les femmes et le Sommet mondial pour le développement social;

19. Prie le Haut Commissaire des Nations Unies aux droits de l'homme, lorsqu'il élaborera des programmes dans le cadre de la Décennie pour l'éducation dans le domaine des droits de l'homme, de tenir dûment compte de la nécessité de diffuser des informations sur la situation, les cultures, les langues, les droits et les aspirations des populations autochtones;

20. Encourage les gouvernements à envisager de contribuer selon qu'il conviendra, au Fonds de développement pour les peuples autochtones d'Amérique latine et des Caraïbes, à l'appui des objectifs de la Décennie;

21. Décide d'inscrire à l'ordre du jour provisoire de sa cinquante-deuxième session la question intitulée "Programme d'activité de la Décennie internationale des populations autochtones".

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