



# INDIGENOUS PEOPLES, FOREST, AND BIODIVERSITY

**International Alliance of Indigenous-Tribal  
Peoples of the Tropical Forest, and  
International Work Group for Indigenous Affairs**

# **Indigenous Peoples, Forests, and Biodiversity**

**Indigenous Peoples and the**

**Global Environmental Agenda**  
International Alliance of Indigenous-Tribal

Peoples of the Tropical Forests  
and  
International Work Group for  
Indigenous Affairs

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## Acknowledgements

This volume brings together the main statements and interventions made by the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests at various international fora. The statements constitute a pooling of indigenous peoples' views and experiences from all around the tropics and have been shaped by our millennial association with our traditional territories. Our first acknowledgement must therefore be to our ancestors and creators who made us who we are.

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## Introduction

The struggle for our rights as indigenous peoples stretches back to the time when colonists first invaded our territories to desecrate our lands and plunder our resources. Those fifty million of us who live in tropical forests have always been particularly vulnerable to exploitation and oppression: logging, mining, cattle ranching, forced relocation and other forms





of colonisation have plagued our history with death and despoliation.

Over the last twenty years, however, the international mobilisation of indigenous peoples has succeeded in drawing attention to the threats which hang over us. One consequence of this has been the increasing significance of indigenous rights in the activities of the United Nations. In 1993, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities approved the Universal Declaration on the Rights of Indigenous Peoples. This document provides a minimum set of standards for the recognition of our rights.

Parallel to the human rights initiatives, the United Nations has established a process of creating and implementing global instruments on the environment. The 1992 UN Conference on Environment and Development (UNCED) at Rio was a critical part of this process. Indigenous peoples are one of the major groups affected by Agenda 21 and the Convention on Biological Diversity which emerged from Rio, because we live primarily in areas which are exposed to environmental destruction. Indeed, we indigenous peoples from the tropical forest consider that the fate of our environment is totally bound up with our survival - our destinies are intertwined.

This document illustrates the connection by tracing the participation of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests in international fora dealing with environmental protection. Environmental instruments and policies need not necessarily have positive consequences for our lands and lives. They can easily be used to weaken our indigenous rights and limit our access to our resources. We are treated as irrelevant or, when noticed, courted as exotic sources of knowledge for bolstering the profits of big business. We oppose these views strongly and this book discusses ways in which the Alliance is trying to provide an alternative approach to environmental protection and sustainable resource use which respects both the forest and its inhabitants.

The International Alliance was established in 1992 to address the question of forest destruction and indigenous peoples by strengthening our global efforts to secure our rights and the protection of our territories. Our alliance is based on the importance of ensuring that indigenous peoples' rights provide the major focus for looking at international environmental initiatives. This perspective is one which is shared by our members ranging from as far afield as the Amazon to the Philippines. Membership of the Alliance is open to all indigenous and tribal peoples'

organisations which have consistently advocated indigenous peoples' rights and endorse our Charter (Chapter 1).

The Alliance embraces the majority of indigenous and tribal peoples' organisations in tropical forest countries which are active nationally and internationally. Every few years, the Alliance holds a conferences of its members which is its maximum authority. The first was held at Penang, Malaysia in February , 1992, the second in August 1993, at Iquitos, Peru and the third is to be held in 1997. Between conferences, the Alliance operates through an International Co-ordinating Committee (ICC) composed of indigenous organisations drawn from eight tropical forest regions and vested with decision-making power by the Conference. The eight regions and their co-ordinating organisations are:

Central America:	Asociación Napguana, Panama
South America:	Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica (COICA)
French-Speaking Africa:	Association pour la Promotion Batwa, Rwanda
English-speaking Africa:	Ethnic Minority Rights Organisation of Africa, Nigeria
South Asia:	Naga Peoples' Movement for Human Rights, India
South East Asia:	Inter-Mountain People Education and Culture in Thailand
Bahasa Region:	Sahabat Alam Malaysia, Sarawak
Maritime Asia and Pacific:	Cordillera Peoples' Alliance, Philip- pines

The International Alliance established its own technical secretariat in London in October 1994. The secretariat implements decisions of the Conference and ICC and trains indigenous representatives in international campaign work to further strengthen the Alliance's institutional capacity.

This document introduces the concerns and policies of the indigenous peoples of the tropical forests as presented at various international fora. It starts with indigenous participation at the Rio Summit (UNCED) and the

founding Charter of the Alliance (Chapter 1) and follows the UN discussion on the implementation of Agenda 21 through the Commission on Sustainable Development (CSD) (Chapter 2). The off-shoot of the CSD, the Intergovernmental Panel on Forests, focuses on indigenous peoples in several areas of its agenda (Chapter 3). Another outcome of the Rio Summit was the Convention on Biological Diversity, which, in article 8j, raises the question of the rights of indigenous peoples (Chapter 4). A particularly controversial theme in these international initiatives, and in the work of the large international environmental organisations, has been protected areas. Too often, the establishment of protected areas ignores the perspectives of indigenous peoples (Chapter 5). The final chapter presents statements and resolutions which the Alliance has made; these provide an overview of the problems which the indigenous and tribal peoples of the tropical forest are facing on a daily basis.

The International Alliance of Indigenous-Tribal Peoples of the Tropical Forests today takes an active part in international forestry policy and debate. In December 1996 the International Alliance and other indigenous organisations, together with the Colombian and Danish government, are organising an 'International Meeting of Indigenous and other Forest-Dependent Peoples on the Management, Conservation and Sustainable Development of all types of Forest', as an intersessional activity under the Intergovernmental Panel on Forests. Such activities provide opportunities for indigenous and other forest peoples to contribute substantively to decisions affecting our lives and the forests.

In this document we aim to amplify the voices of indigenous peoples of the tropical forests, raise awareness in indigenous communities and educate everyone interested about the rights of indigenous peoples. Through our work we hope to enhance indigenous peoples' self-representation and ensure that our views are heard in ongoing international initiatives on peoples and environment.

## Chapter 1: The International Alliance and the Rio Summit

Concern about the environment first became a global issue in 1972 with the ministerial summit held at Stockholm. At that meeting, environmental concerns focused on the sustainability of industrialisation as the global community for the first time took stock of the finite nature of renewable and particularly non-renewable natural resources and acknowledged the costs and perils of pollution and resource degradation. The illusion was sustained however that environmental problems were amenable to technical fixes and a United Nations Environment Programme was accordingly established with the aim of identifying these fixes and promoting technology transfer to less developed countries.

The Stockholm meeting had a less well publicised outcome however. Led by Indian premier, Indira Gandhi, the less developed countries insisted that the call for high environmental standards world-wide could not

be imposed universally. Poorer countries must be allowed to industrialise and develop first, and deal with the environment later once they could afford appropriate measures. Accordingly, the language of Stockholm asserted for the first time the notion of State sovereignty over the environment. Principle 21 of the Stockholm Declaration stated:

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment or of areas beyond the limits of national jurisdiction.

In this debate the rights of citizens and peoples within nation-states received scant attention.

During the decade and a half following the Stockholm meeting, the explosion of public concern about the environment, expressed through the emergence of a host of non-governmental organisations (NGOs), changed the nature of public debate. Problems of environmental degradation, rainforest destruction, the loss of biological diversity and pollution with impunity were linked to the increasing concentration of wealth and power. Democratic movements rose up to effectively challenge powerful corporations and their government allies. Grassroots solutions were increasingly advocated as alternatives to the destructive policies and developments of urbanised and industrial elites.

This new vision of environmental responsibility, founded on a recognition of the rights of local communities to manage and control the resources that they depend on, was captured by the World Commission on Environment and Development, whose findings on the catastrophic state of the world's environment led directly to the Rio Summit. 'Sustainable development', the Brundtland Commission noted, implied major political changes.

*The pursuit of sustainable development requires a political system that secures effective participation in decision-making... This is best secured by decentralizing the management of resources upon which local communities depend, and giving these communities an effective say over the use of these resources. It will also require promoting citizen's initiatives,*

*empowering peoples' organisations, and strengthening local democracy.*

With reference to indigenous peoples the WCED went even further:

*In terms of sheer numbers, these isolated, vulnerable groups are small, but their marginalization is a symptom of a style of development that tends to neglect both human and environmental considerations. Hence a more careful and sensitive consideration of their interests is a touchstone of sustainable development policy... Their traditional rights should be recognised and they should be given a decisive voice in formulating policies about resource use in their areas.*

It was language such as this which prompted many NGOs to invest considerable energy in their preparations for the Rio Summit. As they mobilised for Rio there was an expectation that new processes of national and international decision-making could gain acceptance which would ensure that more attention was paid to the rights and needs of people and new systems could be established to make governments and corporations accountable to the societies they claimed to serve.

## **Indigenous mobilisation**

We, indigenous peoples, on the other hand came to Rio by a somewhat different path. Marginalised within emerging nation states which have claimed sovereignty over us, over our territories and now, even, over our environments, and denied rights and means of redress through national processes, some indigenous peoples began to take their concerns to the United Nations in 1977. Rebuffed by the Decolonisation Committee, they appealed to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, which commissioned a special report to take stock of their situation world-wide.

Noting the terrible situation of indigenous peoples all around the globe, both in the North and the South, and in capitalist and socialist countries alike, the comprehensive report urged the establishment of a special Working Group on Indigenous Populations with the mandate of reviewing developments regarding indigenous peoples and developing international standards on their rights. The Working Group, set up in 1982, has met almost annually ever since and after ten years of open

hearings at which indigenous peoples have been able to voice their views, concerns and claims, finalised a draft Universal Declaration on the Rights of Indigenous Peoples. The text was approved by the Sub-Commission in 1993 and is now being studied by the Human Rights Commission with the prospect of eventually being passed to the General Assembly for adoption.

The Declaration captures many of the central demands that we, indigenous peoples, have been making. The text recognises our rights to the ownership and control of our lands, territories and natural resources; to the exercise of our customary law; to self-determination; to self-government and the recognition of our own representative institutions; to ownership, control and protection of our cultural and intellectual property.

The annual gatherings of indigenous peoples in Geneva for the Working Group sessions also prompted a growing sense of solidarity among the hundreds of different peoples represented, as we have recognised our unity of purpose despite the diversity of our languages and cultures.

## **Birth of the International Alliance**

The International Alliance was born out of this common experience and in response to the trend to establish global instruments on the environment. A global instrument on biodiversity was already in the making and another on forests was being promoted by the Food and Agriculture Organisation with support from some environmentalists and politicians. Would these instruments serve to strengthen our rights and help us sustain our environments or would they impose further restrictions on us and remove power to yet more remote authorities?

Helped by our NGO allies, a number of key indigenous organisations from tropical forest countries met informally in Geneva and agreed to evolve a joint statement in the run-up to the Rio Summit which would set out our principal concerns and demands.

After a two-year process of coordination and drafting, the statement was finalised at what was for us a historic conference held in Penang, Malaysia in February 1992. The resulting Charter of the Indigenous-Tribal Peoples of the Tropical Forests advocates an alternative approach to development and conservation in tropical forests based on securing our rights and territories, and deriving from our conviction that 'there can be no rational or sustainable development of forests and of our peoples until



our fundamental rights as peoples are respected.’

At the same conference, we also agreed to formalise our collaboration by establishing ourselves as the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests. The new alliance unites for the first time Indians from Amazonia, Central America and the southern cone of South America, so-called ‘minority tribes’ and ‘Pygmies’ from West and Central Africa, ‘tribal’ peoples from India and Thailand, indigenous peoples from the Philippines and Indonesia, Orang Asli and Dayaks from Peninsular Malaysia and Borneo, as well as Melanesian peoples from New Guinea.

The Alliance has two principal tasks. One is to act as a vehicle to ensure that the voices of indigenous peoples from tropical forests are heard in global policy-making about ‘rainforests’. The second is to strengthen regional alliances of indigenous peoples and promote national and local policy changes which respect our rights.

There is no doubt that the strong indigenous presence at Rio, achieved by the Alliance and many other indigenous organisations, did help shape the outcome of the Rio Summit. An indigenous spokesperson was permitted to speak to the conference plenary. Indigenous peoples were accepted as a ‘Major Group’ who should actively participate in planning and implementing ‘Agenda 21’, the loose framework of action proposed by the conference. Indigenous peoples also pronounced their own statement on environment and development from the point of view of indigenous peoples, in the form of the Kari-Oca Declaration reproduced here.

In terms of hard law, however, the gains were less impressive. The dominating theme of the conference was the further assertion of national sovereignty. The language of Stockholm was reiterated word for word in the Convention on Biological Diversity. Few binding new obligations were placed on governments to uphold or respect the rights of indigenous peoples or their other citizens. It seems that ‘sustainable development’, of the kind advocated by the Brundtland Commission based on the recognition of local peoples’ rights and on the devolution of power, has yet to be fully accepted by governments. Yet new openings have been made and non-binding agreements to respect the rights of indigenous peoples and local communities nodded through. The task ahead of us is to convert these into concrete changes on the ground.

## **Charter of the Indigenous-Tribal Peoples of the Tropical Forests**

### Article 1.

We, the indigenous-tribal peoples of the tropical forests, present this charter as a response to hundreds of years of continual encroachment and colonisation of our territories and the undermining of our lives, livelihoods and cultures caused by the destruction of the forests that our survival depends on.

### Article 2.

We declare that we are the original peoples, the rightful owners and the cultures that defend the tropical forests of the world.

### Article 3.

Our territories and forests are to us more than an economic resource. For us, they are life itself and have an integral and spiritual value for our communities. They are fundamental to our social, cultural, spiritual, economic and political survival as distinct peoples.

### Article 4.

The unity of people and territory is vital and must be recognised.

### Article 5.

All policies towards the forests must be based on a respect for cultural diversity, for a promotion of indigenous models of living, and an understanding that our peoples have developed ways of life closely attuned to our environment.

**Therefore we declare the following principles, goals and demands:**

**Respect for our rights**

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**Article 6.**

Respect for our human, political, social, economic and cultural rights, respect for our right to self-determination, and to pursue our own ways of life.

**Article 7.**

Respect for our autonomous forms of self-government, as differentiated political systems at the community, regional and other levels. This includes our right to control all economic activities in our territories.

**Article 8.**

Respect for our customary laws and that they be incorporated in national and international law.

**Article 9.**

Where the peoples so demand, nation states must comply with the different treaties, agreements, covenants, awards and other forms of legal recognition that have been signed with us indigenous peoples in the past, both in the colonial period and since independence, regarding our rights.

**Article 10.**

An end to violence, slavery, debt-peonage and land grabbing; the disbanding of all private armies and militias and their replacement by the rule of law and social justice; the means to use the law in our own defense, including the training of our people in the law.

**Article 11.**

The approval and application of the Universal Declaration of Indigenous Peoples, which must affirm and guarantee our right to self-determination, being developed by the United Nations, and the setting up of an effective international mechanism and tribunal to protect us against the violation of our rights and guarantee the application of the principles set out in this charter.

**Article 12.**

There can be no rational or sustainable development of the forests and of our peoples until our fundamental rights as peoples are respected.

## **Territory**

### Article 13.

Secure control of our territories, by which we mean a whole living system of continuous and vital connection between man and nature; expressed as our right to the unity and continuity of our ancestral domains; including the parts that have been usurped, those being reclaimed and those that we use; the soil, subsoil, air and water required for our self-reliance, cultural development and future generations.

### Article 14.

The recognition, definition and demarcation of our territories in accordance with our local and customary systems of ownership and use.

### Article 15.

The form of land tenure will be decided by the people themselves, and the territory should be held communally, unless the people decide otherwise.

### Article 16.

The right to the exclusive use and ownership of the territories which we occupy. Such territories should be inalienable, not subject to distraint and unnegotiable.

### Article 17.

The right to demarcate our territories ourselves and that these areas be officially recognised and documented.

### Article 18.

Legalise the ownership of lands used by non-indigenous peoples who live within and on the forests' margins in the areas that are available once title has been guaranteed to the indigenous peoples.

### Article 19.

Land reforms and changes in land tenure to secure the livelihoods of those who live outside the forests and indigenous territories, because we recognise that landlessness outside the forests puts heavy pressure on our territories and forests.

## **Decision-making**

Article 20.

Control of our territories and the resources that we depend on: all development in our areas should only go ahead with the free and informed consent of the indigenous people involved or affected.

Article 21.

Recognition of the legal personality of our representative institutions and organisations, that defend our rights, and through them the right to collectively negotiate our future.

Article 22.

The right to our own forms of social organisation; the right to elect and revoke the authorities and government functionaries who oversee the territorial areas within our jurisdiction.

## **Development policy**

Article 23.

The right to be informed, consulted and, above all, to participate in the making of decisions on legislation or policies: and in the formulation, implementation or evaluation of any development project, be it at local, national or international levels, whether private or of the state, that may affect our futures directly or indirectly.

Article 24.

All major development initiatives should be preceded by social, cultural and environmental impact assessments, after consultation with local communities and indigenous peoples. All such studies and projects should be open to public scrutiny and debate especially by the indigenous peoples affected.

Article 25.

National or international agencies considering funding development projects which may affect us, must set up tripartite commissions - including the funding agency, government representatives and our own communities as represented through our representative organisations - to carry through the planning implementation, monitoring and evaluation of the projects.

#### Article 26.

The cancellation of all mining concessions in our territories imposed without the consent of our representative organisations. Mining policies must prioritise, and be carried out under, our control, to guarantee rational management and a balance with the environment. In the case of the extraction of strategic minerals (oil and radioactive minerals) in our territories, we must participate in making decisions during planning and implementation.

#### Article 27.

An end to imposed development schemes and fiscal incentives or subsidies that threaten the integrity of our forests.

#### Article 28.

A halt to all imposed programmes aimed at resettling our peoples away from their homelands.

#### Article 29.

A redirection of the development process away from large-scale projects towards the promotion of small-scale initiatives controlled by our peoples. The priority for such initiatives is to secure our control over our territories and resources on which our survival depends. Such projects should be the cornerstone of all future development in the forests.

#### Article 30.

The problems caused in our territories by international criminal syndicates trafficking in products from plants like poppy and coca must be confronted by effective policies which involve our peoples in decision-making.

#### Article 31.

Promotion of the health systems of the indigenous peoples, including the revalidation of traditional medicine, and the promotion of programmes of modern medicine and primary health care. Such programmes should allow us to have control over them, providing suitable training to allow us to manage them ourselves.

#### Article 32.

Establishment of systems of bilingual and intercultural education. These must revalidate our beliefs, religious traditions, customs, and knowledge;

allowing our control over these programmes, by the provision of suitable training, in accordance with our cultures; in order to achieve technical and scientific advances for our peoples, in tune with our own cosmo-visions, and as a contribution to the world community.

#### Article 33.

Promotion of alternative financial policies that permit us to develop our community economies and develop mechanisms to establish fair prices for the products of our forests.

#### Article 34.

Our policy of development is based, first, on guaranteeing our self-sufficiency and material welfare, as well as that of our neighbours; a full social and cultural development based on the values of equity, justice, solidarity and reciprocity, and a balance with nature. Thereafter, the generation of a surplus for the market must come from a rational and creative use of natural resources developing our own traditional technologies and selecting appropriate new ones.

### **Forest policy**

#### Article 35.

Halt all new logging concessions and suspend existing ones, that affect our territories. The destruction of forests must be considered a crime against humanity and a halt must be made to the various anti-social consequences, such as roads across indigenous cultivations, cemeteries and hunting zones; the destruction of areas used for medicinal plants and crafts; the erosion and compression of soil; the pollution of our environment; the corruption and enclave economy generated by the industry; the increase of invasions and settlement in our territories.

#### Article 36.

Logging concessions on lands adjacent to our territories, or which have an impact on our environment, must comply with operating conditions - ecological, social, of labour, transport, health and others - laid down by the indigenous peoples, who should participate in ensuring that these are complied with. Commercial timber extraction should be prohibited in strategic and seriously degraded forests.

**Article 37.**

The protection of existing natural forests should take priority over reforestation.

**Article 38.**

Reforestation programmes should be prioritised on degraded lands, giving priority to the regeneration of native forests, including the recovery of all the functions of tropical forests, and not being restricted only to timber values.

**Article 39.**

Reforestation programmes on our territories should be developed under the control of our communities. Species should be selected by us in accordance with our needs.

**Biodiversity and conservation****Article 40.**

Programmes related to biodiversity must respect the collective rights of our peoples to cultural and intellectual property, genetic resources, gene banks, biotechnology and knowledge of biological diversity; this should include our participation in the management of any such project in our territories, as well as control of any benefits that derive from them.

**Article 41.**

Conservation programmes must respect our rights to the use and ownership of the territories we depend on. No programmes to conserve biodiversity should be promoted on our territories without our free and informed consent as expressed through our representative organisations.

**Article 42.**

The best guarantee of the conservation of biodiversity is that those who promote it should uphold our rights to the use, administration, management and control of our territories. We assert that guardianship of the different ecosystems should be entrusted to us, indigenous peoples, given that, we have inhabited them for thousands of years and our very survival depends on them.



**Article 43.**

Environmental policies and legislation should recognise indigenous territories as effective ‘protected areas’, and give priority to their legal establishment as indigenous territories.

**Intellectual property****Article 44.**

Since we highly value our traditional technologies and believe that our biotechnologies can make important contributions to humanity, including ‘developed’ countries, we demand guaranteed rights to our intellectual property, and control over the development and manipulation of this knowledge.

**Research****Article 45.**

All investigations in our territories should be carried out with our consent and under joint control and guidance according to mutual agreement; including the provision for training, publication and support for indigenous institutions necessary to achieve such control.

**Institutions****Article 46.**

The international community, particularly the United Nations, must recognise us indigenous peoples as peoples, as distinct from other organised social movements, non-governmental organisations and independent sectors, and respect for our right to participate directly and on the basis of equality, as indigenous peoples, in all fora, mechanisms, processes and funding bodies so as to promote and safeguard the future of the tropical forests.

**Education****Article 47.**

The development of programmes to educate the general public about our rights as indigenous peoples and about the principles, goals and demands in this charter. For this we call on the international community for the necessary recognition and support.

**Article 48.**

We indigenous peoples will use this charter as a basis for promoting our own local strategies for action.

Penang, Malaysia  
15 February 1992

**Resolution of the Conference of Indigenous-Tribal Peoples of the Tropical Forests****Considering:**

1. That in this conference we have proved that the problems of the indigenous and tribal peoples are similar in Africa, Asia and the Americas; that the same ecocide and ethnocide carries on regardless; and that those responsible are united and coordinated at the international policy-making level regarding both natural resources and the denial of the right to self-determination of our peoples.
2. That it is necessary for the representative organisations brought together here to respond to this by joining in a common struggle through unity and solidarity.
3. That two important steps towards this unity are the Charter of shared Principles, Goals and Demands; and a Joint Plan of Action that we have now approved. Nonetheless both steps may be insufficient to achieve concrete results for our peoples. Therefore, in order to give life to this programme and common plan, the next step must be to establish here and now a minimum of coordination amongst us.

**We therefore resolve:**

1. To constitute the 'International Alliance of Indigenous-Tribal Peoples of the Tropical Forests', composed of the representatives of the people present here, but open to other sister organisations of the tropical forests of the world.

2. To call our Charter ‘Charter of the Indigenous-Tribal Peoples of the Tropical Peoples’ and to name this meeting the ‘First Conference of the International Alliance of the Indigenous and Tribal Peoples of the Tropical Forests’.

3. To structure this alliance, so as to deepen our mutual understanding and solidarity, by means of joint action; and to organise ourselves in the following way:

a) The fact of establishing the Alliance reinforces the solidarity in the common objectives but does not reduce or affect the autonomy of action of each organisation;

b) Responsibility for each working committee (established in 4, below) will be taken on by a representative indigenous organisation, which will appoint the person responsible, who will then organise a working committee based in her/his region;

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c) The working committees will correspond to the activities approved in the action plan. Each one will be the responsibility of an indigenous organisation. The meeting of those responsible for these working committees will compose the ‘Coordinating Committee of the Alliance’;

d) The first conference of the Alliance, will elect the organisations that will make up this Coordinating Committee which will stand until the Second Conference of the Alliance; when the organisational structure will be reviewed and adjusted.

e) That the second Conference of the Alliance will take place in an Amazonian city and within no less than 12 months. Its organisation will be the duty of the Coordinating Committee with the help of the WRM and other solidarity institutions.

4. To compose the Coordinating Committee of 5 Working Committees which will assume, in addition to those contained in the Plan of Action, the following main tasks:

a) Committee of Organisation and Campaigns:

- Campaigns of solidarity and joint struggle in defense of the indigenous peoples, their territories and the tropical forests of the planet.
  - A special campaign in defense of our brothers from Sarawak (Asia), Batwa (Africa) and Amazonia (America).
  - To support the organisation of and participation at the 'Conference of Indigenous Peoples on Territory, Environment and Development' (Rio de Janeiro, Brazil 21-31 May 1992).
  - Coordinate the organisation of the 2nd Conference of the Alliance.
- b) Committee for Disseminating and Securing Support for the Charter:
- International distribution and publicity
  - dialogue with indigenous organisations to ensure it is understood and subscribed to in relations with the international press.
- c) Committee on Relations with UNCED and the UN System:
- Promotion of the Charter and indigenous participation in the UNCED and the institutions which it gives rise to.
  - Promotion of the Charter and indigenous participation in the UN Plan for 1993; the FAO, the Human Rights Commission, GATT, WIPO etc.
- d) Committee on Relations with the Multilateral Agencies:
- Promotion of the Declaration and of indigenous participation in agencies like the World Bank, ADB, IDB, ITTO, TFAP, IFAD etc.
- e) Committee on Relations with International Solidarity Movements:
- Relations with environmentalists, consumer groups, indigenous rights groups, third world organisations, human rights groups etc.; in order to achieve support for the Charter and the Plan of Action.
5. The election of the Coordinating Committee shall proceed as follows:
- a) The indigenous peoples' organisations from the following regions shall each appoint one member to the Coordinating Committee: Amazonia, Southern Cone, Central America and Caribbean, Africa, Continental Asia, Bahasa, Maritime Asia and Pacific.
- b) The seven organisations so elected will form the Coordinating Committee and will meet immediately to share out the responsibilities entrusted to 5 Working Committees mentioned in Paragraph 4 and will announce the names of those persons who will provisionally take on

these tasks, until ratification by the base organisations.

6. The above was approved and the seven organisations then met and took on the following responsibilities.

<i>Region</i>	<i>Organisation</i>	<i>Responsibility for Working Committee</i>
Amazonia	Coordinating Body for the Indigenous Organisations of the Amazon Basin	D
Southern Cone	Mocovi Centre 'Ialek Lav'a'	C
Central America and Caribbean	Sejekto Cultural Association	D
Africa	Association for Promotion of Batwa	A
Continental Asia	Naga Peoples' Movement for Human Rights	B
Bahasa	Sahabat Alam Malaysia (Sarawak)	E
Maritime Asia	KAMP - National Confederation of Indigenous Peoples of the Philippines	A

**Charter and Resolution signed and approved by:**

Vicente Pensoa, Confederacion Indigena del Oriente de Bolivia

Freddy Mathew Sitau, Sahabat Alam Malaysia (Sarawak)  
 Bah Tony Williams-Hunt, Centre for Orang Asli Concerns, Malaysia  
 Jok Jau Evong, Uma Bawang Resident's Association, Sarawak, Malaysia  
 Bonarge Pacheco, Congreso Embera, Panama  
 Jose Dualok Rojas, Asociacion Cultural Sejekto, Costa Rica  
 Wan Kang, Sarawak Penan Association, Malaysia  
 Montree Chantawong, Project for Ecological Recovery, Thailand  
 Raajen Singh, Asia Indigenous Peoples Pact  
 Luingham Luithui, Naga Peoples Movement for Human Rights, India  
 Marilyn Quierrez, KAMP - National Federation of the Indigenous Peoples of the Philippines  
 Valerio Grefa, COICA - Coordinating Body for the Indigenous Organisations of the Amazon Basin  
 Emerita T. Marrero, Cordillera Peoples Alliance, Philippines  
 Viktor Kaisiepo, West Papua Peoples Front  
 Ariel Araujo, Centro Mocovi 'Ialek Lava'a', Argentina  
 Javier Armato, Asociacion Civil Indigena de Pueblos Yukpa, Venezuela  
 Thomas Jalong, Sahabat Alam Malaysia (Sarawak)  
 François Munyeshuli, Association for Promotion of Batwa, Rwanda  
 Antonius Napitupulu, Association of Siberut People, Indonesia  
Felix Tiouka, Association des Amerindiens de Guyane Française, France  
 Raymond Abin, Sahabat Alam Malaysia (Sarawak)  
 Roberto Espinosa, COICA - Coordinating Body for the Indigenous Organisations of the Amazon Basin  
~~Daniel Cabixi, Comite Intertribal. 500 Años de Resistencia, Brazil~~  
 Geoffrey Tating, Sahabat Alam Malaysia (Sabah)  
 Edward Nyipa, Sahabat Alam Malaysia (Sarawak)  
 Maximiliano Ferrer, Congreso Kuna, Panama  
 Bardie Sawai, SPATF/NANGO, Papua New Guinea  
 Penny Atkinson, Amerindian Peoples Association, Guyana

Penang, Malaysia  
 15 February 1992

The Charter has subsequently been supported by the following organisations:

Marcus Colchester, World Rainforest Movement

Chee Yoke Ling, Sahabat Alam Malaysia  
 Martin Khor, Third World Network, Malaysia  
 Bram van Oijk, NOVIB, Netherlands  
 Chad Dobson, Bank Information Centre, USA  
 Roberto Bissio, Instituto Tercer Mundo, Uruguay  
 Saskia Ozinga, Friends of the Earth (Netherlands)  
 Carol Sherman, Rainforest Information Centre, Australia  
 David McCoy, SOS Siberut, UK  
 Tony Juniper, Friends of the Earth (England and Wales)  
 Tony Juniper, Friends of the Earth (International)  
 Ulf von Sydow, Swedish Society for Nature Conservation  
Heffa Schucking, World Economy Ecology and Development (WEED),  
 Germany  
 Chip Fay, Friends of the Earth (USA)  
 Isagani Serrano, Green Forum - Philippines  
 Carolyn Marr, Down to Earth: the International Campaign for  
 Ecological Justice in Indonesia  
 Witoon Permpongsacharoen, Project for Ecological Recovery, Thailand  
 Yoichi Kuroda, Japan Tropical Forest Action Network  
 Kazuko Matsue, Sarawak Campaign Committee, Japan  
 Angela Gennino, Rainforest Action Network, USA  
 Gus Gatmaytan, Legal Rights and Natural Resources Centre -Friends of  
 the Earth (Philippines)  
 Thomas Wallgren, Coalition for Environment and Development Con-  
 cerns, Finland  
 Grainne Ryder, TERRA - Towards Ecological Recovery and Regional  
 Alliances, Thailand  
 Mikael Stenberg, Friends of the Earth, Sweden  
 Fiona Watson, Survival International, UK  
 The Ecologist, UK

## **Kari-Oca Declaration and Indigenous Peoples Earth Charter, 25-30 May 1992**

### **Preamble**

The World Conference of Indigenous Peoples on Territory, Environment and Development, 25-30 May, 1992.

The Indigenous Peoples of the Americas, Asia, Africa, Australia, Europe and the Pacific, united in one voice at Kari-Oca Villages express our collective gratitude to the indigenous peoples of Brazil.

Inspired by this historical meeting, we celebrate the spiritual unity of the indigenous peoples with the land and ourselves. We continue building and formulating our united commitment to save our Mother the earth.

We, the indigenous peoples, endorse the following declaration as our collective responsibility to carry our indigenous minds and voices into the future.

### **Declaration**

We the indigenous peoples, walk to the future in the footprints of our ancestors. From the smallest to the largest living being, from the four directions, from the air, the land and the mountains, the creator has placed us, the indigenous peoples upon our Mother the Earth.

The footprints of our ancestors are permanently etched upon the land of our peoples. We the indigenous peoples, maintain our inherent rights to self-determination. We have always had the right to decide our own forms of government, to use our own laws to raise and educate our children, to our own cultural identity without interference. We continue to maintain our rights as peoples despite centuries of deprivation, assimilation and genocide.

We maintain our inalienable rights to our lands and territories, to all our resources - above and below - and to our waters. We assert our ongoing responsibility to pass these onto the future generations. We cannot be removed from our lands. We the indigenous peoples, are connected by the circle of life to our land and environments. We the indigenous peoples, walk to the future in the footprints of our ancestors.

Signed at Kari-Oca, Brazil on the 30th day of May, 1992.

## **Indigenous Peoples Earth Charter**

### **Human Rights and International Law**

1. We demand the right to life.
2. International law must deal with the collective human rights of indigenous peoples.



3. There are many international instruments which deal with the rights of individuals but there are no declarations to recognise collective human rights. Therefore, we urge governments to support the United Nations Working Group on Indigenous Peoples (UNWIP) Universal Declaration of Indigenous Rights, which is presently in draft form.
  4. There exists many examples of genocide against indigenous peoples. Therefore, the convention against genocide must be changed to include the genocide of indigenous peoples.
  5. The United Nations should be able to send indigenous peoples' representatives, in a peace keeping capacity, into indigenous territories where conflicts arise. This would be done at the request and consent of the in-
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digenous peoples concerned.

6. The concept of Terra Nullius must be eliminated from international law usage. Many state governments have used internal domestic laws to deny us ownership of our own lands. These illegal acts should be condemned by the World.
7. Where small numbers of indigenous peoples are residing within state boundaries, so-called democratic countries have denied indigenous peoples the right of consent about their future, using the notion of majority rules to decide the future of indigenous peoples. Indigenous peoples' right of consent to projects in their areas must be recognised.
8. We must promote the term 'indigenous peoples' at all fora. The use of the term 'indigenous peoples' must be without qualifications.
9. We urge governments to ratify International Labour Organisation (ILO) Convention 169 to guarantee an international legal instrument for indigenous peoples (Group 2 only).
10. Indigenous peoples' distinct and separate rights within their own territories must be recognised.
11. We assert our rights to free passage through state imposed political boundaries dividing our traditional territories. Adequate mechanisms must be established to secure this right.
12. The colonial systems have tried to dominate and assimilate our peoples. However, our peoples remain distinct despite these pressures.
13. Our indigenous governments and legal systems must be recognised by the United Nations, State governments and International legal instru-

ments.

14. Our right to self-determination must be recognised.

15. We must be free from population transfer.

16. We maintain our right to our traditional way of life.

17. We maintain our right to our spiritual way of life.

18. We maintain the right to be free from pressures from multinational (transnational) corporations upon lives and lands. All multinational (transnational) corporations which are encroaching upon indigenous lands should be reported to the United Nations Transnational Office.

19. We must be free from racism.

20. We maintain the right to decide the direction of our communities.

21. The United Nations should have a special procedure to deal with issues arising from violations of indigenous treaties.

22. Treaties signed between indigenous peoples and non-indigenous peoples must be accepted as treaties under international law.

23. The United Nations must exercise the right to impose sanctions against governments that violate the rights of indigenous peoples.

24. We urge the United Nations to include the issue of indigenous peoples in the agenda of the World Conference of Human Rights to be held in 1993. The work done so far by The United Nations Inter-American Commission of Human Rights and the Inter-American Institute of Human Rights should be taken into consideration.

25. Indigenous peoples should have the right to their own knowledge, language, and culturally appropriate education, including bicultural and bilingual education. Through recognising both formal and informal ways, the participation of family and community is guaranteed.

26. Our health rights must include the recognition and respect of traditional knowledge held by indigenous healers. This knowledge, including our traditional medicines and their preventive and spiritual healing power, must be recognised and protected against exploitation.

27. The World Court must extend its powers to include complaints by indigenous peoples.

28. There must be a monitoring system from this conference to oversee the return of delegates to their territories. The delegates should be free to attend and participate in International Indigenous Conferences.

29. Indigenous Women's Rights must be respected. Women must be included in all local, national, regional and international organisations.

30. The above mentioned historical rights of indigenous peoples must be guaranteed in national legislation.

### **Land and Territories**

31. Indigenous peoples were placed upon our Mother, the earth by the Creator. We belong to the land. We cannot be separated from our lands and territories.

32. Our territories are living totalities in permanent vital relation between human beings and nature. Their possession produce the development of our culture. Our territorial property should be inalienable, unceasable and not denied title. Legal, economic and technical back up are needed to guarantee this.

33. Indigenous peoples' inalienable rights to land and resources confirm that we have always had ownership and stewardship over our traditional territories. We demand that these be respected.

34. We assert our rights to demarcate our traditional territories. The definition of territory includes space (air), land, and sea. We must promote a traditional analysis of traditional land rights in all our territories.

35. Where indigenous territories have been degraded, resources must be made available to restore them. The recuperation of those affected territories is the duty of the respective jurisdiction in all nation states which can not be delayed. Within this process of recuperation the compensation for the historical ecological debt must be taken into account. Nation states must revise in depth the agrarian, mining and forestry policies.

36. Indigenous peoples reject the assertion of non-indigenous laws onto our lands. States cannot unilaterally extend their jurisdiction over our lands and territories. The concept of Terra Nullius should be forever erased from the law books of states.

37. We, as indigenous peoples, must never alienate our lands. We must always maintain control over the land for future generations.

38. If a non indigenous government, individual or corporation wants to use our lands, then there must be a formal agreement which sets out the terms and conditions. Indigenous peoples maintain the right to be compensated for the use of their lands and resources.

39. Traditional indigenous territorial boundaries, including the waters, must be respected.

40. There must be some control placed upon environmental groups who

are lobbying to protect our territories and the species within those territories. In many instances, environmental groups are more concerned about animals than human beings. We call for indigenous peoples to determine guidelines prior to allowing environmental groups into their territories.

41. Parks must not be created at the expense of indigenous peoples. There is no way to separate indigenous peoples from their lands.

42. Indigenous peoples must not be removed from their lands in order to make it available to settlers or other forms of economic activity on their lands.

43. In many instances, the numbers of indigenous peoples have been decreasing due to encroachment by non-indigenous peoples.

44. Indigenous peoples should encourage their peoples to cultivate their own traditional forms of products rather than to use imported exotic crops which do not benefit local peoples.

45. Toxic wastes must not be deposited in our areas. Indigenous peoples must realise that chemicals, pesticides and hazardous wastes do not benefit the peoples.

46. Traditional areas must be protected against present and future forms of environmental degradation.

47. There must be a cessation of all uses of nuclear material.

48. Mining of products for nuclear production must cease.

49. Indigenous lands must not be used for the testing or dumping of nuclear products.

50. Population transfer policies by state governments in our territories are causing hardship. Traditional lands are lost and traditional livelihoods are being destroyed.

51. Our lands are being used by state governments to obtain funds from the World Bank, the International Monetary Fund, the Asian Pacific Development Bank and other institutions which have led to a loss of our lands and territories.

52. In many countries our lands are being used for military purposes. This is an unacceptable use of the lands.

53. The coloniser governments have changed the names of our traditional and sacred areas. Our children learn these foreign names and start to lose their identity. In addition, the changing of the name of a place diminishes

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\* Please note for the purpose of the Declaration and this statement any use of the term 'Indigenous Peoples' also includes Tribal Peoples.

respect for the spirits which reside in those areas.

54. Our forests are not being used for their intended purposes. The forests are being used to make money.

55. Traditional activities, such as making pottery, are being destroyed by the importation of industrial goods. This impoverishes the local peoples.

### **Biodiversity and Conservation**

56. The Vital Circles are in a continuous interrelation in such a way that the change of one of its elements affects the whole.

57. Climatic changes affect indigenous peoples and all humanity. In addition ecological systems and their rhythms are affected which contributes to the deterioration of our quality of life and increases our dependency.

58. The forests are being destroyed in the name of development and economical gains without considering the destruction of ecological balance. These activities do not benefit human beings, animals, birds and fish. The logging concessions and incentives to the timber, cattle and mining industries affecting the ecosystems and the natural resources should be cancelled.

59. We value the efforts of protection of the Biodiversity but we reject to be included as part of an inert diversity which pretend to be maintained for scientific and folkloric purposes.

60. The indigenous peoples strategies should be kept in a reference framework for the formulation and application of national policies on environment and biodiversity.

### **Development Strategies**

61. Indigenous peoples must consent to all projects in our territories. Prior to consent being obtained the peoples must be fully and entirely involved in any decisions. They must be given all the information about the project and its effects. Failure to do so should be considered a crime against the indigenous peoples. The person or persons who violate this should be tried in a world tribunal within the control of indigenous peoples set for such a purpose. This could be similar to the trials held after World War II.

62. We have the right to our own development strategies based on our cultural practices and with a transparent, efficient and viable management and with economical and ecological viability.

63. Our development and life strategies are obstructed by the interests of

the government and big companies and by the neoliberal policies. Our strategies have, as a fundamental condition, the existence of International relationships based on justice, equity and solidarity between the human beings and the nations.

64. Any development strategy should prioritise the elimination of poverty, the climatic guarantee, the sustainable manageability of natural resources, the continuity of democratic societies and the respect of cultural differences.

65. The Global Environmental Facility should assign at best 20% for indigenous peoples' strategies and programs of environmental emergency, improvement of life quality, protection of natural resources and rehabilitation of ecosystems. This proposal in the case of South America and the Caribbean should be concrete in the Indigenous development fund as a pilot experience in order to be extended to the indigenous peoples of other regions and continents.

66. The concept of development has meant the destruction of our lands. We reject the current definition of development as being useful to our peoples. Our cultures are not static and we keep our identity through a permanent recreation of our life conditions; but all of this is obstructed in the name of so-called developments.

67. Recognising indigenous peoples' harmonious relationship with Nature, indigenous sustainable development strategies and cultural values must be respected as distinct and vital sources of knowledge.

68. Indigenous peoples have been here since the time before time began. We have come directly from the Creator. We have lived and kept the Earth as it was on the First Day. Peoples who do not belong to the land must go out from the lands because those things (so-called 'Development' on the land) are against the laws of creator.

69 (a) In order for indigenous peoples to assume control, management and administration of their resources and territories, development projects must be based on the principles of self-determination and self-management.

(b) Indigenous peoples must be self-reliant.

70. If we are going to grow crops, we must feed the peoples. It is not appropriate that the lands be used to grow crops which do not benefit the local peoples.

(a) Regarding indigenous policies, State Government must cease attempts of assimilation in integration.

(b) Indigenous peoples must consent to all projects in their territories. Prior to consent being obtained, the peoples must be fully and entirely involved in any decisions. They must be given all the information about the project and its effects. Failure to do so should be considered a crime against indigenous peoples. The person or persons responsible should be tried before a World Tribunal, with a balance of indigenous peoples set up for such a purpose. This could be similar to the Trials held after the second World War.

71. We must never use the term 'land claims'. It is the non-indigenous peoples which do not have any land. All the land is our land. It is non-indigenous peoples who are making claims to our lands. We are not making claims to our lands.

72. There should be a monitoring body within the United Nations to monitor all the land disputes around the World prior to development.

73. There should be a United Nations Conference on the topic of 'Indigenous Lands and Development'.

74. Non-Indigenous peoples have come to our lands for the purpose of exploiting these lands and resources to benefit themselves, and to the impoverishment of our peoples. Indigenous peoples are victims of development. In many cases indigenous peoples are exterminated in the name of a development program. There are numerous examples of such occurrences.

75. Development that occurs on indigenous lands, without the consent of indigenous peoples, must be stopped.

76. Development which is occurring on indigenous lands is usually decided without local consultation by those who are unfamiliar with local conditions and needs.

77. The eurocentric notion of ownership is destroying our peoples. We must return to our own view of the world, of the land and of development. The issue cannot be separated from indigenous peoples' rights.

78. There are many different types of so-called development: road construction, communication facilities such as electricity, telephones. These allow developers easier access to the areas, but the effects of such industrialisation destroy the lands.

79. There is a world wide move to remove indigenous peoples from their lands and place them in villages. The relocation from the traditional ter-

ritories is done to facilitate development.

80. It is not appropriate for governments or agencies to move into our territories and to tell our peoples what is needed.

81. In many instances, the state-governments have created artificial entities such 'district council' in the name of the state-government in order to deceive the international community. These artificial entities then are consulted about development in the area. The state- government, then, claim that indigenous peoples were consulted about the project. These lies must be exposed to the international community.

82. There must be an effective network to disseminate material and information between indigenous peoples. This is necessary in order to keep informed about the problems of other indigenous peoples.

83. Indigenous peoples should form and direct their own environmental network.

### **Culture, Science and Intellectual Property**

84. We feel the Earth as if we are within our mother. When the Earth is sick and polluted, human health is impossible. To heal ourselves, we must heal the Planet and to heal the Planet, we must heal ourselves.

85. We must begin to heal from the grass roots level and work towards the international level.

86. The destruction of the culture has always been considered an internal, domestic problem within national states. The United Nation must set up a tribunal to review the cultural destruction of the indigenous peoples.

87. We need to have foreign observers come into our indigenous territories to oversee national state elections to prevent corruption.

88. The human remains and artifacts of indigenous peoples must be returned to their original peoples.

89. Our sacred and ceremonial sites should be protected and considered as the patrimony of indigenous peoples and humanity. The establishment of a set of legal and operational instruments at both national and international levels would guarantee this.

90. The use of existing indigenous languages is our right. These languages must be protected.

91. States that have outlawed indigenous languages and their alphabets should be censured by United Nations.

92. We must not allow tourism to be used to diminish our culture. Tourists



come into the communities and view the people as if indigenous peoples were part of a zoo. Indigenous peoples have the right to allow or to disallow tourism within their areas.

93. Indigenous peoples must have the necessary resources and control over their own education systems.

94. Elders must be recognised and respected as teachers of the young people.

95. Indigenous wisdom must be recognised and encouraged.

96. The traditional knowledge of herbs and plants must be protected and passed on to future generations.

97. Traditions cannot be separated from land, territory or science.

98. Traditional knowledge has enabled indigenous peoples to survive.

99. The usurping of traditional medicines and knowledge from indigenous peoples should be considered a crime against peoples.

100. Material culture is being used by the non-indigenous to gain access to our lands and resources, thus destroying our cultures.

101. Most of the media at this conference were only interested in the pictures which will be sold for profit. This is another case of exploitation of indigenous peoples. This does not advance the cause of indigenous peoples.

102. As creators and carriers of civilisations which have given and continue to share knowledge, experience and values with humanity, we require that our right to intellectual and cultural properties be guaranteed and that the mechanism for each implementation be in favour of our peoples and studied in depth and implemented. This respect must include the right over genetic resources, gene banks, biotechnology and knowledge of biodiversity programs.

103. We should list the suspect museums and institutions that have misused our cultural and intellectual properties.

104. The protection, norms and mechanisms of artistic and artisan creation of our peoples must be established and implemented in order to avoid plunder, plagiarism, undue exposure and use.

105. When indigenous peoples leave their communities, they should make every effort to return to the community.

106. In many instances, our songs, dances and ceremonies have been viewed as the only aspects of our lives. In some instances, we have been asked to change a ceremony or a song to suit the occasion. This is racism.

107. At local, national, international levels, governments must commit

funds to new and existing resources to education and training for indigenous peoples, to achieve their sustainable development, to contribute and to participate in sustainable and equitable development at all levels. Particular attention should be given to indigenous women, children and youth.

108. All kinds of folkloric discrimination must be stopped and forbidden.

109. The United Nations should promote research into indigenous knowledge and develop a network of indigenous sciences

## Chapter 2: Forests at the Commission on Sustainable Development

Following the conclusion of the Rio Summit, formally known as the United Nations Commission on Environment and Development (UNCED), in December 1992 the General Assembly of the United Nations approved the results of UNCED. At the same meeting, the General Assembly endorsed a proposal to establish a Commission on Sustainable Development (CSD) to follow up the UNCED initiative. The body, set up under the UN's Economic and Social Council (ECOSOC) and with a slender budget and secretariat in New York, has the task of reviewing progress and evaluating the implementation of the UNCED agreements. It was granted just under five years to carry out this task and is scheduled to report its findings to a Special Session of the UN General Assembly in June 1997.

Forests are a significant part of the CSD's area of concern. Chapter 11 of Agenda 21 is titled 'Combatting Deforestation' and is supplemented by the 'Non-Legally Binding Authoritative Statement of Principles for Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests', known for short as the 'Forest Principles'.

'Combatting Deforestation' itself has four programme areas: sustaining all types of forests; enhancing the protection, sustainable management and conservation of forests including the greening of degraded ar-

eas; promoting the valuation and utilisation of forests; and strengthening the capacity for planning, research and commercial activities in forests. The aim of the Chapter is to maintain a balance between conservation of the forests and the utilisation of its resources according to the principle of sustainable development.

The 'Forest Principles' cover the rights and responsibilities of those engaged in forest conservation, management and sustainable development, focusing on the relationship of states, the international community and local peoples. The document places particular emphasis on the rights and duties of states, arguing that they can utilise and sustainably develop the forests over which they have a sovereign and inalienable right. However, at the same time, states should recognise the rights of local peoples and promote a supportive economic climate in the interests of sustained forest development.

In the event, the CSD has been overwhelmed by the enormous scope and political complexity of its task. The five years between Rio and the 1997 review of progress have passed all too quickly, while new initiatives to fulfill Agenda 21 have only started to get underway. Given this pressure of work, and for other reasons reviewed in the following chapter, a subsidiary body was thus established under the CSD specifically to review forest issues and thus help the CSD carry out its task of reviewing progress in time.

### **Communication from the World Alliance of Indigenous Peoples living in Tropical Forests to the Commission on Sustainable Development, 10 March 1995, Rome, Italy**

*Annex 1 of the official report of the Ministerial Meeting of the Committee on Forests of the FAO (COFO): COFO-95/2 - Supp. 6*

Distinguished Members of the Commission of Sustainable Development,

In 1992, delegates of indigenous organisations from America, Asia and Africa meeting for the first time in the city of Penang in Malaysia, decided to establish the World Alliance of Indigenous Peoples living in Tropical Forests, on account of our legitimate concern over the accelerated and progressive destruction of the forests on our ancestral territories.

The Alliance provides a forum for dialogue and agreement on policies regarding the future of our territories, the resources in these areas and our

basic rights - issues which the international organisations and governments are currently discussing to their advantage without consulting or involving the rightful owners.

International instruments and agreements, such as the ILO's Convention 169, the Convention on Biodiversity and Agenda 21 only refer vaguely to the need to consult the indigenous populations make even less reference to the need for their direct involvement in decisions regarding policies, plans and programmes for the use of forests and other natural resources on our lands.

We, the indigenous peoples of the world, feel aggrieved by the marginal treatment that we have received from governments and the UN agencies. At best, we have been represented by nongovernmental organisations, scientists and others who have voiced our concern for us, and to whom we are grateful. Nevertheless, we, the indigenous peoples, are aware of our role and rights, and know we are morally justified in addressing our demands directly to the international community of which we are



also members.

We should therefore like to draw your attention to the following considerations which are essential to our desire to be part of world society and its development.

1. The constitutions of the states in which we live fail to guarantee our rights as the original and ancestral inhabitants of our territories. We therefore feel excluded from political life and the administration of justice in our countries and consider ourselves forgotten by the rest of society.
2. International laws and instruments have been drawn up without consulting or involving a large section of world society, the indigenous peoples, thus incurring the serious risk of not fully expressing or responding to the demands of this heterogeneous society. In contrast to the wide cultural diversity that underpins the equilibrium and harmony of nature, these laws and instruments reflect more the interests of a predominant group bent on economic gain under the guise of development at the expense of the human rights and freedom of self-expression of the indigenous peoples, widening the gap between rich and poor and, above all, increasingly undermining the harmony of the natural environment.
3. The non-governmental organisations have played a notable and most worthy role on behalf of the indigenous peoples, seeking policies and strategies to counter the attention paid by multinational companies to resources that belong to humanity as a whole.
4. The natural resources - catchment basins, mountains, refuges for endangered species, forests, lakes, rivers and seas - are largely found in the indigenous territories, where they are managed in a harmonious way. The indigenous peoples are therefore the depositaries and rightful owners of these resources.
5. The World Alliance of Indigenous Peoples Living in Tropical Forests has issued a Declaration of Principles on our fundamental rights, our rights to self-determination, possession of our territories and management of resources in these territories, for we are determined to pursue a policy of harmony between humankind and nature.
6. The natural resources created by God cannot be managed by a single

entity or person. There is need for a collective body, enjoying the full support of societies and partners, to establish policies, mechanisms and strategies to manage these resources, particularly the forests.

We firmly believe that this task should be given to those able to respect the rights of indigenous peoples over their territories and resources.

With this in mind, our Alliance offers a legitimate channel for forest and forest resource policy and management to take the interests of indigenous peoples into account and involve them directly and meaningfully in matters of immediate concern to them. The Alliance is ready and willing to collaborate in every possible way in the coordination of activities in

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this regard.

(We respectfully attach our Declaration of Principles which is our fundamental contribution).

(Signatures)

Valerio Grefa, Coordinator for South America  
Pablo Sibar, Coordinator for Central America  
Minnie Degawan, Coordinator for Maritime Asia and Pacific  
Raymond Abin, Coordinator for Bahasa Region  
Apam Muivah, Coordinator for South Asia  
Charles Uwiragiye, Coordinator Francophone Africa  
Hla Phay, Coordinator South East Asia Region.

**Statement presented by the International Alliance during the COFO meetings (Ministerial Meeting of the Committee on Forests of the FAO), 13 March 1995, Rome, Italy**

The International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, thanks you for allowing us to present our basic concerns in this important meeting.

The International Alliance is an alliance of indigenous peoples organisations from Asia, Africa and Latin America. The Alliance provides a forum for including indigenous peoples in policy formulation.

We are very concerned that there has been very little, if any, involvement of the indigenous peoples in all these discussions and processes related to forestry issues. This despite the existence and evolution of several international standards on indigenous peoples rights that recognise and provide for the respect of our basic rights to be consulted.

We thank the NGO's for allowing us this space to present our concerns which we have included in our open letter for the CSD, and which we are providing FAO a copy of.

States do not recognise, nor respect our rights, and the development of international and national forest instruments are being done without us despite the fact that these forests are our territories - nurtured and sustained by our peoples for several hundred years now. Such forest policies and instruments threaten our futures and cultural diversity and ultimately, the forests which they were meant to protect.

We, the International Alliance, have expounded a Charter which sets out the basic and fundamental principles that will ensure good forest management. We offer this Charter for you to consider.

We do not believe that one body or UN agency should be appointed to manage the forests without the clear recognition of our fundamental rights as distinct peoples. This to us is the basic requisite for developing a process related to the discussion of sustainable forest management.

Further, we the International Alliance, wish to underscore our willingness to pursue future participation in forest policy debates. We hope that the spirit of the UN Decade on the Rights of Indigenous Peoples - that of creating and sustaining meaningful partnerships between states, non-government organisations and indigenous peoples will be pursued and practised by the FAO and the CSD and in all other bodies that discuss issues pertaining to our lands, resources and ultimately, our lives.

Again, in behalf of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, I thank you!

#### **Intervention of the International Alliance on Agenda Item 4, COFO Meeting, 13 March 1995, Rome, Italy**

Thank you, Chairperson for allowing us to be heard.

The following statements are serious and crucial issues related to the indigenous/tribal peoples and they should not be regarded as simple rhetorics of indigenous peoples.



1. With the emergence of the new social, economic and political order introduced by the globalisation of world economy through GATT-WTO and Rio Convention, it may not be an exaggeration or an overstatement that these processes will lead to the intensification of exploitation and discrimination against the indigenous-tribal peoples and the local communities.

The genesis for a serious concern with the indigenous-tribal peoples and local communities emanates from the simple fact that, any international agreement signed by the states are premised on the notion that whatever is within its so-called nation-state land, forests and resource base; are the property of states. Hence, the states claim sovereign authority overall the internal resources.

2. The declaration of the International Year for the World's Indigenous Peoples in 1993, leading to the declaration of the Decade and the Initiative for the adoption of the Declaration on Indigenous Peoples Rights at the UN, indicates the seriousness of international communities on the issues of indigenous peoples.

On the other hand, most state governments are denying the indigenous peoples' quest for social justice in their own regions by denying their right to self-determination and refusing to recognise them as the indigenous peoples.

But we remind states present here today, that the aspiration of the indigenous peoples should not be considered as subversive, secessionist or an attack on the unity of national states, but they are a question of basic human rights.

Understandably, states are not ready to take the challenges of the social and political consequences of such definitions and recognition, and states are not prepared to concede to the national and international rights which correspond with the recognition. Therefore, it will not be a surprise and a mystery if the states intensify the trend of internal colonialism, whereby the indigenous peoples have generally come to occupy a position of clear-cut subordination and dominated upon within the country in which they are now.

In spite of the plethora of constitutional provisions, normally termed as positive discrimination, by most states, there exists a situation of ethnocide committed against the indigenous peoples. These policies are

systematically and consciously carried out policies leading to:

- erosion of indigenous peoples land and resource base
- erosion of indigenous peoples languages
- erosion of indigenous peoples social, political institutions, cultures and traditions

The policy of ethnocide perpetuated on the indigenous peoples, whatever the pretext - social progress, national unity, economic development and national or military security; such a government is guilty of ethnocide.

Summing up, the point of departure for any international and national agreement should start with the recognition that the indigenous peoples have always been self-determining, secondly, recognition of the fact that we have always been there, lastly, recognition of the inalienable agenda, that is full consultation with the indigenous peoples. The guiding document for this dialogue we suggest, Chairperson, should be:

1. The Charter of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests; and,
2. The UN Declaration on the Rights of Indigenous Peoples

Thank you Chairperson, on behalf of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests.

### **Alliance Submission to CSD III, April 1995, New York**

Thank you, Chairperson!

I will speak on behalf of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, which is the organisational expression of the solidarity of indigenous peoples from Africa, Asia and the Americas. The Alliance was established in 1992 in Penang, Malaysia and has since provided a forum for indigenous peoples to participate in international debates on issues that impact on our daily lives.

We have submitted an open letter to the Commission on Sustainable Development which outlines our general concerns with regards the processes leading up to this meeting and the lack of indigenous peoples'

participation. In that letter which we have furnished the FAO with, we stated that the prerequisite for achieving sustainable development is the recognition of the basic rights of indigenous peoples, this does not only cover our rights to own, control and manage our ancestral territories but it also includes our political, economic and socio-cultural rights. In this regard, we would like to see the CSD endorse the speedy adoption of the UN Draft Declaration on the Rights of Indigenous Peoples by the General

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assembly as a concrete means of achieving sustainable development.

Thus, I would like now to concentrate on some very crucial issues which we believe are of concern to the Commission, specifically on sustainable land use and bio-diversity conservation. Mr. Chairman, we are very concerned that in the attempt to impose a global mono-economic system, as evidenced by the establishment of the WTO, all these talk about sustainable development will not be realised. It is not a simple case of us being paranoid or simply being anti-development but we believe that this so-called new world economic order will only lead to the eventual disappearance of whatever remaining resources there are.

Already, trans-national mining companies are expanding their operations all over the globe, such as the case of the notorious RTZ into Irian Jaya in partnership with Freeport McMoran Copper and Gold (FCX). RTZ has just announced their intention of providing funds for the expansion of Freeport's operations into an additional 2.6 million hectares of indigenous land. Obviously, the indigenous peoples have and will continue to oppose such attempt to dispossess them of their lands, this has led to more repression and more violations of human rights. Already some 37 indigenous people have been reported killed since June 1994 to February 1995 in Irian Jaya by government soldiers aided by security forces employed by the company. This is not confined in Irian Jaya alone, the same is happening in the Philippines, where despite certain areas being declared as protected areas, concessions are still being granted to logging and mining corporations. Worse, when we protest such violations, we end up being imprisoned, such as Ken Saro-Wiwa in Nigeria or being killed.

These actions point to the undeniable fact that governments are cooperating very closely with industries to fully extract the remaining resourc-

es, and are thus to be held accountable for the erosion and destruction of the world's resources. Mr. Chairman, we can not just talk of sustainably managing the remaining resources of the world, while allowing the rights of peoples to be violated with impunity.

Mr. Chairman, another concern we would like to air is the continued marginalisation of indigenous peoples in decision making processes that lead to the disempowerment of our peoples. For example in this process of the CSD, we have always been left out and were it not for sympathetic NGO's, for which we are grateful, we would not even be here to address this august body. If the CSD were to be true to its mandate of monitoring the implementation of Agenda 21, we would urge you to address this area of concern.

Indigenous peoples, have varying levels of needs and priorities and these should be respected. While it might not be to our interest to participate in all the UN processes, but should we desire to, all efforts should be exerted towards making us realise such a goal. In this the inaugural year of the International Decade of Indigenous Peoples, the challenge is with the CSD to lead other UN agencies and bodies to live-out the true essence of the year, which is to establish a new partnership between governments and indigenous peoples based on mutual respect.

Mr. Chairman, in closing, the International Alliance wishes to reiterate our willingness and sincerity to cooperate with the CSD in achieving meaningful dialogue with indigenous peoples in matters of interest to all of us.

Thank you!

## Chapter 3: The Intergovernmental Panel on Forests

As noted, the Rio Summit did not produce a binding global instrument on forests, but in the follow-up to Rio pressure for such an instrument is still being exerted by some governments, international agencies and environment groups. Two main themes preoccupy government officials: which international organisation is the appropriate 'institutional home for forests' and what might such an instrument contain.

Among the plethora of different opinions, a pattern can be discerned.

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From both North and South, Governments from countries with relatively centralised and regulated forestry practice favour a forest convention, seeing a market advantage for their industries. On the other hand, countries with more anarchic forestry systems and therefore with more to fear from the impositions of global norms of forest management, are opposed to a global instrument as this might disadvantage them in international trade. At the same time, forestry departments from poor countries, keen to get international financial assistance to bolster their influence and effectiveness, favour a convention as a vehicle for more aid, while international agencies favour a convention in so far as it will strengthen their role and budgets. For example, the FAO, striving to recuperate the credibility lost through its mismanagement of the Tropical Forestry Action Plan, favours a convention in which it will become a major vehicle for technical assistance to forestry departments in developing and 'transition' countries. The World Bank, indifferent to such considerations and irked by the restrictions of its own Forest Policy, sees little advantage in such an instrument.

Scepticism of the value of an international instrument on forests has also grown among non-Governmental organisations, as they recognise the possibly damaging implications of a convention drawn up principally to promote the financial and commercial interests of its proponents. Many feel that a premature forest instrument focused on technical forestry considerations to the exclusion of other values of forests could do more harm than good. Indigenous peoples have also been alarmed. Previous international forestry initiatives such as the International Tropical Timber Agreement and the Tropical Forestry Action Plan had been widely condemned for ignoring indigenous peoples' rights and interests and promoting commercial logging and plantations on indigenous territories.

There has been little to indicate that a new forest instrument would be any more sensitive to our rights. Nor have our opinions been actively sought by those governments and agencies pushing for a convention.

Since late 1993, therefore, there has been strong pressure from NGOs and indigenous peoples to insist both that the FAO was not the appropriate institutional home for forest policy-making and that the elaboration of an instrument on forests was premature. This pressure, combined with the scepticism about an instrument from many governments, led to acceptance of the suggestion that some kind of open, inter-agency panel should be set up to review global forest policy-making before consensus on an instrument was sought.

The Ad Hoc Intergovernmental Panel on Forests (IPF) is the result of this global compromise - a temporary forum to take stock of global debates about forests. The Panel was formally created by the IIIrd Session of the CSD (April 1995), while reviewing progress achieved in the implementation of the Forest Principles and Chapter 11 of Agenda 21. The IPF has the mandate to pursue consensus and co-ordinated proposals for action to support the management, conservation and sustainable development of forests.

The CSD also identified 11 issues, clustered into five categories, that the IPF should look into and asked that the IPF should meet four times before reporting back to the CSD at its fifth session in April 1997. Since then the IPF has met three times: in New York from 11-15 September 1995, in Geneva from 11-22 March 1996 and in Geneva from 9-20 September 1996. A final meeting is expected in New York in February 1997.

In addition to the main meetings of the IPF a practice has emerged of governments, sometimes twinned from north and south, agreeing to sponsor further discussions on specific themes of the IPF's work. Intersessional meetings have thus been held on Criteria and Indicators, Forestry and Land Use Planning, international organisations and multi-lateral institutions and instruments, international cooperation in financial assistance and technology transfer and so on.

At IPF 2, the International Alliance backed by the WorldWide Fund for Nature-International proposed the holding of an intersessional meeting on indigenous peoples and local communities. The idea later received the support of the Colombian and Danish Governments and is to be held in Leticia, Colombia in December 1996. The meeting is being organised by the International Alliance of Indigenous-Tribal Peoples of the Tropical

Forests in coordination with the Amazonian Indian organisations, Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica (COICA), Organización de los Pueblos Indígenas de la Amazonía Colombiana (OPIAC) and Organización de Naciones Indígenas de Colombia (ONIC).

### **Submission of the International Alliance to IPF1, 8 September 1995, New York**

Distinguished Members of the Intergovernmental Panel on Forests,

The International Alliance of Indigenous-Tribal Peoples of the Tropical Forest was established in 1992 by representative indigenous organisations from America, Asia and Africa to halt the increasing destruction of forests on our ancestral territories. The Alliance is a forum where indigenous peoples can discuss and formulate policies which promote and protect our rights to lands and resources.

The creation of the Intergovernmental Panel on Forests has demonstrated the concern which the Commission on Sustainable Development has in reviewing Chapter 11 of Agenda 21 and the Forest Principles. We

welcome the intention of IPF to be open, transparent and participatory and earnestly hope that this means that priority will be given to the views and concerns of indigenous forest peoples of the world.

It is regrettable that members of the International Alliance have not been invited to this important meeting but we hope to participate directly in future meetings.

The five priority areas of the IPF are of great importance to indigenous peoples.

1. The implementation of the UNCED agreements must give due emphasis to the importance of forests for our survival. The main causes of forest destruction are the very same threats which we constantly face. Social injustice gives rise to migration into forest areas, while unscrupulous economic interests plunder our territories of resources. By recognising our rights, a substantial advance can be made to halt deforestation.

Indigenous peoples live in holistic societies which, if free from undue external interference, constitute harmonic relationships with the environment. Our cultures draw the world of the forest into our social and spiritual lives in ways which celebrate its sacred inter-connectedness with our survival as peoples. We consider that our integral 'cross-sectional' approach to forests should be reflected in any discussion on forests by the IPF.

2. When considering international co-operation and technical assistance, it is extremely important that decisions on forest matters are made with the consent of the indigenous peoples. Too often, projects and proposals which appear sensible from outside are extremely harmful to both people and the environment. Only by recognising our rights and appreciating how these link to conservation can international co-operation produce any meaningful alleviation to the problems facing the forests of the world.

3. The discussion on scientific assessment of forests, criteria and indicators for sustainable forestry and the complementary process of certification should not become simply a discussion on maximising logging within certain limits. All definitions of 'sustainability' must include a recognition of the capacity and requirements of local peoples to survive in a sustainable manner. This means that criteria, indicators and certification must include the social and material well-being of local indigenous



peoples.

4. The question of trade is particularly sensitive for indigenous peoples who find ourselves deprived of our livelihoods and without the means to survive in the future. We do not want to see our resources stolen by outsiders in order to improve profits. Any trading of our resources must take place under our own control. This principle must be the basis for discussions on the relationship between trade and the environment.

5. When reviewing existing legal instruments, we think that it is extremely important to address the rights of indigenous peoples. The Convention on Biological Diversity, for example, is not a human rights document and does not reflect the needs and desires of indigenous peoples of the tropical forest. The current draft United Nations Declaration of the Rights of Indigenous Peoples which is currently in the UN Commission on Human Rights is the base-line for recognition of our rights and freedoms, in particular its recognition of our right to self-determination. This should provide the starting-point for a discussion of all indigenous peoples rights.

We in the International Alliance of Indigenous-Tribal Peoples of the Tropical Forest consider that our concerns cover each of the areas which come under review in your panel. Furthermore, indigenous peoples are present in almost all of the tropical forests of the world. We therefore suggest that you consider incorporating our concerns into your work in the following manner.

- a) In each area under review a section should be devoted to the rights, concerns and desires of the indigenous peoples of the forest.
- b) A separate section of work could also be developed, looking at the question of forests from the perspective of forest peoples. This could be developed on the basis of a UN 'Expert Meeting' on the subject or on the basis of reports commissioned from indigenous peoples.
- c) A working group should be established, consisting of indigenous representatives which will provide a detailed review of the situation of peoples and forests throughout the world and make recommendations to

**Summary of themes identified for discussion by the IPF**

- I. **Implementation of UNCED decisions related to forests at the national and international level including an examination of sectoral and cross-sectoral linkages**
  - I.1 National forestry and land use plans
  - I.2 Underlying causes of deforestation
  - I.3 Protection and use of traditional forest-related knowledge
  - I.4 Arid zones and airborne pollutants especially Africa
  - I.5 Needs of countries with low forest cover
- II. **International cooperation in financial assistance and technology transfer**
  - II.1 Coordination of bilateral and multilateral assistance
- III. **Scientific research, forest assessment and development of criteria and indicators for sustainable forest management**
  - III.1 Assessing and valuing multiple benefits of forests
  - III.2 Criteria and indicators for sustainable forest management
- IV. **Trade and environment relating to forest products and services**
  - IV.1 Trade in forest products
- V. **International Organisation and Multilateral Institutions and Instruments, including appropriate legal mechanisms**
  - V.1 International organizations and multilateral institutions and instruments
  - V.2 Contribution to consensus-building towards the further of the implementation of the forest principles

the IPF for consideration by the CSD. In this way the IPF will be able to ensure that the indigenous peoples in forest areas are heard and respected.

In order to provide a summary of our main perceptions of forest questions, we enclose two documents:

1. Earlier this year we wrote to the CSD to express our concerns about deforestation and made several proposals which are relevant to your work. The document is entitled 'Communication from the World Alliance of Indigenous Peoples living in Tropical Forests to the Commission on Sustainable Development', 10 March 1995.
2. The other document is our 'Declaration of Principles of Indigenous-Tribal Peoples of the Tropical Forests' which should be seen as our fundamental contribution to your work. This Declaration was drawn up by the International Alliance and has been signed by all our constituent organisations.

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The International Alliance provides a means for the articulation of indigenous perspectives on forest policy and forest resource management and our involvement in all matters affecting our lives and futures.

We hope that our presentation will be seriously considered in your work and that the IPF will recognise our existence and concerns. The Alliance is prepared to collaborate in every possible way with the IPF in these proposals.

### **Communication from the International Alliance to IPF2, 11-22 March 1996, Geneva**

Distinguished Members of the Intergovernmental Panel on Forests:

The International Alliance of Indigenous-Tribal Peoples of the Tropical Forests is an inter-continental association representing the diverse peoples who inhabit the tropical forests. Our alliance brings together the indigenous and tribal peoples of Latin America, Africa, Asia and Oceania and provides a mechanism to ensure that the rights and interests of our

peoples are taken into account in all international policy-making on forests.

We are here before you today for five main reasons.

- Many of our peoples continue to suffer the impositions of programmes and policies implemented by aid agencies which are carried out without our full participation and without our consent;
- Many of our peoples are likewise suffering the depredations of transnational logging, mining, plantation, hydropower and other businesses which operate without restraint in our traditional territories and ignore our internationally recognised rights to our ancestral lands;
- National development and forest policies frequently ignore our rights and we are denied legal means of redress in our own countries;
- Global concerns about biodiversity loss and climate change have now propelled decision-making about forests to the international level, but, despite the fact that we are the original inhabitants of the tropical forests, we have been largely excluded from these debates;
- Even internationally-financed conservation programmes, designed to curb deforestation and protect biodiversity, are often imposed on us in ways that deny our rights to our territories and force us to abandon our homelands.

### **Causes of Deforestation**

The panel is now considering a paper prepared by the secretariat on the 'Underlying Causes of Deforestation and Forest Degradation'. We are dismayed to find that this paper again avoids addressing our concerns.

It is our experience that a central, underlying cause of deforestation is the systematic denial by states, national and foreign companies and international agencies of our rights - both our basic human rights as individual human beings and our collective rights as indigenous peoples, to the ownership, use and control of our territories by our own representative institutions.

Forest policies and national development strategies which deny the customary rights of forest inhabitants simultaneously deprive forests of

protection and facilitate unregulated access to forest resources by outsiders. At the same time, the denial of our customary rights undermines our own security and traditional systems of prudently managing our resources and thus encourages more profligate forest use. Sustainable community-based forest management can only be assured if our rights to our territories are provided long term security.

From our point of view, the failure of this diagnostic paper to highlight these issues is critical. It illustrates how we who inhabit the tropical forests are still invisible to policy makers and it highlights the risks of the Inter-Governmental Panel perpetuating top-down decision-making based on flawed analyses which are not rooted in the experience of the people who know the forests best.

It is also our common experience that a major cause of tropical deforestation is the planned colonisation or spontaneous settlement of forest lands by peasant farmers. At the local level we often find ourselves forced into conflict with these settlers but we recognise that they too are often victims of unjust tenurial regimes which deprive them of land and livelihood in the places that they have come from outside the forests. The diagnostic paper again fails to identify this policy failure, it fails to note that skewed land distribution and increasing land concentration due to the rapid commercialisation of agriculture is one of the main underlying causes of forest loss.

This must be a source of concern for us. If the IPF can ignore the rights and interests of indigenous peoples and peasant farmers in identifying the causes of deforestation, how will it avoid ignoring us when it comes to identifying solutions?

We insist. A key to checking tropical deforestation is to guarantee the territorial security of the indigenous and tribal peoples of the tropical forests who inhabit them and know them best. We call also for land rights for indigenous and peasant farmers who live outside the forests.

## **Participation**

Under the agreements made in Rio in 1992, the international community gave an undertaking to ensure the participation of all 'Major Groups', including explicitly the indigenous peoples, in all future measures to implement Agenda 21. We appreciate that the InterGovernmental Panel on Forests is open to NGO participation and we are grateful for this opportu-

nity to place our concerns before you. However, effective participation of indigenous peoples in an important policy setting forum such as the IPF requires a more structured and well-resourced mechanism.

Indigenous peoples' participation in the post-UNCED process has lacked adequate and consistent support and resourcing. It is important that the CSD and IPF ensure indigenous participation through our own representative organisations in a systematic manner. To this end we offer once more, as we did in Rome last March and New York last September, our Alliance as a vehicle for improved communication between the IPF secretariat and our peoples. We also ask that member governments of the IPF provide adequate resources to allow indigenous peoples to attend future IPF meetings in a well-prepared manner and ask that they instruct the secretariat to develop appropriate mechanisms for full participation.

Thank you.

### **Statement to the Plenary of IPF3 by Indigenous Peoples Representatives, September 1996, Geneva**

This statement is being made by indigenous peoples' organisations present at IPF3, on behalf of our peoples from all forest types in all regions throughout the world; tropical rainforests, temperate forests and boreal forests in Asia, Latin America, Africa, North America and the far North.

We indigenous peoples are the original peoples and current inhabitants of the world's forests. We have nurtured its biodiversity through our skills, practices, knowledge and a spiritual understanding and relationship with our natural worlds. Our cultural diversity reflects our diverse environments and the biodiversity in our territories, and our concern for

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the survival of the forests is not just for ourselves but for all humanity and all forest values.

We ask that IPF3 acknowledge the inherent linkages between forests, indigenous peoples and forest communities, and ensure that our concerns are considered in all areas of IPF's work.

Our concerns are much broader than, and are not limited to, Programme Element I.3 'Traditional Forest-Related Knowledge', and we

have important contributions to make with regards to National Land Use and National Forestry Programmes, the underlying causes of deforestation, criteria and indicators for sustainable forest management, international co-operation and technical assistance, and institutions and mechanisms for addressing ongoing forest concerns. Indigenous Peoples, Local Communities and Forests is a cross-cutting theme and its serious treatment is essential to the success of IPF's work.

Mr. Chairman, There is a marked contrast between the central position of forests in our lives, and the limited voice and participation that we have had so far in IPF's work.

We would therefore urge that the Panel fully facilitate the interventions of representatives of indigenous peoples and forest communities during its third session, and recognise our participation as indigenous peoples and organisations, regardless of ECOSOC and CSD accreditation. We would also urge the Panel's full support for an Intersessional Meeting on Indigenous Peoples, Local Communities and Forests which is being sponsored by the Colombian and Danish governments, and organised by the International Alliance of Indigenous-Tribal Peoples of Tropical Forests with its members in the Amazon - OPIAC, ONIC and COICA. This Intersessional Meeting will allow a fuller opportunity for indigenous peoples and forest communities to contribute to IPF's work.

The NGO Panel Discussion this evening will discuss in further detail the themes of this Intersessional Meeting which will be held in Colombia later this year. We would like to invite all IPF3 delegates and observers to this evening's forum and look forward to productive discussions and dialogue with all delegates and observers present during the next two weeks and in the future.

Finally Mr. Chairman, I close with words from the Crees of Canada who said long ago:

After the last tree has been cut down,  
After the last river has been poisoned,  
After the last fish has been caught,  
Only then will you find that money cannot be eaten.

We thank you for your attention.

Statement made by:

International Alliance of Indigenous-Tribal Peoples of the Tropical Forests

COICA- Coordination of Indigenous Organisations of the Amazon

ONIC - Organizaciones de Naciones Indigenas de Colombia

OPIAC - Organizacion de los Pueblos Indigenas de la Amazonia Colombiana

International Indian Treaty Council

Saami Council

Algonquins of Barriere Lake, Canada

Asociacion Napguana, Panama

Cordillera Peoples Alliance, Philippines

Organisation of Indigenous Peoples of Suriname

Association of Tanimbar Intellectuals (ICTI), Indonesia

KINNAPA, Tanzania

Inter-Mountain Peoples Education and Culture in Thailand

## **Indigenous Peoples and Knowledge of the Forest**

*Submission of the International Alliance in relation to Programme Element I.3 of the IPF, 9 - 21 September 1996, Geneva*

### **Executive Summary**

We indigenous peoples are the first owners of the forest, and since time immemorial have nurtured its biodiversity through our skills, practices, knowledge and a holistic understanding of the environment. Our cultural diversity reflects the biological diversity of our territories, yet both we and our forests are under threat from invasion, colonisation and the destruction of our resources. The IPF's discussion on the underlying causes of deforestation (Programme Element I.2) has ignored these factors and is highly deficient in this regard.

The only way to ensure our survival and that of the forest is by recognising our indigenous rights as peoples to our territories, empowering our distinct cultures, political institutions and customary legal systems so that we can practice our sustainable self-development. These rights are encapsulated by the right of self-determination which is the process where we can control our own lives and destinies. The only UN docu-



ment which reflects these rights is the draft Declaration on the Rights of Indigenous Peoples approved by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities in 1994.

Agenda 21 and the Forest Principles were drawn up at the Rio Conference with little indigenous participation and in the subsequent discussions at the CSD and IPF, our role has been very marginal. These documents weaken our rights by overemphasising state sovereignty and overriding our rights, by refusing to recognise us as peoples with collective and distinct identities; by not acknowledging our territorial rights; by considering us as objects of study and development; and by limiting us to passive and reactive roles in participation and partnership.

We therefore call for full support for an IPF intersessional meeting which will give fuller consideration of indigenous and other forest peoples concerns. We warmly welcome the initiative of the Colombian and Danish governments to sponsor such a meeting.

As a starting point for discussion on indigenous knowledge, we recommend the UN study on the Cultural heritage of Indigenous Peoples (E/CN.4/Sub.2/1994/31) by Special Rapporteur Erica Daes and the adoption of its concluding principles and guidelines (E/CN.4/Sub.2/1995/26). The Secretary General's report on Programme Element I.3 'Traditional Forest Related Knowledge' contains several important findings which agree with the Special Rapporteur's study: it places indigenous knowledge in a local context and recognises that it can only be utilised by outsiders with our free and informed consent; it recognises the collective nature of our knowledge as connected to our identity as peoples; it recognises the importance of our political institutions, customary law and capacity to manage our forest territories; it expresses concern over applying current intellectual property rights regimes to the cultural heritage of indigenous peoples; and it recommends that national legislation must protect our

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rights and discourage the colonisation of forests.

Our knowledge is too frequently artificially contrasted to non-indigenous 'cosmopolitan' knowledge. We consider that we have a diversity of knowledges which are not just intellectual, but embedded in practices and activities. Too often, knowledge and techniques relating to the forest, such as rotational agriculture, are misunderstood and derided by outsiders. Our knowledge is bound with the notion of territoriality; knowledge is practical and flexible and should not be defined rigidly as changeless

tradition; knowledge is collective and a shared aspect of our cultural identity as distinct peoples; knowledge and tradition have to be defined and interpreted by indigenous peoples ourselves; and knowledge in this sense is an important aspect of our fundamental right to self-determination.

The Secretary General's report focuses on three options for the use of indigenous knowledge. The first option is 'direct management of local forests'. We consider that the concept of partnership - ownership, planning and management - assumes that indigenous peoples have to share our rights to our lands, territories and resources. This is a form of expropriation: we are 'rightholders' not 'stakeholders'. Any direct management must be based on recognition of our control over our resources.

The second option, biodiversity prospecting, looks at the commodification of our knowledge. We resist this, particularly when it takes place without our free and informed consent. Whereas we share the desire to share our knowledge for the benefit of humanity, particularly for the alleviation of suffering, we do not see why our knowledge should be used to build up yet more profits for avaricious multinational companies. Benefit-sharing under our control is reasonable, but it should not become a means to buy access to resources or replace much needed development support.

Connected to this topic is trade. Indigenous economies and markets have provided a sustainable basis for our survival for centuries. However, in relating to wider markets we need to have our local economies strengthened so we can enter trading relations from positions of self-sufficiency, not poverty and dependency. Companies using our resources should follow criteria and indicators of sustainable forest management or certification (Programme Elements III.2 and IV) which include the social and material well-being of indigenous peoples and do not allow for open exploitation of forest resources. We also consider that any reference to indigenous intellectual property protection under GATT/TRIPs sui generis provision must be based on our customary law and indigenous legal systems.

The third option in the Secretary General's report, sharing ideas, refers to non-commercial knowledge. All information shared in this way with researchers or the media, has to take place with our consent and must be based on principles of consent, mutual reciprocity, transparency, accuracy, respect and sensitivity. We are concerned at the increasing attempts to place a monetary value on our resources: scientific assessments should

be based on our values, not those of the potential expropriators.

We conclude with the following recommendations:

1. The IPF should acknowledge the importance of indigenous rights as being inherently related to the forest issue. IPF3 is urged to give its full support for an Intersessional meeting on the theme of Indigenous Peoples, Forest Communities and Forests which will consider in greater detail our contributions to the CSD/IPF and other international processes dealing with forests. The results of this meeting should be taken into consideration by IPF4 and its final report to the CSD.

2. The draft UN Declaration on the Rights of Indigenous Peoples should provide a framework for IPF's and CSD's deliberations on Forests and Indigenous Peoples.

Agenda 21 and the Forest Principles should be reinterpreted to harmonise with this document with particular emphasis on the use of the term 'peoples' in its documentation.

3. The different UN bodies dealing with indigenous questions (Commission on Human Rights, Commission on Sustainable Development and the Convention on Biological Diversity) should not work exclusively on different topics but continue to engage in dialogue to enhance mutually enriching discussions.

The IPF and CSD should strongly support the initiative to create a UN Permanent Forum for Indigenous Peoples during the UN Decade for indigenous peoples (1995-2004) which will draw together human rights, environment and development questions.

4. A particular area for investigation would be the possibility of establishing a series of expert meetings under the CSD on the nature of sustainable forest development and indigenous and local territorial management.

These could also look in detail at notions of partnership, agreements and legal frameworks for cultural heritage protection.

5. The UN Special Rapporteur's Study on the Cultural Heritage of indigenous peoples should provide a basis for IPF's recommendations on indigenous peoples' forest-related knowledge. IPF3 should support the principles and guidelines of the UN Report covering definitions, transmission of heritage, recovery and restitution of heritage, national programmes and legislation, researchers and scholarly institutions, business and industry, artists, writers and performers, public information and education and international organisations.

6. Any sui generis systems of intellectual property rights must be based on our customary law and indigenous legal systems.

7. All criteria and indicators on sustainable development and certification principles must ensure the social and material well-being of indigenous peoples.

8. Indigenous peoples need support and technical assistance and for our capacity-building efforts and for self-representation and effective participation in international and other fora discussing our rights.

Likewise any international co-operation and technical assistance for national land use and national forestry plans must ensure adequate indigenous peoples participation and recognition of our rights.

9. Any future financial mechanism on forests must be accountable, transparent and without conditions such as incremental costs.

## **Introduction**

We indigenous peoples have lived in the tropical forests of the world since time immemorial. We are the first owners of the forest and throughout history have nurtured its biodiversity through skills and practices based on wide experience, a broad variety of knowledge and a holistic understanding of our environment. Our forests provide us with life, they

shape our identity as peoples and frame the boundaries of our territories. The fate of the forests is intimately bound up with our survival and requires the recognition of our indigenous rights.

Our tropical forests, homelands and territories are the areas of the world with the highest cultural diversity. Rainforests of the Amazon, Central Africa, Asia and Melanesia contain over half of the total global spectrum of indigenous peoples and at the same time contain some of the highest species biodiversity in the world. We and the forests have survived because throughout the centuries they have provided us with the means of life and in return we have managed them sustainably according to our own scientific knowledge and customary practices.

We do not see humans and natural species as distinct elements for classification and utilisation; we are part of a broader system binding us to the forest through social, cultural, political, economic and ecological ties - all expressed through our indigenous spirituality. This holistic view binds indigenous peoples closely with any discussion about forests. We are the front-line defending the forests and need the support, recognition and respect of the international community for this task.

Whereas our distinct cultures, territories and production methods make us unique guardians of the forest, yet, throughout the world, we are oppressed, our resources are plundered and we face devastation. Deforestation is a major concern to us because as our forests are destroyed, our capacity to survive withers and we die.

The only way to ensure that indigenous peoples and forests survive is to recognise our rights as indigenous peoples living in our own territories, respecting our distinct cultures, political institutions and customary legal systems, allowing us the means to carry out our own sustainable self-development. These rights can be summarised in the concept of self-determination, which is the process where we control our own lives and destinies. Only from a position of respect, can we negotiate genuine partnerships with the governments, other forest dwellers, and other institutions in the states where we live, for the sustainable use and development of forests.

We consider that the IPF's consideration of the causes of deforestation has been unsatisfactory. In a statement to IPF2 on Programme Element I.2, the Alliance said: 'It is our experience that a central, underlying cause of deforestation is the systematic denial by states, national and foreign companies and international agencies of our rights...Forest policies and

national development strategies which deny the customary rights of forest inhabitants simultaneously deprive forests of protection and facilitate unregulated access to forest resources by outsiders.’ The reason for this is that the forests are a part of us; their life is our life.

### **The International Context**

In spite of international statements in favour of participation, we indigenous peoples have been side-lined and marginalised in the drafting of Agenda 21 and the Forest Principles and in the discussions at the Commission on Sustainable Development and the Inter-governmental Panel of Forests. No decision relating to indigenous peoples should be taken without our full and free participation at all levels and in all discussions relating to our concerns.

The only area of the UN system where participation has been satisfactory has been the thirteen year process of discussion on indigenous rights at the UN Working Group on Indigenous Populations (WGIP). The conclusion of this participatory deliberation has been that the recognition of rights is fundamental to all questions involving indigenous peoples. In this way full participation within a process goes hand in hand with the recognition of our rights.

The UN system has gone some way towards recognising the rights of indigenous peoples. Of particular importance is the draft Declaration on the Rights of Indigenous Peoples which was approved by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities in 1994. This document arose out of the participatory process of the WGIP and has been built on a general understanding of our rights. This began with the unsatisfactory integrationist ILO Convention 107 and the more recent Convention 169. The UN Draft Declaration is currently the clearest statement of indigenous rights in the UN system and should be seen as a starting point for all subsequent discussions to avoid duplication of a successful 13-year process. Its importance is recognised in paragraphs 26.2 and 24.4a of Agenda 21.

Chapter 26 of Agenda 21 acknowledges in its first paragraph that indigenous peoples have ‘developed over many generations a holistic traditional scientific knowledge of their lands, natural resources and environment. Indigenous people and their communities shall enjoy the full measure of human rights and fundamental freedoms without hindrance

or discrimination'. Agenda 21 (A21) and the Forest Principles (FP) recognise indigenous rights to lands, intellectual and cultural property and to preserve customary and administrative practice (A21: 26.4b; FP: 5a), advocate empowerment (A21: 26.3a), promote participation (A21 11.3.b; 11.13.i; 26.3.b; FP 2.d) and advocate involvement in resource management and conservation (A21: 11.13.b; 26.3.c).

However these documents also contain several features which give us cause for concern.

### **Concerns of the Alliance on Agenda 21 and the Forest Principles**

The Alliance has several difficulties with Agenda 21 and the Forest Principles which relate directly to the problem of indigenous peoples' knowledge of the forest. Failure to understand these concerns make constructive dialogue difficult.

#### **1. State sovereignty**

Similar to the CBD, Agenda 21 and the Forest Principles place much emphasis on the rights of States to exploit 'their own' resources. For example Article 2a of the Forest Principles says 'States have the sovereign and inalienable right to utilise, manage and develop their forests in accordance with their development needs'. We underline that a monolithic notion of state sovereignty undermines the rights of indigenous peoples who live in those forests.

When the state wants to 'develop' an indigenous-owned forest territory without the consent of the people living there, we find ourselves faced with the plundering of our resources. National forests and land use plans which are discussed in the IPF under Programme Element I.1 are particularly relevant here. Too often these are imposed upon us from above in the name of state sovereignty. We indigenous peoples have our own forms of sovereignty based on our indigenous institutions and our legal systems of customary law. These must be respected by national and international bodies wishing to work with indigenous peoples.

#### **2. The Question of Peoples**

Throughout Agenda 21 and the Forest Principles, reference is consistently made to 'indigenous people'. This is not in harmony with the rest of the UN system where the ILO Convention 169 is on Indigenous and Tribal Peoples, the draft UN Declaration is on the 'Rights of Indigenous Peoples'. The CBD, although not using the term peoples, clearly refers

to indigenous peoples, as noted by the President of the Conference of Parties (H.E. Minister Sarwono Kusumaatmadja) in his official presentation of the Statement from the Convention on Biological Diversity to the Intergovernmental Panel on Forests. The term ‘people’ only considers the individual aspect of our being which denies our whole collective identity as peoples. If we are only treated as individuals, it is impossible for us collectively to participate, make contracts or come to agreement with governments as urged by Agenda 21 and the Forest Principles.

### 3. Territories

The concept of territory does not appear in Agenda 21 or the Forest Principles. This is problematic because the use of the terms ‘environment’, ‘lands’ and ‘resources’ only cover limited aspects of our relationship with the great variety of ecosystems within which we live. We indigenous peoples conceptualise our worlds holistically, and the most suitable term which embraces the economic, socio-cultural, legal, spiritual and political aspects of our relationship with the environment is the term ‘territory’. Without the recognition of our territories, we cannot defend the holistic approach to forests emphasised in Agenda 21 and the Forest Principles.

### 4. Objects of Study and Development

We have stated to the IPF2 that we do not want to be objects of development, but the subjects of self-development. However, in Chapter 11 of Agenda 21, our knowledge and practices are seen as the ‘objects’ of non-indigenous research (A21: 11.3.g; 11.4.a; 11.14). Not only does this have the effect of commodifying our cultural heritage, but it artificially takes our knowledge out of context and misrepresents the information and ourselves. If we are no more than objects of study, we will continue to be plagued by intrusive investigators and economic interests which aim to utilise our knowledge for personal and commercial gain.

### 5. Participation and Partnership

Agenda 21 and the Forest Principles continuously refer to ‘participation’. This is frequently linked with the notion of ‘partnership’. However, these terms are very ambiguous and, unless they are made clear, make us feel portrayed as passive individuals who have been granted the right to take part in outside initiatives on our lands and territories.



## **Traditional Forest-related Knowledge**

As an introduction to this subject, we would like to draw attention to the specific needs of indigenous peoples who live in forest areas. All peoples who live in forests have rights, however, those of us who are indigenous have a clearly defined set of rights which, as outlined above, have been under discussion in international fora for over twenty years. In particular the International Alliance would like to draw attention to two important documents drawn up by Special Rapporteur Erica-Irene Daes which relate directly to our knowledge as forest peoples. The first is a study on the protection of the cultural and intellectual property of indigenous peoples (E/CN.4/Sub.2/1994/31) which lays out in a broad and succinct manner our main concerns. The principles and guidelines arising from this study have been revised and updated in the final report (E/CN.4/Sub.2/1995/26).

We consider that any discussion of our knowledge, its uses and benefits, have to be placed within the framework established in these principles and guidelines. They place our rights at the forefront of the discussion - in particular our right to self-determination (principle 2), our identity as peoples (principle 3), the inalienable, collective and permanent ownership and custody of our heritage (principle 5), our territorial rights (principle 6) and our control and consent over transmission, research, use or commercial application. We also consider that the guidelines arising from this study should be incorporated into the recommendations of the Secretary General's report.

The Secretary General's report for IPF3 relates to Programme Element I.3 'traditional forest related knowledge'. As indigenous peoples, we consider that this report takes an important step towards understanding this complicated subject.

The Secretary General's report begins with a general orientation to traditional forest related knowledge and then focuses on three areas for using knowledge: direct management of local forests; the process of biodiversity prospecting and shared ideas on forest management. Our paper comments on these findings and places them within the broader framework of the IPF's work.

The Secretary General's report does not outline the distinctions between the needs and desires of different peoples living in the forest, which Agenda 21 and the Forest Principles do recognise. We are first and foremost distinct peoples with a variety of knowledges; not to recognise

this places the whole understanding of our forest-related knowledge in jeopardy.

In the same way that the forest is made up of a variety of species with their different needs which work together within a range of ecosystems, we feel that the needs and desires of different forest peoples - indigenous, peasant farmers, and others, should be outlined and supported in a complementary fashion according to their respective circumstances. In this way forest protection can be strengthened and utilised in a sustainable manner. For this reason, the report below concentrates on our concerns as indigenous peoples, but this is not to say that we ignore the respective rights of others who legitimately have their homes in the forests.

As indigenous peoples, we would like to endorse the importance given in the report to the following elements:

- a) The report places indigenous knowledge in a local context and emphasises that it can only be utilised by outside interests with our free and informed consent;
- b) The report recognises the collective nature of indigenous knowledge and as such strongly supports our demand for recognition as peoples;
- c) The report recognises the importance of our institutions, customary law and indigenous lands and territories in any forest management;
- d) The report is rightly concerned about the application of current intellectual property rights regimes to indigenous peoples' cultural heritage;
- e) The report recommends that national legislation protects indigenous peoples' rights and promotes the adoption of policies which discourage the colonisation of forests and displacement of indigenous peoples from forest areas.

From an indigenous perspective, we would begin a consideration of traditional knowledge by first recognising the distinct indigenous peoples' who are the bearers of such knowledge, cultures and customs. As indigenous peoples, we are also the bearers of rights, and without the recognition of our rights, we cannot survive; our knowledge will disappear and the forests will become spoils for greedy and avaricious economic

interests.

We consider the narrow focus on ‘traditional forest-related knowledge’ by the IPF as validating only those aspects of our cultures, which are considered useful by mainstream society.

*Our values have been filtered through the values of others. What has been considered worthy of protection has usually been on the basis of its scientific, historic, aesthetic or sheer curiosity value. Current laws and policy are still largely shaped by this cultural distortion and fail to extend protection in terms which are defined by our perspective. (Michael Dodson, Aboriginal and Torres Strait Islander Social Justice Commissioner)*

We know from experience, that such as a limited approach results in our exploitation and will also fail to protect our peoples and cultures.

### **The Nature of Indigenous Knowledge**

1. The Secretary General’s report, distinguishes between ‘cosmopolitan’ and ‘traditional’ knowledge, but indigenous knowledge cannot be summed up in one word ‘traditional’. We have ‘knowledges’, diverse systems based on our own scientific principles, built, up through thousands of years of empirical observation and experiment.
2. When our knowledge is discussed by outsiders, it invariably becomes incorporated into an alien classification system which denies our diversity and is then treated derogatively. For example, our sustainable systems of rotational agriculture have worked in harmony with forest for millennia. Yet now, when colonists misuse these sophisticated techniques, we are accused of destroying our own forests through ‘slash and burn agriculture’.
3. Our knowledge is not fossilised into ‘traditions’ which cannot change. To us, ‘traditional’ means knowledge which relates to our own cultural identity and adapts to our self-definition as peoples. While we remain peoples with our territories, political institutions, customary law and distinct cultures, our traditions remain firm. However when our rights are ignored, we lose our traditions.

A critical starting-point for reviewing the Secretary General’s report is

that indigenous knowledge is primarily of interest in its local context and that it is ‘deeply embedded culturally’. The report states that any cultural transmission from indigenous peoples to national societies has to involve the free and informed consent of the former and the openness of the latter. ‘This requires mutual respect and understanding and cannot occur while feelings of inequality persist between the two kinds of society’. This is a constructive starting point for the report.

The Secretary General’s report uses a definition of knowledge which covers five features which we will look at in turn:

1. The first aspect of traditional knowledge concerns ‘information about the various physical, biological and social components of a particular forested landscape’. Whereas we acknowledge this aspect of the definition, we find it limited. The definition limits forest to ‘landscape’ which is both an aesthetic notion and one which recognises the human intervention in the formation of the environment as we know it. However, a really holistic approach to forests should add to the notion of landscape the economic resource implications of ‘lands’, the spiritual features of the ‘earth’ and the all-embracing notion of ‘territory’. The problem is that whereas the so-called ‘cosmopolitan’ approach arbitrarily distinguishes between concepts such as landscape, lands, earth and territory, we see them as completely inter-twined.

Knowledge for indigenous peoples is grounded in particular territories and is thus extremely diverse. The collective relationship to a territory is what binds us together as distinct peoples. Thus knowledge, territory and identity as peoples are inter-related. Knowledge cannot, therefore, be separated from the human and natural environment.

2. The second aspect of traditional knowledge is that it concerns ‘rules for using components of a landscape without damaging them irreparably’. This aspect of the definition of knowledge in the Secretary General’s report looks at how knowledge can provide the guidelines for practical activities which relate forest peoples to their environment. Knowledge, the report correctly observes, is not just about classification; however ‘rules’ is too rigid a notion on its own to understand how our knowledge is used. We indigenous peoples do not learn and develop our understanding of the world through abstract prescriptions but through practical experi-

ence. The rules for use and the information exist, but are the results of a multiplicity of activities and long-term observation which are largely tacit, embodying a multitude of skills and practicalities. Far from being rigid, these are constantly up-dated and changing. All this change takes place within a framework grounded in our indigenous institutions and customary legal systems which expresses continuity within a culturally appropriate framework.

Any reference to knowledge has to refer to the practitioners. Our concern is that we do not want to be categorised in such a way that we are accused of inauthenticity and consequently of no longer being indigenous when we modify our customs and practices to suit changing circumstances. The report comes perilously close to this at certain points. For example, forest peoples are depicted as 'semi-isolated' groups who inherit knowledge which becomes adapted to the environment through the creativity of their members. The impression is of a largely static corpus of information and rules passing down the generations with minor adjustments, constituting the notion of 'traditional'. We are uncomfortable about this approach and the use of the word 'tradition' to relate to our distinct cultures because we easily become portrayed as fossilised survivals from the past. This does not reflect the reality of our lives as living vibrant peoples.

3. The report continues to define knowledge as connected to the 'relationship among the users'. This element in the definition of knowledge acknowledges the importance of communication between people but it is not discussed in detail. The report should pay attention to the need to respect our own indigenous educational principles which are rooted in social activities and practical experience passed from our ancestors to our descendants. This temporal transfer of collective experience is not institutionalised as in national educational methods, but is rooted in our activities, languages and oral heritage.

Complementary to this is the importance of exchange of information with other people - both indigenous and non-indigenous. These relationships are internal and external; furthermore they are not only with humans. The report recognises that much of our knowledge arises from revelations received from the spirit world. However, these should not be considered in the document as a 'new technique'. These are practices which we have been using for thousands of years drawing us into personal and collective relationships with the world of spirituality. They provide

a perfect example of how methods of indigenous knowledge are quite distinct from those of western scientific methodology.

The reference to ‘relationship among users’ is rather vague in the report, but for us indigenous peoples it refers to something more than the source of knowledge. This relationship is about the shared knowledge which binds us together as collectivities. Our shared knowledge is part of our identity as indigenous peoples, constituting our distinct and unique cultures. For this reason, our insistence on being identified as peoples and not as people or communities is essential for understanding our knowledge.

4. The next aspect of the definition of traditional knowledge looks at ‘technologies for using them [components of the landscape] to meet subsistence, health, trade and ritual needs of local people’. The report does not fully grasp the dynamic and processual features of knowledge, based on our creative, innovatory and experimental approach to the world and this is particularly apparent in the discussion of technology. Paragraph 21 recognises that for each place and level of technology, a stable relationship may arise between forest and society. However, at certain moments, changes in technology or trading opportunities risk breaking the stability between forest and society and fragmenting tradition. This can be the case, but it is not inevitable. The impression given in the paragraph, however, is that new non-indigenous techniques will inevitably threaten this stable relationship. Our concern is that this restricts our cultures and traditions to all non-western influences. We reject this.

We indigenous peoples are not isolated and have a long history of communication and trade with other neighbouring peoples, including non-indigenous peoples. Trade and technology need not break tradition, but, if placed under our control, can be transformed into culturally appropriate change. This, in fact, is acknowledged in paragraph 23 of the report. Here, tradition is treated as the process of creatively transforming information and its use to new circumstances (both environmental and social). This must take place within a framework which we accept and recognise as reflecting our cultural identity. If we are not allowed to define what is traditional, outside experts will invade our lives, informing us whether we are ‘authentic’ or not. Trade and new technology can be a threat, but we must decide when this is the case.

5. ‘A view of the world that makes sense of such information, rules, relationships and technologies in the context of a long-term and holistic perspective in decision-making’. This holistic aspect is important and relates to the all-embracing framework of knowledge, both practical and conceptual, constituting distinct world-views. An important aspect of this is the contextual and systemic nature of our approach to the world. We reject the non-indigenous classificatory abstract notions of knowledge used by those who wish to take our knowledge out of context for commodification and exploitation. Knowledge, such as the species recognition, understanding of forest resources or practical use, is based on an understanding of how the different aspects of knowledge interrelate. However when talking of decision-making, we consider that this cannot be separate from the all-embracing notion of indigenous rights - self-determination. This means that we have the right to take control our destiny in all of the aspects mentioned above.

Knowledge is bound with the notion of territoriality; knowledge is practical and flexible and should not be defined rigidly as changeless tradition; knowledge is collective and a shared aspect of our cultural identity as distinct peoples; knowledge and tradition have to be defined by indigenous peoples ourselves; and knowledge in its long-term and holistic world view is an important aspect of our fundamental right to self-determination.

The Secretary General’s report has all these elements buried within it; however, they should be brought to the surface and grasped clearly because they are fundamental to looking at indigenous knowledge and property - the next topic covered in the Secretary General’s report.

### **Indigenous knowledge and property rights**

The conclusions and declarations of the regional meetings between indigenous peoples and the UNDP in Latin America, Asia and the Pacific take indigenous rights as the starting point for looking at indigenous knowledge and property rights. Each of the documents assert that the protection of indigenous peoples’ knowledge is based on the right to self-determination and territoriality; it is collective and pertains to indigenous peoples as peoples. This conclusion is also a principle finding in the UN expert ‘Study on the Protection of the Cultural and Intellectual Property of Indigenous Peoples’, paragraph 4: ‘The protection of cultural and intellectual property is connected fundamentally with the realisation of

the territorial rights and self-determination of indigenous peoples.’ This would have been a useful starting point for the Secretary General’s report, however its approach has been to look at three intellectual property themes: patent laws; plant variety rights; and community intellectual rights acts.

We agree with the Secretary General’s report that patent law should not be applied to indigenous knowledge, but we are concerned to see that, in spite of this, the report accepts its usefulness when inventions based on indigenous knowledge are developed to marketability. The International Alliance joins with the indigenous peoples at the Santa Cruz meeting who say in article 10 ‘Patents and other intellectual property rights to forms of life are unacceptable to indigenous peoples.’ We strongly reject the patenting of life forms and are outraged to learn that applications for patents have been made on our medicinal plants such as *Banisteriopsis*. The revision of plant variety rights could be extended to our knowledge systems, but we strongly oppose the limited notion of Farmers’ Rights held by the FAO. Under the FAO’s system, benefits do not accrue to local farmers and the whole system has been ineffective.

The approved approach in the report is a recognition of knowledge as inherent in a collectivity, rather than the property of individuals and it considers that information cannot be used without the consent of the society involved. Group ownership should therefore be recognised in law and access to indigenous knowledge only take place in agreement between the parties involved. The report then argues that in areas where indigenous peoples are living, claims to territory have to be resolved before any partnerships are formed. The four-stage process for land agreements are claim, recognition, negotiation, and partnership. This approved approach is a positive step and we agree with its aims. However, we would put argument more clearly: There can be no partnership until our rights are recognised: our collective rights as peoples to our territories; our free access and control over our resources; and our prior and informed consent before entering into any partnership.

These prerequisites to partnership are extremely important, but in themselves are not sufficient; the rights of indigenous peoples must be recognised and respected throughout any process of collaboration with states or other economic interests.

### **The Use of Indigenous Knowledge**

The Secretary General’s report focuses on three options where indig-



enous peoples can use their knowledge to help achieve sustainable forest management: direct management of local forests; the process of biodiversity prospecting; and shared ideas on forest management. The report recognises that indigenous rights need to be recognised before notions of use can emerge, because as soon as the use of indigenous knowledge steps outside of the community it becomes transformed. Information is taken out of context, it becomes devoid of its spiritual and cultural significance and in many cases, it becomes prey to the economic interests of others. For this reason, we feel that much caution needs to be taken before embarking on any agreement which is not made between equal parties.

The three options: direct management, biodiversity prospecting and shared ideas are discussed below, alongside broader themes concerning indigenous peoples which cross-cut these options .

### **Direct Management: Participation and Partnership**

The direct management of forests section of the report relates particularly to protected areas. Throughout the world we indigenous peoples find our territories being declared protected areas unilaterally. We consider this to be a form of expropriation because inevitably decisions over these areas are made without our full participation and frequently this involves curtailment of our customary economic practices and, even worse, forcible relocation from our ancestral territories. The creation of protected areas without our consent can be as threatening as large scale development activities such as dams, mines or oil prospecting.

The empowerment and strengthening of local institutions is a fundamental prerequisite for partnership and participation (A21: 26.3.a.), but too often, these terms are used as means to draw indigenous peoples into external initiatives which are aimed at extracting our resources. The relationship is not equal and we, the weaker party, end up losing everything. The Secretary General's report proves the relevance of this fear. It refers to direct management of forests as starting with 'the agreement of an ownership partnership for the landscape concerned'. This is not in the spirit of the discussion made hitherto. The starting point must be a recognition of an indigenous people's territory. Not to recognise this is effectively the extinguishment of our territorial rights. Once our territories are recognised, we can then look at the complementary roles of government and local people. The report mixes up local peoples with no indigenous

claim of territorial ownership with us indigenous peoples with our distinct sets of rights recognised within the UN system.

In spite of the concerns in the report that too much local control can be a risk, in our experience this is when states and national or multi-national economic interests push themselves into our territories and cajole, bribe or force us to part with our resources. What we need is support from the national and international community for the protection of our rights to our territories as the first stage in a genuine partnership.

The report moves from 'ownership partnership' to a second stage of management called 'planning partnership'. Here, stakeholders collaborate to understand the landscape, using both traditional and global approaches to the discovery and use of knowledge. We are pleased to collaborate with researchers with whom we have agreed to work; however this does not mean that we have become 'stakeholders' on our territories. Once again this is downgrading our rights, by having to share our land rights with others. Throughout history, sharing rights has been the first step in the colonisation of our peoples; stakeholding risks continuing this process in a new form.

The third partnership, 'management partnership', consists of the practical use of an area and takes the form of zoning. Dividing territories into different areas of use is something which we indigenous peoples have been doing for centuries. However, rather than operate in terms of large-scale zoning techniques, we organise our territories in a multitude of different ways reflecting the nature of the lands and resources. The three zoning options mentioned in paragraph 45 (converted forest, harvested forest and protected forest) are rather simplistic compared to the more sophisticated indigenous patterns of resource management encountered throughout the world. In an indigenous context it is counter-productive to impose externally designed patterns of zoning. Indigenous management and organisational practices must be used as the basis for any management partnerships.

This part of the report is rather disappointing. In order to gain a sound indigenous basis for forest management we need our territorial rights recognised, planning should reflect our needs and concerns as the main 'rightsholders' while zoning should be based on our experience. We agree that we do not know everything, but we are also perfectly capable of working closely with experts in many fields on our own terms rather than on principles which are unsought and imposed from outside. We want a

form of partnership and participation which is based on the principles of control over our own resources and which acknowledge that no activity takes place on our territories without our free and informed consent. On this basis, with our rights recognised both nationally and internationally, direct management of territories can continue in the face of the countless threats which we face.

### **Biodiversity prospecting: commodification of knowledge**

The report recognises that our indigenous knowledge can help biodiversity prospectors create new goods and services that might be patented and sold. While it argues that this is disturbing to those people with the knowledge, it also says that ‘the idea is not strange to many’. These ‘many’ are those who seek to exploit and profit from our knowledge.

The International Alliance agrees with the statement made at the Pacific indigenous peoples/ UNDP consultation which calls for a ‘moratorium on bio-prospecting in the Pacific and urges indigenous peoples not to co-operate in bio-prospecting activities until appropriate mechanisms are in place.’ As the statement says ‘We indigenous peoples are willing to share our knowledge with humanity provided we determine when, where and how it is used. At present the international system does not recognise or respect our past, present and potential contribution.’

We are not interested in the commercial significance for multinational companies but in the welfare of humanity. We have the right to determine how we should deal with companies and the report correctly states that our consent is a prerequisite for any access or commercial contract. This consent can only be forthcoming if our rights are fully recognised. The forest resources are a community resource and we are the peoples who can provide access to the resources on our territories. No single individual has the right to grant anyone access, it has to be done collectively because of our inalienable rights to our ancestral territories. For this reason, our collective rights to our territories as peoples have to be acknowledged before we can even begin to discuss access and commercial arrangements. Nevertheless, we are opposed to fair trading.

We would like to refer to three areas concerning the commercial use of our resources.

#### a) Trade

This relates to Programme Element IV of IPF. We are not opposed to trading. Markets have been the mainstay of our economic survival for centuries and our trading systems have provided our economies with a basis of sustainability. We want to retain a diversity of markets and not become dependent on one monolithic set of market forces. Our goal is a fair trading system which recognises our rights to resources and products - in particular sustainable harvested non-wood products. In our statement to IPF1 in September, 1995, we said: 'the question of trade is particularly sensitive for indigenous peoples who find ourselves deprived of our livelihoods and without the means to survive in the future. We do not want to see our resources stolen by outsiders in order to improve profits. Any trading of our resources must take place under our own control. This principle must be the basis for discussions on the relationship between trade and the environment.'

Benefit-sharing is clearly a desirable goal, but this should not operate under the assumption that profit distribution to indigenous peoples is a return for automatic access to our resources. Furthermore, we object strongly to attempts by countries and governments to convert benefit-sharing, which is ours by right, with development aid, which we solicit. The sharing of benefits has to be negotiated fully, fairly and transparently. We are tired of multinationals entering our territories with the connivance of governments, eager to sell off our resources and share the spoils between them. We are not prepared to pick up a few crumbs of profit to justify this despoliation and plundering of our territories.

Any form of trade, whether bio-prospecting or the trade of non-wood products, can easily draw indigenous peoples into a situation of dependency. Clearly in many parts of the world we need access to the market economy, but this must take place on our terms, or else we will speedily become integrated into a system which we cannot control. Our resources, our sole sustenance will disappear rapidly.

Instead, we consider that prior to thinking of contracts with bio-prospecting companies or multinational companies, the following economic strategy is appropriate:

- i) Concentrate on strengthening and empowering indigenous economies so that, regardless of the fluctuations of the markets with which we trade, we can enter trading relationships from positions of self-sufficiency, not poverty and dependency.

ii) That trading starts from our own local and national economies so that the benefits arising from the trade go to strengthening our position within our immediate social and ecological environment and not extracting our resources for the profits of outsiders.

#### b) Control of Companies

The converse side of trading is the relationship between those who buy our resources and sell them. In order to ensure fair trading, companies should be controlled. The Alliance is not convinced that the development contracts have yet been proven successful. Even though the Alliance appreciates that some small companies have striven to ameliorate the harm caused by exploitative trading patterns, the cases mentioned in the report do not really solve the problem of how profits should be shared among indigenous peoples nor to whom the knowledge belongs. Although there are innovative approaches to benefit-sharing by small companies, these are distorted through trusteeship arrangements which do not correspond to indigenous peoples' demands for direct ownership and control of our knowledge and its uses.

Criteria and indicators of sustainable forestry (Programme Element III.2 of IPF) and processes of certification (Programme Element IV of IPF) should ensure that companies respect the environment and deal openly and fairly with us. However, unless these measures are particularly stringent, their effect will be worse than useless. As we said in our letter to the IPF on 8 September 1995: 'The discussion on scientific assessment of forests, criteria and indicators for sustainable forestry and the complementary process of certification should not become simply a discussion on maximising logging within certain limits. All definitions of 'sustainability' must include a recognition of the capacity and requirements of local peoples to survive in a sustainable manner. This means that criteria, indicators and certification must include the social and material well-being of local indigenous peoples.'

We are very concerned that certification and the use of criteria and indicators can be misused to promote the extraction of our resources. We therefore insist that we can only accept them if our indigenous rights are clearly accepted as criteria and indicators of sustainability and that certification is based on recognition of our rights and welfare.

The problem of bio-prospecting and trade has not been solved in the

report. We feel that more research is necessary to draw up guidelines between open fair trade, based on consent and sustainable economies, and exploitative prospecting, which is designed to build up profits at our expense, threaten us with dependency on unpredictable markets and further loss of our resources.

Finally we would like to make a plea that the international community does something to stop the uncontrolled entry of multinational corporations into our communities - mining, logging and oil exploration are serious environmental and social problems. Indeed, at the moment these are causing more harm than bio-prospecting. They constitute one of the greatest threats to indigenous knowledge because they stand to destroy the forests in which we live and consequently threaten our very existence.

### c) Intellectual Property Rights and the GATT

We are extremely concerned that the Trade-Related Aspects of Intellectual Property Rights (TRIPs) section of the GATT Treaty is going to open up our resources to yet more despoliation. We are threatened by the world trade system because it facilitates companies and prospectors to expropriate our knowledge and resources while opening up the possibility of patenting life forms.

While we are aware that Article 27 ('Patentable Subject Matter') allows for an 'effective sui generis system' for plant variety protection, this refers to the right of states to define their own system of protection. Whereas in the best cases this might allow for community-based systems of resource protection for indigenous peoples, this requires the good will of our governments, most of whom are reluctant to recognise even our basic rights. Relating to this question, the Alliance endorses the conclusion of the Pacific Regional meeting which urges 'those Pacific governments who have not signed the General Agreement on Tariffs and Trade (GATT) to refuse to do so, and encourage those governments who have already signed to protest against any provisions which facilitate the expropriation of indigenous peoples' knowledge and resources and the patenting of life forms'.

We consider that we already have indigenous sui generis systems within our own customary law and indigenous legal systems. We urge strongly that our own indigenous forms of property protection are recognised and respected: this is essentially the basis on which our control

over our knowledge can be maintained and our consent can be obtained for its use.

### **Sharing Good Ideas**

This option for the use of indigenous knowledge refers to information which while ‘of negligible commercial significance, is likely to be of widespread benefit if shared’. We agree with the Secretary General’s report that indigenous knowledge can be useful if shared with concerned groups and institutions and that we should be acknowledged for our contribution to any collaborative initiatives. Furthermore, we also agree that much of our localised knowledge ‘cannot be committed to a computer database without losing many of the understandings implicit in the narrative material’. The report also refers correctly to recognising that we indigenous peoples share our own knowledge among ourselves and exchange information. This aspect of the report provides a positive start for discussing non-commercial knowledge. Although the report refers to ‘sharing’, however, the examples are primarily the use which ‘cosmopolitan’ science can make of our knowledge. Our concern is that the sharing is not between equal parties. Too often, we find ourselves in the invidious position that we are either treated as ignorant and unable to understand our environment, or else our knowledge is recognised and coveted. Only rarely do we receive the respect due to our information and are able to enter into genuinely collaborative arrangements with non-indigenous researchers. Any form of computerisation of our knowledge must be recognised as pertaining to our cultural heritage and means must be set aside so that information referring to us is held in our territories.

For example, several indigenous peoples of the Amazon have agreed in their Assemblies that all researchers in their territories have to receive the prior informed consent of any community they work in and the written consent of the local indigenous organisation. Copies of data have to be deposited in the organisation’s archive and all work has to be completely transparent. Whereas monitoring this in practice is difficult, it is important that researchers are responsible enough to treat these requests seriously.

Our concern is even greater when researchers carry out assessments and evaluations of our resources (Programme Element III.1). Whereas we have been told that it is in our interests to see the value of our territories,

we cannot see how our resources can be assessed and evaluated out of context by outside interests. The valuation of our resources is regularly referred to by the IPF, but our own values are not based on money and costs, but a priceless combination of all the facets of forests discussed earlier in this paper: economic, political, cultural, social and spiritual. The subsequent misrepresentation of our knowledge arising from external assessments and other research presents a problem because we are rarely in a position to answer back and defend our integrity.

The principles behind indigenous sharing of knowledge should reflect the UNESCO Declaration of the Principles of International Cultural Co-operation (1966) where the free exchange of cultural knowledge is linked to 'respect' and 'reciprocity' among cultures. Furthermore, our right to privacy should be protected as in Article 17 of the International Covenant on Civil and Political Rights; in Article 19 of the same Covenant we also expect protection from representation of indigenous peoples which is injurious to our 'rights or reputations'. This means transparency and accuracy in sharing our knowledge.

We feel that the Secretary General's paper could have addressed these concerns. However, the difficulty lies less in the report than in the emphasis which the IPF gives to indigenous knowledge as a whole. We feel that the primary interest of governments and international institutions is in what information, insights and knowledge they can get out of us; yet when we ask for what we desperately need - recognition of our rights as indigenous peoples - we almost inevitably encounter a lack of interest, or even open hostility. Recognition of our basic rights is a part of this whole process; without our rights clearly respected, there will be no forests, no indigenous peoples and nothing for 'cosmopolitan' science nor broader humanity to learn.

### **Obstacles to further progress**

The Secretary General's report is at its most constructive when it identifies the lack of recognition of indigenous rights as the major obstacle to progress. Indeed we would say that it is the obstacle to progress. The International Alliance strongly endorses the report when it says 'this major problem can be avoided if governments were to adopt effective policies that discourage colonisation of forest frontiers or displacement of people from forest areas'.



On specific obstacles - the need for mediators, ombudsmen and technical assistance - the report's emphasis is almost entirely on non-indigenous peoples moving in to sort out the problems. We consider that any form of arbitration or negotiation has to take place between equal parties where governments and indigenous peoples can learn to approach each other from a position of mutual respect.

### **Outcomes of the IPF Process**

Chapter 26 of Agenda 21 has several suggestions which could be utilised as proposals for implementing the Forest Principles in relation to indigenous peoples.

#### **a) Legal Instruments**

There has been some discussion as to whether the IPF process should consider the advantages of a Forest Convention, a Protocol to the Convention on Biological Diversity on Forests or an up-date of the Forest Principles. In our opinion the CBD, Agenda 21 and the Forest Principles do not sufficiently reflect the needs and desires of indigenous peoples. We would not be opposed to a reformulation of these instruments to secure the recognition of our rights and the those of other forest dwellers in an open and fully participatory way. We also insist that the IPF recognises and supports the draft UN Declaration of the Rights of Indigenous Peoples, emphasising its respect for us as peoples, with our own territories and political institutions and with the right to self-determination.

We also think that in any discussions of national forest and land use plans, our rights and concerns as indigenous peoples must be fully represented and reflected, including programmes for the demarcation of indigenous lands. Agenda 21 requires that governments 'develop national processes of consultation with indigenous peoples' (A21: 26.6a) and also 'incorporate...the rights and responsibilities of indigenous people and their communities in the legislation of each country' (A21: 26.8). In this way, our rights have to be recognised at both national and international levels.

#### **b) International Co-operation and Agency Co-ordination**

Indigenous peoples' concerns are currently being looked at in detail by the Commission on Human Rights, the Commission on Sustainable De-

velopment and the Convention on Biological Diversity. The temptation in the UN is to let these three separate bodies deal with indigenous rights; indigenous sustainable development; and access, use and benefit-sharing of biodiversity, respectively. To some extent such broad emphases of work are sensible; however, there also needs to be harmonisation. As we have seen here, rights based on consent and control cannot be divorced from either the work of the IPF/CSD or the CBD.

We would suggest that each UN body provides the starting point for open negotiations with indigenous peoples in the transparent manner that the UN Working Group on Indigenous Populations has done in over the last decade.

The rights initiatives from the Commission on Human Rights should flow through the other bodies of the UN. Similarly conclusions on sustainable development and insights into Agenda 21 can flow to the CBD and human rights bodies. The CBD can look at questions of access, use and benefit-sharing; however these should not be exclusive but mutually enriching discussions. The effect would be a holistic approach to indigenous concerns which reflects our own experiences and practices.

Chapter 26 of Agenda 21 proposes to 'appoint a special focal point within each international organisation' for indigenous peoples (A21:26.5a). An indigenous office in these institutions would be extremely useful in bringing together forest questions with those of indigenous peoples. However, of even more importance is the proposal currently under discussion in the UN for the formation of a Permanent Forum on Indigenous Peoples which will deal not only with human rights questions, but also with development and environment questions. This would have the capacity of drawing together the different strands of the UN's work with indigenous peoples and provide a forum where indigenous representatives can come and present their opinions and perspectives on forest questions.

### c) Technical assistance

Agenda 21 also agrees to 'provide technical and financial assistance for capacity-building for self-development' of indigenous peoples (A21:26.5b). Indigenous women are given a particular emphasis in Chapter 26. We recognise this need for technical assistance and capacity-building and endorse the request. However we wish to emphasise that the support which we require should be based our needs as we define them,

rather than imposed upon us according to the interests of non-indigenous peoples.

Once we indigenous peoples have rights to our territories respected, our capacity to conserve and protect our resources will be improved. At this point we will be eager to collaborate with technical expertise to make use of complementary forms of environmental management and ensure a coherence between our own needs and those of the forests.

#### d) Financial mechanisms

Currently the Global Environmental Facility (GEF) seems to be the main candidate for implementing the financial aspects of the CBD and we would like to express the same concerns to the IPF as we have to the CBD. As it stands the GEF is dominated by the World Bank, which, since the 1970s has been carrying out projects directly inimical to the needs and desires of indigenous peoples. Furthermore the GEF can only fund 'the incremental costs of global benefits' (above national benefits). It is thus unsuitable for funding projects with indigenous peoples whose interests are, surely local and national. To insist on the GEF's approach could be highly problematic for indigenous peoples who are striving for a constructive and beneficial relationship with governments, not an abrogation of responsibility. Currently indigenous peoples are involved in dialogue with the GEF over the potential for reform; however, unless some progress is made in this area, other financial mechanisms will have to be considered. Any future financial mechanism has to be accountable, transparent and without conditions on incremental costs.

### **Conclusions and Recommendations**

1. We consider that our participation as indigenous peoples in the process of preparing Agenda 21 and the Forest Principles has been totally deficient. The result is that both documents give us cause for concern as they do not consider us as peoples with territories who should be subjects of our own development. The CSD has similarly provided us with only a minimal representation and the IPF even less. This unsatisfactory situation eaves us without voice and ignored.

We therefore call for full support for an IPF intersessional meeting which will give fuller consideration of indigenous and other forest peoples concerns. We warmly welcome the initiative of the Colombian and Danish governments to sponsor such a meeting.

2. Any discussion on indigenous peoples and forests has to address the totality of our rights: our identity as peoples, our territoriality, our cultural heritage, our customary law and our political institutions which are framed by our fundamental right to self-determination. The document which best reflects our rights is the draft UN Declaration on the Rights of Indigenous Peoples.

3. Indigenous peoples' knowledge about forests is bound up with our whole lives, our world views and our identity as indigenous peoples acting and reflecting on our territories. We welcome the constructive aspects of the

Secretary General's report and concur with many of its findings. However, we must assert that knowledge is a living thing, which changes and adapts to our own circumstances. It is embedded in practical activities and cannot be incorporated into universal notions such as 'traditional'. Tradition arises from our distinct identities and cannot be defined by outsiders.

4. Indigenous knowledge is a part of our culture and heritage. We therefore consider that the UN study on this subject (E/CN.4/Sub.2/1994/31) and its final principles and guidelines (E/CN.4/Sub.2/1995/26) provide a basis for a constructive approach to this subject.

5. Partnership and participation can only take place between equals and in conditions where our fundamental rights remain intact. We are right-holders, not stakeholders. No activity should take place on our territories without our free and informed consent; we insist that we have the right to control our own resources.

6. Our consent is a prerequisite for any access agreement or commercial contract. Whereas we support benefit-sharing, this must be based on principles of fair-trade, with a priority focused on empowering our diverse local economies and markets.

7. Criteria and indicators for sustainable development or certification too easily become a means for accepting the exploitation of our resources. We insist that these should ensure indigenous peoples' rights and welfare.

8. The threat of GATT/TRIPs to our cultural heritage and forest related knowledge is serious. Even the possibility of sui generis approaches to intellectual property rights under Article 27 of GATT/TRIPs could end up reflecting state priorities and not provide the protections which we need.

9. In the work of the IPF, too much emphasis is given to what governments and international institutions can get out of us. All knowledge which is shared must be based on principles of reciprocity, consent, transparency, accuracy, respect and sensitivity.

Without recognition of our territorial rights, our own indigenous sovereign institutions and customary legal systems, sustainable forest management will be impossible, the process of colonisation will continue, and states and multinational corporations will have free access to take our resources without our consent. The result will be increased deforestation and our disappearance as peoples. The recognition of our rights is a prerequisite for any solution to this problem. In this way a notion of true pluri-culturality can emerge within a framework of co-existing sovereignties.

This has to be the starting point for constructive agreements between indigenous peoples and governments in dealing with forests. States must recognise indigenous peoples' political institutions so that we have the means to express our approval and prior informed consent before any extraneous activities take place on our lands and territories.

### **We conclude with the following recommendations:**

1. The IPF should acknowledge the importance of indigenous rights as being inherently related to the forest issue. IPF3 is urged to give its full support for an Intersessional meeting on the theme of Indigenous Peoples, Forest Communities and Forests which will consider in greater detail our contributions to the CSD/IPF and other international processes dealing with forests. The results of this meeting should be taken into consideration by IPF4 and its final report to the CSD.

2. The draft UN Declaration on the Rights of Indigenous Peoples should provide a framework for IPF's and CSD's deliberations on Forests and Indigenous Peoples.

Agenda 21 and the Forest Principles should be reinterpreted to harmo-

nise with this document with particular emphasis on the use of the term 'peoples' in its documentation.

3. The different UN bodies dealing with indigenous questions (Commission on Human Rights, Commission on Sustainable Development and the Convention on Biological Diversity) should not work exclusively on different topics but continue to engage in dialogue to enhance mutually enriching discussions.

The IPF and CSD should strongly support the initiative to create a UN Permanent Forum for Indigenous Peoples during the UN Decade for indigenous peoples (1995-2004) which will draw together human rights, environment and development questions.

4. A particular area for investigation would be the possibility of establishing a series of expert meetings under the CSD on the nature of sustainable forest development and indigenous and local territorial management. These could also look in detail at notions of partnership, agreements and legal frameworks for cultural heritage protection.

5. The UN Special Rapporteur's Study on the Cultural Heritage of indigenous peoples should provide a basis for IPF's recommendations on indigenous peoples' forest-related knowledge. IPF3 should support the principles and guidelines of the UN Report covering definitions, transmission of heritage, recovery and restitution of heritage, national programmes and legislation, researchers and scholarly institutions, business and industry, artists, writers and performers, public information and education and international organisations.

6. Any sui generis systems of intellectual property rights must be based on our customary law and indigenous legal systems.

7. All criteria and indicators on sustainable development and certification principles must ensure the social and material well-being of indigenous peoples.

8. Indigenous peoples need support and technical assistance and for our capacity-building efforts and for self-representation and effective partici-

pation in international and other fora discussing our rights.

Likewise any international co-operation and technical assistance for national land use and national forestry plans must ensure adequate indigenous peoples participation and recognition of our rights.

9. Any future financial mechanism on forests must be accountable, transparent and without conditions such as incremental costs.

### **Statement of Indigenous Representatives on IPF3 Programme Element I: Progress through National Forest and Land Use Plans, September 1996, Geneva**

Good Afternoon Distinguished Delegates;

We are here today to offer our perspective on the concept of 'National Forest Plans' (NFP) which is proposed in the Secretary General's Report on Category I, Programme Element I.

Firstly, we suggest that it is unlikely that the conservation, management and sustainable development of forests can occur without the co-operation and participation of Indigenous and forest dependent peoples.

A 'forest plan', whether national, regional or local, must take into account the social economic and cultural needs of people, including Indigenous and other Forest Dependent People.

There are numerous examples around the World where 'national forests' have long been fragmented, or in some cases eliminated because of human over-exploitation.

Today, modern industrial forestry allows accelerated exploitation of the forests often to the detriment of Indigenous and Forest Dependent People. In many cases, States have developed laws and policies which place timber as the dominant forest value over the needs of Indigenous and forest dependent people. The results often are dislocation, and social and economic deprivation. of the local inhabitants of the forests.

When Indigenous and forest dependent people press for changes to forestry practices and policies the forestry industry and governments often only offer to include them in the exploitative activities. instead of changing the forestry practices to provide for ecosystem landscape planning.

Often States have little or no baseline information on the social, cultural and economic needs of Indigenous and forest dependent people to

include in forest planning. Even now, the various processes underway to develop criteria and indicators have to date had little involvement of Indigenous people.

We suggest that 'national land-use plans' should start from the ground up. Local involvement of Indigenous and forest dependent people in forest planning will lead to better collection and enhancement of information of the social, cultural and economic indicators and criteria of Indigenous and forest dependent people.

Today, more than ever, there must be co-ordinated and co-operative approaches between States and Indigenous and forest dependent people, the technological developments surrounding forest exploitation are allowing deforestation to occur in ever increasing patterns in certain countries.

## Chapter 4: The Convention on Biological Diversity

Global concern for the elimination of wild species and crop varieties and the emergence of new biotechnology industries interested in the commercial exploitation of genetic resources were the twin spurs to the emergence of an international instrument on so-called 'biodiversity'. Intergovernmental negotiations crafting this convention commenced in the late 1980s but the process was considerably accelerated with the approach of the Earth Summit as politicians' minds became more focused on environmental concerns.

The Convention was finalised at the Rio summit itself and opened for signatures by Governments and for subsequent ratification. To date well over a hundred countries have ratified, not including the United States of America, and the terms of the convention have now entered into force.

The Convention, which sets out the obligations of States to protect and sustainably utilise their biological diversity, makes explicitly clear that States have full sovereignty over such resources. It encourages



the evolution of national policies, plans and legal regimes designed to protect a country's genetic heritage as well as for the exploitation of biotechnologies.

Implementation of the Convention is overseen by a Conference of Parties to the Convention, which is advised by a scientific and technical committee (SBSTTA). A Convention secretariat, recently established in Montreal, Canada, is set up to service the Conference and advise the Parties on national implementation.

A number of aspects of the Convention have generated considerable controversy and are the subject of continuing discussions and negotiations. Most obvious has been debate about the costs of implementation. Developing countries negotiating the Convention have been very anxious that these costs might be too burdensome and have insisted that developed countries provide funds to help them apply the Convention's terms. A strict reading of the Convention (Article 20) implies that developing countries do not have to implement any new actions under the Convention unless developing countries provide funds for the additional ('incremental') costs. For their part, developed countries have been anxious that ratification of the Convention should not imply that they are thereby obliged to shoulder all the costs of conservation, protection and regulation.

The Convention envisages the establishment of a global fund to pay for the Convention's implementation, subject to the control of the Conference of Parties. Developed countries, however, have resisted the establishment of a special fund and instead insisted that the Global Environment Facility (GEF), set up by the World Bank, UNDP and UNEP in 1990, should be used to pay for the Convention. The GEF has thus been accepted as the 'interim' vehicle of funding the Convention, but pressure has been exerted by developing countries to make the GEF more accountable to the Conference of Parties. There remains much dissatisfaction both with this arrangement and the amount of funds being made available.

One problem is that, according to its terms of incorporation, the GEF will only fund the costs of global, not the national, benefits of biodiversity conservation even though the technocrats running the GEF admit there is no way these two kinds of benefits can be effectively distinguished.

A second controversial area concerns the increasing interest of private companies wanting to commercialise biological diversity. Many environmentalists are concerned that unregulated manipulation of genetic

resources may be unethical and even dangerous. Accordingly there has been strong pressure to elaborate a Protocol on Biosafety under the terms of the Convention.

A third controversy focuses on who is to benefit from new discoveries and inventions, especially those deriving from traditional knowledge or long evolved crops. The Convention emphasises that States should control benefit sharing arrangements and advocates provisions to ensure that 'indigenous and local communities' share in any benefits that derive from their traditional knowledge.

It is this area which has most concerned indigenous organisations to date. How can we ensure that the products of our millennial knowledge of our environments are not expropriated by commercial companies without our consent? Regulation of national and transnational companies is certainly needed but how can we ensure that government officials won't collude with the private sector in our further dispossession, just as has already happened with our lands, timber resources, minerals and waters? What obligations do States have to ensure that our rights to 'own' and control our traditional knowledge are respected? Discussions on these issues are only just beginning and neither States nor indigenous peoples have yet come up with adequate answers to these questions.

## **The Biodiversity Convention - the Concerns of Indigenous Peoples**

*Submission of the International Alliance to the CBD Secretariat, May 1996*

### **Executive Summary**

This paper has been prepared by the International Alliance of the Indigenous Peoples of the Tropical Rainforest, which represents indigenous organisations in Latin America, Africa, Asia and the Pacific, in response to a request from the Secretariat of the Convention on Biological Diversity for information on indigenous and local communities, with particular reference to Article 8j. The Alliance brings together indigenous organisations from 31 tropical forest countries.

Indigenous peoples have the greatest cultural diversity in the world and live in the areas of highest biological diversity. We have nurtured spe-

cies variation for thousands of years and share the aims of the Convention - the conservation, sustainable use and benefit sharing of biodiversity. Indigenous knowledge and our protection of biodiversity is based on our territories being inalienable, collectively owned and relating holistically to all aspects of our material and spiritual life.

The enhancement of biodiversity will best take place through respecting indigenous peoples' fundamental rights to self-determination, collective rights, control of our territories, access to our resources, recognition of our political and legal institutions and control of our traditional knowledge. These are set out in the draft Declaration on Indigenous Rights of Indigenous Peoples, passed by the UN Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. This document should be a bench mark for the Convention of Parties of the Convention on Biodiversity.

The International Alliance is concerned that unless interpreted positively, the Convention could be very threatening for indigenous peoples and biodiversity. It was negotiated in haste, with minimal participation. Our fear is that the Convention limits the term 'indigenous' to cover local settlements living in isolated conditions; it increases the power of states to control our lands and resources; it promotes further developments of protected areas without any consent from the peoples affected; it promotes and facilitates agreements between states and bio-prospecting companies to gain access to the genetic resources on our territories; and, finally, it opens up the possibility for financial mechanisms to carry out a limited number of top-down projects to support biodiversity in unacceptable conditions.

For the Convention to be useful, state sovereignty must not override indigenous rights; indigenous communities must be recognised as 'peoples' whose traditions can change and develop; we must have full recognition of our rights in protected areas; all access and benefits stemming from resources on indigenous territories must take place with our free and informed consent; and we insist that financial mechanisms do not operate under the restrictions of the GEF.

Some positive elements in the Convention appear in 8j: our collective rights are recognised through the term 'community' and our consent is acknowledged as significant in the term 'approval'. We also welcome Article 14 which advocates environmental assessments on development projects in sensitive areas with public participation. The Alliance concludes that the Biodiversity Convention can only be meaningfully implemented with the full recognition of indigenous peoples' rights. No

access to indigenous knowledge, innovation or practices should take place, without the prior and informed consent of the peoples concerned. This should be a condition for benefit-sharing. Any funding mechanisms involving incremental costs should be avoided.

The Alliance recommends that the COP establishes a process for indigenous peoples to express their views on biodiversity within the Convention. A Working Group under the COP would enable indigenous peoples to report on the state of biodiversity on their territories and discuss the implementation of the Convention.

The COP should collaborate with the UN Human Rights bodies and recommend that the UN Working Group on Indigenous Populations discusses the question of intellectual property, biodiversity and indigenous rights at one of its annual meetings during the UN Decade for the World's Indigenous Peoples. An expert seminar on the same subject should also be organised under the auspices of the UN Human Rights Centre. Furthermore, the COP should support the initiative for the establishment of a Permanent Forum for indigenous Peoples in the United Nations which can provide the mechanism for the co-ordination and monitoring of environmental, developmental and other areas of concern.

### **Indigenous Peoples and Biodiversity**

About 50 million of the 300 million global population of indigenous people live in tropical rainforests; furthermore, a majority of the estimated 5,000 peoples in the world live in tropical forest areas. The International Alliance thus provides global representation for the most culturally diverse indigenous peoples from areas of the highest biodiversity - the tropical rainforests of Amazonia, Africa, Southeast Asia and Melanesia.

Whereas we, indigenous peoples, comprise less than four percent of the population of the world, we also constitute ninety-five percent of the cultural diversity, and over fifty percent of the population in areas of high biodiversity. The Convention on Biological Diversity is therefore of im-

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mense interest and concern to us, as indigenous peoples of the tropical rainforest, and we should receive due attention and respect in its provisions as guardians of biodiversity.

The fact that indigenous peoples have nurtured species variation for thousands of years, has made possible the current breadth of biodiversity. Indigenous knowledge, expertise and understanding of rainforest biodiversity has been amply documented and demonstrated to be based on sustainable principles. Throughout forest regions, indigenous peoples carry out agricultural practices which rely extensively on promoting biodiversity. The existing relationship between indigenous peoples and the environment enhances biodiversity according to practices which have been carried out for thousands of years and which are encoded in our customary laws. The purpose of the Convention is to protect biodiversity and so indigenous peoples' local practices and knowledge are extremely important to take into consideration.

Indigenous forest cultivation consists of the knowledge and sustainable use of vast numbers of different species - domesticated, semi-domesticated and wild. Indeed, so innovative have indigenous peoples been in developing and encouraging species diversity, whether under agricultural cultivation or not, that the distinction 'domesticated' and 'wild' is somewhat meaningless. Indigenous peoples make full use of forest resources and have a vast experience in the sustainable use of timber and non-timber species. The harvesting of forest resources provides fruits for food and drink, medicines, shelter, pesticides and clothing. The range of forest management covers agricultural gardens, previously cultivated areas and forest which has been out of cultivation for longer periods. The knowledge and skill in managing these different types of forest, as well as operating in a spectrum of ecological zones, demonstrate the enormous flexibility of indigenous peoples' biodiversity management skills. Our knowledge of the forest is well-known and documentary evidence abounds to show the sensitivity and care with which we relate to our environment.

Indigenous knowledge and use of biodiversity is based on critical principles which have to be understood to ensure its protection.

1. In the first place, indigenous peoples live in territories. This means that a people and its communities are responsible for the control and

use of the total environment: soil, sub-soil, trees and plants, animals and birds. All the resources of an area are included in this generic sense of territory - including land, shores, lakes, rivers, islands and sea areas.

2. Indigenous territories are considered to be inalienable. This means that they are owned by a people as a whole and are passed from ancestors to descendants as a part of its heritage. Neither indigenous nor non-indigenous people have the right to sell or dispose of indigenous territories.

3. Indigenous territories are collectively owned and the resources can be utilised or sold by agreed consent. Individual households work specific areas for their needs, within the framework of the territory as a whole.



4. Territories are part of a holistic vision of the universe which includes political control over resource use; spiritual reverence for the invisible religious aspects of forest life; and a perception of the forest as a landscape fashioned by a history of indigenous activity.

The effect is that we see a connection between territory, culture and our identity as indigenous peoples; our rights to use resources are based on customary legal systems operating within commons regimes. Generations of experience means that indigenous ownership and control leads to a defined territorial management, organised by our own political institutions. Under these conditions, we are self-determining and our freedom and dignity protect biodiversity.

Unfortunately, this mutually beneficial relationship between indigenous peoples and forest biodiversity is threatened by the strains which we find in areas which are invaded by colonists and outsiders, eager to seek their fortunes and displace us, the prior inhabitants. Indigenous peoples are thus colonised peoples. The open access which states have given to colonists to enter our territories limits the resources available for subsistence, and the danger is that biodiversity is being destroyed.

The International Alliance considers that the only way to ensure our survival and to protect biodiversity is to respect our rights. The relationship between indigenous peoples and biodiversity is encoded in customary law and this has to be respected. Furthermore, United Nations initiatives such as the UN Decade for the World's Indigenous Peoples and the draft Declaration on the Rights of Indigenous Peoples demonstrate that our rights and aspirations are already beginning to be recognised. Our principal claims as indigenous peoples are:

1. Rights to the collective ownership of our territories;
2. Right to self-determination;
3. Right to the exercise of customary law according to our social and cultural practices;
4. Right to be represented, both legally and politically, through our own institutions;
5. Right to control our own indigenous knowledge.

These rights have been addressed by the following international instruments:



The International Labour Organisation's Convention 107;  
The International Labour Organisation's Convention 169;  
The Draft Declaration of the Rights of Indigenous Peoples (ECOSOC)  
The Draft Declaration of the Rights of the Indigenous Peoples of the Americas (OAS);  
The World Bank's Policy on Indigenous peoples (OD 4.20); The World Bank's Forest Policy (OD 4.36);  
The ITTO Guidelines for Sustainable Forest Management; Agenda 21 - Chapter 26;  
Article 5 of the UNCED 'Forest Principles';  
IUCN Guidelines for the Management of Tropical Forests (1989);  
WWF-International's Draft Policy on Indigenous Peoples and Conservation.

In addition, the International Alliance has produced its own Charter of Rights which provides the basis for all the discussions in this paper. A copy is enclosed as Appendix A.

### **The Convention on Biological Diversity**

The Biodiversity Convention was finally negotiated in haste at the Rio Earth Summit in 1992, and since then has been ratified by 135 countries. The Convention breaks new ground in international agreements by recognising the value of biodiversity at genetic, species and ecosystem levels. It attempts to link natural resources and human activities by connecting conservation, sustainable use and the sharing of benefits arising from the exploitation of biodiversity. These aims are shared by indigenous peoples. The fear of the loss of biodiversity led to the approval of the Biodiversity Convention by states, however, if it is not interpreted with care, it risks adversely affecting the very indigenous peoples who have done so much to preserve biodiversity through history.

The Biodiversity Convention should enhance the pre-existing relationship between indigenous peoples and biodiversity, however, and unless indigenous peoples are placed at the centre of protecting and managing the biodiversity on their territories, a major opportunity of facilitating collaborative conservation will be lost. In its place, indigenous rights will be undermined, conflict will become exacerbated and biodiversity will suffer.

The main focus and beneficiaries of the Convention appear to be states, who are often the very instigators of biodiversity destruction. Furthermore many national laws and policies are at odds with international principles for the rights of indigenous peoples. States often treat indigenous peoples as backward, unproductive or even destructive. They frequently deny land rights, seek forcible relocation and promote the take-over of indigenous territories by national colonists and foreign companies. For this reason, the International Alliance is gravely concerned at the potential within the Convention for causing harm.

The Convention is an agreement between state governments and tries to embrace the conflicting interests of northern and southern coun-

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tries which both want access to the genetically rich resources in the South. Northern interests strongly influence, if not effectively control, the international intellectual property rights (IPR) regimes through GATT in its section on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS aims to draw all national IPR regimes into models of the US, European and Japanese systems, where genetic resources are seen as common property of humanity until they are 'modified' by industry and can become patented. This is of great concern because multi-national corporations are eager and ready to take advantage of these openings to increase their plundering of our territories.

In contrast, developing states of the South want sovereignty over their resources and are opposed to free access from international interests.

Unfortunately, the states of the South have economic interests of their own and are in need of revenue to service massive debts and have economic interests of their own. These frequently mean that indigenous rights are ignored for reasons of expediency. There is some scope in GATT for the recognition of *sui generis* IPR systems which could provide some opportunities for southern governments to control genetic resources, but as yet, this possibility has not been tried out in practice and there is no means of ascertaining the extent to which this approach will benefit indigenous peoples.

The Biodiversity Convention tries to solve this conflict of interest between North and South by recognising national sovereignty over resources while promoting open access within a framework of conservation and sustainable use. Any access takes place with the provision that all

financial and technical benefits arising from the exploitation of resources by outside interests are shared. As a result of the Convention, genetic resources are no longer the common property of humanity. However as long as the benefits are secured on a national level, they can still become the property of big business, should a state make an appropriate agreement. The result is that indigenous peoples from both North and South are caught between states negotiating their resources for the insatiable appetite of multinational corporations and other economic interests.

To facilitate exploitation, the capacity of indigenous peoples to protect biodiversity is threatened. States have a responsibility according to the aims of the convention to enhance local and indigenous communities. Unfortunately, there is an emphasis on state control of resources throughout the Convention. Common property of humanity has been replaced by a recognition of the sovereign right of states to 'exploit their own resources pursuant to their own environmental policies' (Article 3). Rather than seeing property rights over resources as pertaining to indigenous peoples, states treat all resources within their boundaries as their exclusive right to exploit and control.

The Convention is governed by the Conference of the Parties (COP). At the 1994 COP meeting, substantive issues were discussed for the first time and it was agreed to look in detail at the question of forests and indigenous peoples who appear at several points in the text. Prior to making any statement as to how the Convention should be interpreted, however, it is important to analyse in detail the potential problems to which the Convention gives rise to indigenous peoples so that the explanations of the proposed solutions are placed in context.

### **The Alliance's Concerns about the Convention on Biodiversity**

The International Alliance has several concerns about the Convention on Biodiversity stemming from the process under which it was originally drafted. The Convention was speedily negotiated at the Earth Summit, and although there had been several preparatory committee meetings and some consultations, the process was exceptionally rapid for indigenous peoples. The preferred model of a consultation process for indigenous peoples has been the 13 year process of developing a draft Universal Declaration on Indigenous Rights which is currently under discussion at the UN Commission on Human Rights. This draft Declaration has

been approved unanimously by the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, consisting of 26 UN legal experts. As matters stand, this draft Declaration is the appropriate orientation paper as to where the rights of indigenous peoples has reached within the UN system and this must be recognised by the COP.

The participatory process of the UN draft Declaration was not reflected in the Convention on Biodiversity, even though it is now generally accepted in UN fora that indigenous peoples have to be involved in matters which affect us. Although those few indigenous peoples who were able to take part in the preparatory committee strove hard to ensure that some references to indigenous peoples were included, nevertheless, the result has been disappointing. Considering that we indigenous peoples provide over 85 percent of the cultural diversity in the world and live predominantly in areas of biological diversity, we had expected a greater emphasis to be put by the Convention on our experience, our management capacity, and above all, our rights.

Whereas indigenous peoples had sought an article devoted to our role in biodiversity conservation and the importance of recognising our rights to this end, we find that the main reference to our concerns was placed under 'in-situ' conservation, as the tenth sub-paragraph (Article 8j). In spite of this difficulty, the scattered references to indigenous peoples and our resources may provide some avenues for positive interpretation of the Convention. The positive elements of this article, however, require that the harmful impacts of the Convention on Biodiversity on indigenous peoples are understood and minimised.

### **The Dangers of the Convention**

There are five areas which are particularly problematic and which, if not addressed immediately, will render any other advantage minimal. Each of them is mentioned in Article 8j and their reverberations throughout the Convention give rise to much concern.

#### **1. State Sovereignty**

Article 3 of the Convention says: 'States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within

their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction'. This is reflected explicitly in preambular paragraph 4, Articles 3, 4, 8j (which is qualified by the positivist phrase, 'subject to national legislation') 9a & b, 14.2, 15.1., and, in fact, the theme runs right through the whole Convention.

We indigenous peoples live within the boundaries of states and yet we have held inalienable ancestral rights to territories since times prior to the creation of the state. We have ownership over our territories and consequently insist that nothing can be done to our resources without our informed prior consent. The draft Declaration on Indigenous Rights, in contrast to the Biodiversity Convention, attempts to ensure that our indigenous rights to territories can be respected within the framework of the state while avoiding a clash of conflicting sovereignties.

The Biodiversity Convention does not address this problem but, on the contrary, reaffirms a unilateral state sovereignty, which could easily be used by states to deny indigenous sovereign rights to our territories, lands and resources which are recognised in the draft Declaration, and to some extent in ILO Convention 169.

A major qualification occurs in Article 8j which prefaces the intention to 'respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities' with the phrase 'subject to national legislation'. This could be interpreted as effectively allowing any state to ignore the clause if its national legislation does not address the question, and would consequently annul the implementation of 8j in many countries of the world.

Article 14.2 is particularly problematic in that it makes States responsible for biodiversity but, in the case of causing any damage, a state need provide no restoration or compensation 'where such liability is a purely internal matter'. Taking this together with Article 15.1, the situation is compounded when the Convention states that, 'Recognising the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation'. According to this view, states have open access to all genetic resources and yet are not necessarily liable for any damage caused. This could easily be used by states as 'open- season' for the plundering of indigenous territories.

The problem of exclusive state sovereignty is the most critical in the

Convention, because unless it is interpreted in a positive manner, which respects indigenous peoples' rights, it stands to undermine the very cultural diversity with which biological diversity so closely relates.

## 2. Indigenous Peoples and Local Communities

Another concern of the Alliance relates to the presentation of indigenous peoples in the Convention. In preambular paragraph 12 and in article 8j is the phrase 'indigenous and local communities embodying traditional life styles'. The use of these terms has made recognition of indigenous rights unnecessarily complicated because it ignores our existence as peoples.

In the CBD, there is no definition or orientation as to what a community is. Does it refer to a settlement with its territories as the term is used in Latin America, or does it refer to a larger concept of ethnic group as in Asia? The former use of the term is restrictive for indigenous peoples in that it only refers to very precise localities, while in the second sense, it denies our existence as peoples.

By using the terms 'indigenous and local', the Convention tries to distinguish something, but quite what this is remains unclear. If 'communities' is used in the sense of a particular settlement, then all communities are local; however, if it is used in the other sense of 'people', this is clearly larger than a local community. By ignoring the correct term 'indigenous peoples', already used in ILO Convention 169, the Biodiversity Convention establishes a series of complications which threaten to by-pass those indigenous rights which are already recognised.

The International Alliance fears that this could become a step backwards in indigenous rights unless the phrase 'indigenous and local communities' is interpreted carefully. Only by addressing the distinct rights of indigenous peoples and local communities can the Convention begin to meet its aims.

Another aspect of the reference to indigenous peoples comes in the phrase 'embodying traditional lifestyles'. The concept of 'traditional' is highly problematic in this context. Usually the term refers to beliefs or customs which are handed down from the past. The imprecision of this meaning gives the impression that article 8j only applies to indigenous peoples who are isolated, fossilised in some cultural time-warp living in a never changing present. This idea of 'traditional' has been criticised by indigenous peoples, as well as anthropologists and lawyers, because it

does not reflect the world as it is. All cultures change. Our concern is that the term 'traditional' is being used to exclude anyone who has adapted their lifestyle to reflect the contemporary and continuing colonial situation in which we find ourselves.

### 3. Indigenous Peoples and Protected Areas

A third area where the Alliance is concerned arises from Article 8 on 'in-situ conservation'. Article 8a says that states shall: 'Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity'. In subsequent articles this covers establishing guidelines for protected areas (8b), managing resources within or outside the protected areas (8c), promoting the protection of ecosystems (8d), establishing buffer-zones for development (8e).

Article 8j has been placed under the issue of in situ conservation and so to some extent, has to be read in this context. Indigenous peoples are particularly opposed to the use of protected areas to deprive us of our lands and rights to resources. These problems occur all over the world: In South America, for example, eighty percent of the protected areas have indigenous peoples living inside them; in India, protected areas have already displaced over 600,000 tribal people and forest-dwellers; the indigenous peoples of Palawan in the Philippines have been forced to abandon rotational agriculture in favour of more intensive harvesting from the forest - thus undermining social and conservation goals; meanwhile in Africa, three thousand Bushmen of the Central Kalahari are currently being threatened with eviction in the name of conservation.

Protected areas that are under the control of indigenous peoples working in harmony with states and environmentalists is an important goal and several organisations, including the WWF, are trying to implement policies in this direction.

Unfortunately, when the Convention establishes the main bodies to cooperate over biodiversity issues in preambular paragraph 14, it completely ignores indigenous peoples, saying: 'Stressing the importance of, and the need to promote, international, regional and global cooperation among States and intergovernmental organisations and the non-government sector for the conservation of biological diversity and the sustainable use of its components'. We indigenous peoples have the unfortunate experience that all three of these interests have, in the past, worked in directions which are detrimental to the respect for our rights, and by

limiting cooperation to these interests, control and decision-making on biodiversity protection is taken out of our hands.

Placing these points together, the concern of the International Alliance is that conservation NGOs, the multilateral development institutions and states, will identify reserved areas without taking into consideration the presence of the inhabitants living there, most of whom are usually indigenous. This is tantamount to taking over our territories.

#### 4. Access to Resources

Several points in the Convention have given rise to concern from the Alliance over access to our resources. By promoting ex-situ conservation in the country of origin, the Convention overlooks the fact that this could be used as pretext for national institutions to take indigenous genetic resources in the 'national interest' and develop them on the basis that they are threatened and that compensation would not be necessary.

The same concerns arise with the promotion of biotechnology in Article 16. As a part of the deal between North and South, the North receives access to resources in return for recognising the South's rights over the resources.

Indigenous peoples, on whose territories many of these resources lie, are thus written out of the scheme and consequently fear being laid open to gene hunters and bio-prospectors, granted access on the basis of national agreements, rather than indigenous consent.

The reference to intellectual property rights, raised in 8j and later in the Convention, is couched in the context of state sovereignty (16.2). This opens the possibility that if a state has no objection, the TRIPS mechanism will be operative as an intellectual property rights regime, although if under Article 12 of TRIPS, a sui generis alternative is promoted on a national level, the Convention will recognise this.

Unfortunately there is no provision in the Convention to deal with the possibility that both TRIPS and the sui generis national alternative IPR regime are not in the interests of indigenous peoples. In this climate the open-ended exchange of information advocated in Article 17.2 which promotes 'exchange of results of technical, scientific and socio-economic research, as well as information on training and surveyed programmes, specialised knowledge, indigenous and traditional knowledge' could be interpreted as providing open access to indigenous knowledge which does not receive the same protection as either states or large companies.



## 5. Funding Mechanisms

Articles 20 and 21 on financial resources and mechanisms are also matters of concern of the Alliance. This has occurred because of the funding mechanism under Agenda 21 leaves much to be desired. There, the Global Environment Facility operates on the principle of only financing the incremental costs of global benefits, which considerably reduces the capacity and incentive for developing countries to promote projects. This is because national governments have to pay for the internal costs, while international mechanisms finance everything which is over and above that cost. This arrangement leads to problems for indigenous peoples and local communities in developing countries and many useful initiatives are lost. This also means that the GEF can only finance projects with indigenous peoples, if we argue that our interests are not of national benefit, placing us in an insidious position in relation to our state governments.

The second concern is the way in which these international funding mechanisms work. The experience of the ITTO and GEF demonstrate that they suffer from all the problems encountered in the multilateral development banks in supporting top-down projects which in practice are weak on consultation and participation (not to mention control and consent when indigenous peoples are involved). For this reason the Alliance is worried that the financial arrangements of the Convention will be implemented without due care and will continue to wreak similar havoc as the GEF and multilateral institutions.

### **General Concerns**

The Alliance is concerned that the Convention fails to incorporate the advances which we have made in other sections of the United Nations, particularly in the Commission on Human Rights, Working Group on Indigenous Populations and its draft Declaration on the Rights of Indigenous Peoples.

Our fear is that the Biodiversity Convention might limit the term 'indigenous' to cover local settlements living in isolated conditions. It increases the power of states to control our lands and resources; promotes further developments of protected areas without any consent from the peoples affected; it promotes and facilitates agreements between states and bio-prospecting companies to gain access to the genetic resources

on our territories; and finally it opens up the possibility for financial mechanisms to carry out a limited number of top-down projects to support biodiversity.

For this reason it is extremely important that all these concerns are taken up by the Secretariat of the Biodiversity Convention, so that we indigenous peoples can see that our rights and interests are catered for within the interpretation of the text. The legitimacy of the references in the Convention to indigenous peoples rests on the extent to which the articles are accepted as valid. Unless a positive interpretation can overcome these difficulties, we indigenous peoples will be very reluctant to make use of its terms.

### **Interpretations which could ameliorate the problems in the Convention**

This section consists of suggestions as to ways in which the Convention could be interpreted in order to strengthen the provisions for indigenous peoples and remove the threats which face us. The five main areas will be approached in turn:

#### **1. State Sovereignty and control over resources**

The constant reaffirmation in the Convention that States have sovereign rights over their own biological resources begs many questions and could be seen as an assertion of State rights over indigenous resources. There are several ways in which this could be interpreted so as not to deny us our rights:

a) Whereas the phrase ‘over their own biological resources’ appears referring to states, it could be argued that ‘their’ refers strictly to state lands and not to areas where resources are owned by indigenous peoples. Many states classify indigenous territories as ‘public lands’. This statement should, therefore have no implication of condoning the dispossession of indigenous territories and resources.

b) Where the Convention refers to the sovereign rights of states, it should be made clear that this does not refer to the right of any government to alienate indigenous lands or change the law of land ownership unilaterally, such as is taking place currently in Brazil and Peru. As peoples living

within the boundaries of states, indigenous peoples should have the right to control their resources.

c) Article 22 says that the Convention ‘will not affect rights and obligations of Contracting Party deriving from any existing international agreement’. The rights of indigenous peoples, as they stand in the draft Declaration are minimum standards of indigenous peoples’ rights and they should not on any circumstances be undermined.

## 2. Indigenous and local communities embodying traditional lifestyles

The Convention refers in the Preamble and Article 8j to the term ‘communities’. The first positive point which should be noted by the Secretariat is that the term ‘community’ is a collective term. There are several references to the collective rights of indigenous peoples and this aspect of the Convention should be emphasised. However the term ‘community’ itself needs further elaboration.

The distinction between indigenous and local communities was clearly made for a purpose. A local community is normally considered to be a body of people living in the same locality. Thus, with no other distinction, it could contain indigenous or non-indigenous people; however, the Convention specifically marks out indigenous communities, and so the meaning must be more specific. An indigenous community must be defined not so much by its locality, as by its indigeness. (For example a religious community or a professional community is defined by religion or profession respectively.) It becomes necessary, therefore, to see what distinctive characteristics an indigenous community has, which distinguishes it from other local communities.

a) An indigenous community is distinct from a local community (for example of peasant farmers), because whereas the local community is connected directly to the state, the indigenous community is, first and foremost, a part of an indigenous people.

b) Another approach is to see ‘community’ as an alternative term for a people. There are two arguments for this: in the first place, indigenous community is a collective term, as with people; and secondly, following precedents such as the pre-Second World War Greco-Bulgarian minority case which referred to the collectively as a ‘community’, it can be argued

that community in the Convention stands in for the term ‘peoples’.

However the Secretariat decides to interpret the term, the fundamental point is that the term ‘community’ refers to, and does not undermine, the term ‘indigenous peoples’. Not to recognise this will clearly prejudice the text of the draft Declaration on Indigenous Peoples which has been approved by the UN Sub-Commission on the Prevention of Discrimination and the Protection of Minorities.

It could be argued that, in the context of an environmental convention, the term ‘community’ refers to the particular relationship between local groups and their immediate resources. However this should not prejudice the use of the term peoples anywhere else. The most logical solution would be to clarify the Convention with a reference to ‘indigenous peoples and local communities’. This is clearly the way in which indigenous peoples will interpret the article.

The Article 8j also refers to ‘traditional lifestyles’ which in this context refers to the process by which knowledge, culture and social practices are passed on through the generations. Traditional does not refer so much to the content of the culture but the way in which a people preserves its identity. The term traditional should not be used to reinforce isolationist or primitivist notions of changeless peoples. This is particularly important because later in the same paragraphs, the article refer to ‘innovations’. The importance of indigenous peoples’ contribution to innovative activity is well-documented. Ultimately the principle of self-identification, recognised in ILO Convention 169, should be a used to define terms such as ‘traditional’. It should be treated in a dynamic manner, which looks at processes of continuity, rather than content. The term ‘customary’ would be a useful orientation to clarify the meaning of traditional in this context.

‘Dependence on biological resources’ arises in preambular paragraph 12, where the Convention refers to the importance which we indigenous peoples place on our lands and territories for our survival. This dependence means that without recognising indigenous rights to resources, a people or community cannot continue its traditional way of life. The first part of this preambular paragraph is thus a recognition of indigenous collective rights and how these are bound to our resources as well as the importance of respecting these for our survival.

### 3. Indigenous peoples and protected areas

The Convention’s in situ measures seek to establish a system of protected

areas, or areas where special measures need to be taken to conserve biological diversity. This is to be achieved by developing guidelines for the selection, establishment and management of protected areas and biological resources important for the conservation of biodiversity whether inside or outside protected areas. Many areas which are promoted for protection have indigenous peoples living in the areas, and yet the notion of 'indigenous territory' is not officially considered as a 'protected area'. Until this occurs, indigenous peoples will be extremely cautious about this provision in the Convention.

The way to avoid this problem is to ensure that indigenous peoples are recognised fully as the owners and managers in any protected area on their territories and that in situ conservation takes place under indigenous control and with indigenous consent. Where the Convention promotes cooperation between states, inter-governmental organisations and NGO sector for conservation of biological diversity on international, regional and global levels, it has to be born in mind that the indigenous movement is made up of peoples and not just NGOs. Indigenous peoples and organisations must be included in any decision which will affect us.

The Convention says in Article 14 that each state will 'introduce procedures for environmental impact assessment of projects with adverse effects on biological diversity and public participation'. This is a welcome addition to the Convention and indigenous peoples should be encouraged to use these means so that we can protect ourselves from the adverse effects of development projects. Indigenous peoples are in a strong position to ensure that no programmes and policies have adverse impact on biodiversity. Where states encounter dangers to biodiversity, they are obliged to notify other states; but the people living in the state should be informed too.

Article 14 also mentions that the Conference of the Parties will look at liability, redress and compensation for biodiversity except where liability is an internal matter. However, in cases where biodiversity is under threat, the COP should understand that destruction of indigenous territories is not an internal matter. Since at least 1957, indigenous peoples have been subjects of international law; this means that states have international responsibilities to ensure that what takes place on indigenous territories is transparent to the international community. Provisions should be established by the COP so that we indigenous peoples can report on the state of biodiversity in our own territories.

The International Alliance has a document of the basic minimum requirements for Conservation priorities and protected areas. This is included as Appendix B and provides the framework for interpreting this section of the Convention.

#### 4. Access to Genetic Resources

The recognition of the sovereign rights of states over their natural resources gives rise to a problem concerning access to genetic resources. All control appears to be in the hands of national governments and subject to national legislation. States are meant to create conditions to facilitate access to genetic resources by other states, yet nothing is mentioned about all the genetic resources which lie on indigenous territories. Open access to indigenous resources poses a serious problem for indigenous communities because this is the very process which most attracts colonists onto our lands. Access to all resources on indigenous territories should only take place with the prior informed consent of indigenous peoples. At the moment, only the Contracting Parties are specified in the Conventions, but this could allow a government to open up indigenous territories to any multinational bio-prospecting company, thus putting the protection of biodiversity at risk, not to mention the indigenous peoples ourselves. A way of avoiding this problem comes in article 8j, which refers to ‘approval and involvement’. Approval here means consent and would be a useful starting point for approaching access to indigenous resources. Once indigenous approval is recognised as a principle, many of the concerns about the Convention can be reduced.

Assuming that prior informed consent is obtained from indigenous peoples, the next question is about the use and benefits arising from the access. Article 10 discusses use of the components of biological diversity and in article (c) contains a potential difficulty when it refers to protecting and encouraging the use of biological resources ‘compatible with conservation or sustainable use requirements’. Any criteria for defining conservation or sustainable use must be based on indigenous peoples’ own definitions. For example, a government or private company’s sense of the term ‘sustainable’ (as in article e) could be very different from one based on indigenous practices. We do not want definitions of indigenous thrust upon us by outsiders, but to see ways of constructive agreement on principles which reflect our socio-cultural lifestyle and our own sustain-

able utilisation of resources.

The Convention addresses the desirability of sharing equitably the benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and sustainable use. This recognises that resources cannot be plundered, but does not state how arrangements between indigenous peoples and outside interests can be organised. Benefits can take the form of technology transfer, information and scientific cooperation.

However, such exchange of information shall 'include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialised knowledge, indigenous and traditional knowledge as such'.

This is problem for indigenous peoples, in that we might find that we are obliged to inform the world of our knowledge which other interests use as a basis for commodification, such patenting of life forms and other features of our cultural heritage.

Although there are no easy answers to this problem, the International Alliance supports the recommended moratorium of bio-prospecting made by indigenous peoples in the Pacific in 1995 and is completely opposed to the patenting of life forms. Benefits must be arranged through mutual agreement not only with the interested state parties, but with all the indigenous peoples involved. Furthermore, benefits should not be turned into a process where knowledge becomes commodified.

When looking at the issues of access, use and benefits - it is important to be clear that access is predominant. The right to deny access without prior informed consent and control over activities on indigenous territories is paramount. When that is respected, use and benefits can be negotiated.

## 5. Financial Mechanisms

The financial mechanisms of the Convention which relate to indigenous peoples and our territories must be targeted to those of us most affected by the problems. The 'top-down' approaches of the multilateral institutions and the GEF are highly problematic because they do not include the full participation of indigenous peoples. More often than not, finance can cause more problems than it solves.

The provisions of the Convention refer more to the needs of states than of indigenous peoples. This should be remedied by careful consideration

and preparation as to what money is needed for and that it genuinely contributes to the capacity of indigenous peoples to protect biodiversity, and not of states or multinational corporations to exploit it unsustainably while ignoring indigenous rights. This, unfortunately, has been the experience of the GEF. Before considering GEF funding, incremental costs must be abolished, because the financial mechanism will not work while they remain.

### **Specific Points on Article 8j**

In Article 8j, the first words, ‘subject to its national legislation’, imply that if national legislation does not recognise the subsequent provisions, they are not valid. This would seem unduly negative. A more constructive approach is to say that national legislation must secure the provisions in the article.

The article is in three parts. The first covers the same area as in preambular paragraph 12, but it also refers to intellectual property. Here the state will ‘respect, preserve and maintain knowledge, innovation and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity.’ This means, effectively, that the state recognises collective rights of us indigenous peoples to knowledge and practices as well to our resources as mentioned in the preamble.

The second part of 8j is significant because it says that the state will ‘promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices’. Indigenous approval is important because it embraces the notion of consent. This should be understood as meaning that indigenous peoples are protected from the unilateral exploitation of our knowledge without our consent.

The third part of the article which ‘encourages equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices’ relates to the second part of the preambular paragraph. This has to be made dependent on whether the approval referred to in the previous part is forthcoming.

From an intellectual property rights perspective, 8j broadens the limited notion of ‘intellectual’. Innovation and practice for indigenous peoples is not simply intellectual, but relates to the dependence on biological resources referred to in the preambular paragraph. In effect, the language of the Convention leads to a wider concept of access to resources, em-



bodying cultural, intellectual and scientific knowledge and practices.

The implementation of this article will involve starting from the national legislation of the governments who have signed the Convention. The Convention should oblige states to respect indigenous peoples' rights both internationally, through the draft Declaration, and nationally, through different legislative mechanisms. Mechanisms for securing legal provisions to respect, preserve and maintain knowledge, innovation and practices, need to be worked out through a process co-ordinated by the Convention Secretariat and the COP, with full participation of indigenous peoples.

Outlines of how national legislation should be developed and promoted could be prepared by the Secretariat on the basis of a process of consultation with indigenous peoples. A discussion of *sui generis* rights will arise in this context. If indigenous peoples are to support this approach, it is essential that *sui generis* laws protect indigenous peoples rights, and do not simply provide state governments with opportunities to plunder indigenous peoples' resources.

## **Conclusion**

The Alliance proposes that the Secretariat initiates a full and meaningful process whereby indigenous peoples and governments can discuss and hopefully initiate a positive and constructive interpretation and implementation of the Convention. There are several ways in which this could be done:

- a) The COP could establish a Working Group on the CBD which operates on the same principles as the Working Group on Indigenous Populations, with free and open access. This Working Group could include experts, government representatives and indigenous peoples' representatives. This would enable indigenous peoples to report on the state of biodiversity on their territories and seek mechanisms for securing legal provisions to respect, preserve and maintain knowledge, innovation and practices. After it has agreed on procedures and how the indigenous provisions should be implemented, any COP Working Group should remain connected to the Convention in the long-term future and be prepared to listen to concerns of indigenous peoples.
- b) The COP could also ask the already existing Working Group on

Indigenous Populations to discuss intellectual property, biodiversity and indigenous rights at its meeting at the end of July where there is a large indigenous representation. This would have an advantage of using the experience of experts already familiar with indigenous questions to comment on the Biodiversity Convention.

The UN Human Rights Centre could be encouraged to organise a Technical Seminar on the same theme.

c) The COP and Secretariat should work with the initiative to establish a permanent forum for indigenous peoples in the United Nations where indigenous peoples and biodiversity can be addressed along with other matters which affect us.

d) The Alliance suggests that the Secretariat does not necessarily try to solve the questions of indigenous peoples and the Convention immediately, but works out a process where agreements can be reached through a just and constructive set of arrangements. Support is urgently needed to help indigenous peoples carry out our own process of mutual consultation on our rights, our knowledge and biodiversity.

We indigenous peoples are, proportionally, one of the largest stakeholders in the Convention on Biodiversity and on this basis the International Alliance requests the Secretariat to consider the following points:

1. The central point for implementing the Biodiversity Convention is the full recognition of indigenous peoples' rights. A constructive and useful interpretation of the Biodiversity Convention can only arise from the context of indigenous rights as a whole. The draft Universal Declaration on the Rights of Indigenous Peoples is the most useful document to date for the orientation (see Appendix C). Particular note should be made of the rights of indigenous peoples to self-determination, collective rights, control of our territories, access to our resources, recognition of our political and legal institutions and control of traditional knowledge.

2. No access to indigenous knowledge, innovation or practices should take place without the prior and informed consent of indigenous peoples. This consent clause is expressed in Article 8j as 'approval' and needs to be emphasised. State sovereignty expressed in this Convention must not

override any indigenous rights.

3. Any initiative or co-operation undertaken between states or business and indigenous peoples must involve an equitable sharing of benefits, but only after consent is obtained. Funding mechanisms involving incremental costs should be avoided.

## **Appendix**

A. Charter of the International Alliance of Indigenous - Tribal Peoples of the Tropical Forests

B. Principles for Conservation in Indigenous Territories of the International Alliance

C. Draft Declaration of the Rights of Indigenous Peoples

D. Protection of the Heritage of Indigenous Peoples

E. Copy of the Recent Publications on Intellectual Property Rights

## **International Alliance Statement to the SBSTTA 2 Meeting, Montreal, Canada, 2-6 September 1996**

Mr. Chairman:

The International Alliance of Indigenous-Tribal Peoples of the Tropical Forests on behalf of its member organisations in more than 30 countries in South and Central America, Africa, Asia and Oceania, would like to take this opportunity to thank the CBD secretariat for inviting us to this important meeting in which the subsidiary body (SBSTTA) will give crucial advice to governmental parties to the CBD. We interpret this invitation as an important sign of SBSTTA's willingness to sincerely take indigenous peoples' views into consideration. And indeed, we cannot stress enough that for us, indigenous peoples of the world, forests are of vital importance. They are not just natural resources of economical value for national economies, neither just natural carbon sinks nor just earth's ultimate breeding grounds for the diversity of biological species, but are also the homelands of many indigenous peoples, on which we depend

upon for our subsistence as distinctive peoples with a wide cultural variety and valuable traditional knowledge.

However, international policy making has until now tended to ignore indigenous peoples as well as other forest dependent groups as full partners; the focus has often been limited to either the economic value of forests or the forests from a conservation point of view. The results of this limited scope have sometimes been disastrous to indigenous peoples' life, culture and development. Ignorance of our peoples at this stage of world history and policy making regarding our traditional environment would be a historical mistake and unjust. The mandate of the SBSTTA as well as of the COP-CBD will have failed if the views, concerns and suggestions of all involved parties will not be taken into full account.

The International Alliance is concerned that unless interpreted positively, the Convention could be very threatening for indigenous peoples and biodiversity. It was negotiated in haste, with minimal participation. Our fear is that the Convention limits the term 'indigenous' to cover local settlements living in isolated conditions; it increases the power of states to control our lands and resources; it promotes further developments of protected areas without any consent from the peoples affected; it promotes and facilitates agreements between states and bio-prospecting companies to gain access to the genetic resources on our territories; and, finally, it opens up the possibility for financial mechanisms to carry out a limited number of top-down projects to support biodiversity in unacceptable conditions.

For the Convention to be useful, state sovereignty must not override indigenous rights; indigenous communities must be recognised as 'peoples' whose traditions can change and develop; we must have full recognition of our rights in protected areas; all access and benefits stemming from resources on indigenous territories must take place with our free and informed consent; and we insist that financial mechanisms do not operate under the restrictions of the GEF.

Some positive elements in the Convention appear in 8j: our collective rights are recognised through the term 'community' and our consent is acknowledged as significant in the term 'approval'. We also welcome Article 14 which advocates environmental assessments on development projects in sensitive areas with public participation. The Alliance concludes that the Biodiversity Convention can only be meaningfully implemented with the full recognition of indigenous peoples' rights. No

access to indigenous knowledge, innovation or practices should take place, without the prior and informed consent of the peoples concerned. This should be a condition for benefit-sharing. Any funding mechanisms involving incremental costs should be avoided.

We expect that the acknowledgement of indigenous peoples as major partners in the conservation of biodiversity as well as by the UNCED and in Agenda 21, will also in reality be reflected throughout the COP process and in the SBSTTA. We therefore recommend that the SBSTTA takes the following into consideration and includes in its advice to the COP:

- we suggest that the secretariat does not necessarily try to solve the questions of indigenous peoples and the convention immediately, but works out a process where arrangements can be reached through a just and constructive set of arrangements. Support is urgently needed to help indigenous peoples carry out our own process of mutual consultation on our rights, our knowledge and biodiversity.
- the COP should establish a mechanism under the CBD, with free and open access, which would enable us, indigenous peoples, to report on the state of biodiversity on our territories and discuss the implementation of the Convention..
- the COP and secretariat should support the initiative to establish a Permanent Forum for indigenous peoples.

In concluding this intervention, I'd like to call your attention to the increasing co-operation between the SBSTTA/COP process and the IPF, obviously and especially with regards to forest conservation and management and traditional knowledge. The Alliance welcomes very much inter-agency co-operation, which is the basis of a holistic approach of these issues of vital importance. In this regards it is important to notify again however, that also the matter of indigenous peoples rights, the rights to self-determination, rights to our lands and our knowledge, cannot be seen separately from the CBD and the IPF issues of traditional knowledge, article 8j, forest biodiversity and access to resources. The IPF Secretary General's report on programme element 1.3. includes proposals for action on traditional knowledge which we can support and which are of equal relevance to the COP and SBSTTA in relation to article 8j:

- the consideration of the report of the Special Rapporteur on the Protection of the Heritage of Indigenous Peoples

- the United Nations Draft Declaration on the Rights of Indigenous Peoples
- the establishment of a Permanent Forum for Indigenous Peoples.

I'm happy to mention, finally, that within the IPF an important initiative based on true partnership has been established, namely the organisation of an intersessional meeting for indigenous peoples and other forest dependent communities, to take place between IPF3 and IPF4, sponsored by the Danish and Colombian governments and organised by the International Alliance. The results of this intersessional meeting will be submitted to IPF 4 and will certainly be of importance to the SBSTTA and Conference of Parties to the CBD.

Thank you, Mr. Chairman.

## **Group Evaluation of the UNEP/GEF Indigenous People's Consultation Meeting, Geneva, 29-31 May 1996**

### **Preamble**

The following is a summation of the views of Indigenous Peoples representatives (IP's) who attended the UNEP/GEF Indigenous Peoples Consultation meeting in Geneva from 29-31 May 1996. Following the closure of this meeting by the Executive Coordinator of GEF Coordinating Office, Mr Ahmed Djoghlaif, the IP's met to discuss and evaluate the meeting, its procedures and outcomes.

A caucus meeting of IP participants was held at the end of the Consultation Meeting and lasted about 4 hours. The majority of the IPs were somewhat bewildered that the consultation meeting had concluded with several unresolved issues which they felt had not been adequately addressed in the meeting.

The IPs were concerned that the anticipated UNEP/GEF report of the consultation would not adequately reflect their contribution to the outcomes of the meeting. Therefore the IP's felt it necessary to provide an evaluation report of the meeting that would serve as background information for the participants at the Working Group of Indigenous People's meeting to be held in Geneva in July 1996. Accordingly, this evaluation report seeks to clarify the UNEP/GEF report of the meeting in respect of

the IP's participation and contribution to the outcomes of the consultation meeting.

The IP's also thought it useful to provide advice to UNEP and GEF which would enhance their future consultations with IPs. The IPs responsible for the formulation of this advice acknowledged the individual rights of IPs to determine their own modes of working with UNEP and GEF. However they also recognised the need to develop relevant and appropriate standard practices for exchanges between the wider IP collective and these agencies. A letter of advice to UNEP & GEF as an incremental measure, promotes a standard of excellence for such exchanges. This report has been collectively produced by the IP participants. Tania Rei (Maori Congress, Aotearoa New Zealand) and Tove Sovndahl Petersen (Indigenous Peoples' Secretariat, Denmark) circulated the draft report to IP participants for comment and wrote the final report.

The final report is to be presented to the wider of forum of IPs at the Working Group of Indigenous People's meeting (WGIP) in July 1996 by Joji Carino (International Alliance of the Indigenous-Tribal Peoples of the Tropical Forest), Nib Cayuqueo (Mapuche, Abya Yala Fund) and Faith Gemmill. The idea of presenting it to a wider IP forum is to ensure that the recommendations to UNEP/GEF are a result of genuine consultation amongst a global network of indigenous peoples.

### **Aim of the Report**

This report has two aims:

- to provide an evaluation of the UNEP/GEF Indigenous People's Consultation meeting that would serve as background information for the participants at the Working Group of Indigenous People's meeting to be held in Geneva in July 1 996.
- to clarify the anticipated UNEP/GEF report of the meeting in respect of the IP's participation and contribution to the outcomes of that meeting.

### **Structure of the Report**

The report is in three parts; the first part briefly explains the aim of the Consultation Meeting and its outcomes; the second part deals with concerns raised by IPs about the meeting and the third part presents an overall evaluation of the meeting with specific recommendations for the wider IP

forum to consider, particularly in their preparations for the 3rd Conference of Parties to the Convention on Biodiversity (COPIII), in Buenos Aires in November this year.

## **1. UNEP/GEF Indigenous People's Consultation Meeting**

### *Aim of the Meeting*

In brief the principal aim of the meeting as outlined by the Executive Coordinator of GEF Coordinating Office, Mr Ahmed Djoghlafl was to obtain IP advice on two UNEP project proposals.

One project involved the facilitation of an information exchange on Biodiversity Conservation and GEF on existing networks between Indigenous Peoples in support of article 8j) of the Convention on Biological Diversity. It is envisaged that such an information exchange mechanism would involve both indigenous agencies and local communities.

The other project proposed three regional meetings for IPs to be held in Latin America (Mexico), Asia (Bangkok) and Africa (Kenya), prior to COPIII. UNEP sought the advice on possible attendees for these meetings.

A discussion on project proposals to be submitted by IPs to GEF for funding was also included as an agenda item. IPs were asked to present relevant project proposals for discussion.

### *Outcome of the Meeting*

Overall the IP consultation meeting involved a laboured and often tense discussion on the respective roles of UNEP, GEF, and government agencies in projects involving Indigenous Peoples. The IP participants expressed the need for more consultation with the wider IP forum in respect of the two UNEP projects. IPs were advised by the convenor that their request to self- manage these projects would be rejected by GEF due to their strict rules regarding funding accountability.

In regards to the wording of article 8j of the Convention on Biodiversity, IPs were emphatic in their view that indigenous and local communities represented two different entities and therefore a correct interpretation of the Convention on Biodiversity would necessarily have to make the distinction between indigenous peoples and local communities.

Furthermore any interpretations of the Convention of Biodiversity which affect Indigenous Peoples should be consistent with the Draft Declaration of Indigenous Peoples.



The IPs were informed of UNEP's commitment to assist them in meeting their goals and an assurance was given that nothing would be done without close consultation with IPs. It was also noted however that GEF is a governmental mechanism and therefore it was not possible to exclude the participation of government agencies.

A report was drafted but due to the hurried and confused termination of the meeting, the IPs obtained a very poor sense of what would be the final contents of the official UNEP/GEF report and thus could not endorse it.

## **2. Concerns Raised by IPs at the IP Caucus Meeting**

### *a) Determination of the Meeting's Agenda*

The IPs were unanimously of the opinion that UNEP/GEF had imposed the agenda of the meeting on them. The agenda had been sent out late and as a result, the IPs reluctantly adopted the set UNEP/GEF agenda. The inability of IPs to determine an agenda for the meeting which reflected their own needs is evidence of a clear lack of communication between UNEP, GEF and IPs.

IPs felt disadvantaged in not having had the agenda to discuss within their respected communities prior to attending the meeting. This omission affected their preparation for and participation in the meeting.

### *b) Meeting Processes*

A concern amongst IPs was that UNEP and GEF had established a process which did not allow IPs to have genuine dialogue.

The IPs felt that they were pressured to conform to UNEP/GEF's frame-work for the meeting. Accordingly IPs were not able to make their own recommendations concerning preferred processes for the meeting. Information exchanges amongst IPs and with UNEP/GEF was another issue. One IP participant noted the inability of IPs to conduct their own sessions for information exchanging during the meeting. The lack of information sharing contributed to the tension felt by IPs in the meeting. At times the information given to IPs was confusing and sometimes inconsistent.

Several comments were made about the convenorship of the meeting -paternalistic attitude, autocratic style, did not listen to what IPs said. Did not respect existing IP networks.

Processes and agenda was predetermined.

*c) Representation of IPs*

It was agreed that the IP participants were not fully representative of the wider IP forum. Accordingly many felt constrained by UNEP/GEF's expectations of providing universal or regional advice.

This group was not fully representative of IPs and therefore should not have been put into the position of endorsing projects for the wider group.

It was unethical to expect IPs to endorse projects without proper consultation with the affected people at local, subregional and regional levels.

### **3. Recommendations**

Arising from the discussion, three general recommendations were proposed:

- 1) to develop appropriate principles and guidelines for consultations with Indigenous Peoples.
- 2) to have an agreed process for meetings between Indigenous Peoples and UNEP/GEF.
- 3) to encourage and support active participation of Indigenous Peoples in COPIII.

In relation to these general recommendations, IPs made more specific comments which are italicised below. In respect of recommendation 1), IPs advocated the development of appropriate principles based on Indigenous Peoples terms for a working relationship with UNEP and GEF. IPs were also clear in their demand for an agreed process for meetings with UNEP and GEF.

The belatedness of the agenda notice and the lack of sufficient information resulted in many IPs being ill-prepared for this meeting; recommendation 2) deals with these issues. Meeting processes need to be open and transparent for all parties; recommendation 2) deals with the need to have meetings which are open for equitable participation by all parties.

Recommendation 3) deals with the view that IPs should take a more proactive role in organising meetings between themselves and with other agencies such as UNEP and GEF. This does not preempt meetings which are arranged on a cooperative basis with UNEP and GEF, as such arrangements are encouraged..

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The recommendation does however underline the need for UNEP and GEF to be more supportive of IP initiatives.

### **1) Develop appropriate principles and guidelines for consultations with Indigenous Peoples.**

- Need to develop principles for a satisfactory working relationship between UNEP/GEF and IPs based on indigenous processes.
- Develop guidelines from these principles consistent with IP's processes.
- Sustained adherence to these principles - no compromise policy.
- UNEP/GEF/IP dialogue should be truly global. UNEP/GEF need to include projects for regions outside of their traditional project areas e.g. Oceania, North America, Siberia, Russia, Arctic etc.
- IPs priority is to have the right policies and processes, e.g. policies developed from the 'bottom up' rather than 'topdown.'
- Important for GEF/UNEP to have a shared understanding with IPs regarding participation in consultations.

### **2) An agreed process for meetings between Indigenous Peoples and UNEP/GEF**

#### *2.1 Agenda*

- We should determine the agenda. Also, we need to discuss cultural diversity.
- Terms/agenda for meetings such as this need to be clearly articulated prior to the commencement of meetings with IPs.
- Include in the agenda, time when we can decide how we deal with agenda items and the agenda in its entirety. This should be a standard practice.
- Irrespective of the level of communications between hosting agencies and IPs, it is difficult to get a consensus on the agenda prior to the meeting. Therefore it would be preferable to call it a 'proposed agenda' and allow time to refine the agenda at the start of the meeting.
- In respect of regional meetings, IPs need full information provided to them prior to the start of meetings. This will enable us to prepare properly for the meeting and also for IP caucus meetings.
- Joint consultation, planning team to work with UNEP/GEF to modify,

alter the agenda as the meeting progresses.

### *2.2 Meeting Procedures*

- Standard practice to have time set aside for IPs to deliberate as a caucus during the meetings.
- For successive meetings we must have the resolutions of the meetings circulated prior to the close of the meeting. This will enable us to disseminate the information to our own groups immediately following the meeting.
- Suggested dual chairing of meetings.
- Need sufficient numbers of interpreters at these meetings.

### *3) Active participation by Indigenous Peoples in the organisation of future meetings.*

- In future we should try to initiate our own meetings and funding for meetings. Suggest that UNEP/GEF are welcome to organise workshops or meetings for IPs unless they fully fund such meetings without any interference with the organisation of these meetings.
- IPs demand active participation in COPIII. This will enable IPs to make their own representations.

## **Conclusion**

Overall, the meeting represented an attempt by UNEP/GEF to initiate a consultation process with indigenous peoples. Unfortunately the meeting was not adequately representative of the wider forum of Indigenous Peoples and the tenure of the meeting did not allow IPs to engage fully in what should have been an open and robust discussion.

The IPs at the meeting decided however that the Indigenous Peoples involvement with the implementation of the Convention on Biodiversity was much too important to have one failed meeting determine the long term relationship between UNEP, GEF and the Indigenous Peoples.

Accordingly, the IPs committed themselves to work together with their organisations and peoples in order to build a meaningful dialogue with UNEP and GEF based on existing international channels of communication between indigenous peoples.

## Chapter 5: Indigenous Peoples and Protected Areas

Conservation as a coordinated and institutionalised global process is a relatively new phenomenon. Closely linked to the emergence of the International Union for the Conservation of Nature and Natural Resources - the 'World Conservation Union' (IUCN) - the process continues to be dominated by 'western' concepts and scientific approaches to nature.

A model of conservation through the establishment of 'protected areas' has been exported to the tropical world. The model sees humans as threatening nature and seeks to exclude them by establishing large areas under State control. In these areas only tourists and scientists should be permitted access.

The classic model of conservation poses serious problems to us indigenous peoples. Not only does the imposed vision of nature accord very little with our own perceptions of our territories and natural forces but it also leads us into direct conflict with the State agencies that seek to take over our lands in the name of conservation. 'National Parks' and other such protected areas have led directly to serious human rights abuses and the forced relocation of indigenous peoples from their ancestral lands. Often our customary ways of managing and controlling our traditional lands have been thrown into disarray by the imposition of external rules and regulations, undermining the authority of our leaders and causing impoverishment and environmental degradation. Indigenous women have often suffered most from these interventions.

Fortunately conservationists have not been blind to these problems and since the mid-1970s efforts have been made to reconcile conservation interventions with respecting indigenous peoples' interests.

In 1975, the IUCN passed a resolution at its 12th General Assembly in Kinshasa, Zaïre, recognising the value and importance of 'traditional ways of life and the skills of the people which enable them to live in harmony with their environment'. The resolution recommended that governments 'maintain and encourage traditional methods of living' and 'devise means by which indigenous people may bring their lands into

conservation areas without relinquishing their ownership, use or tenure rights'. The same resolution also recommended against displacement and stated 'nor should such reserves anywhere be proclaimed without adequate consultation'.

The same resolution was recalled in 1982 at the World National Parks

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Congress in Bali, Indonesia, which affirmed the rights of traditional societies to 'social, economic, cultural and spiritual self-determination' and 'to participate in decisions affecting the land and natural resources on which they depend'. The resolution further advocated 'the implementation of joint management arrangements between societies which have traditionally managed resources and protected area authorities'.

On the ground, however, practical attempts to involve local communities in protected area management have not been very successful, usually because they have been initiated and directed by outsiders. More recent experiments in joint management, which recognise indigenous rights of ownership and control and which provide technical assistance, have had greater success but overall 'protected area' management tends to be in conflict with indigenous peoples. Very often this is because national laws, evolved on the basis of 'western' legislation, require the removal of indigenous peoples or the extinguishment of their rights.

Over the last three years, the International Alliance has pursued a dialogue with conservation organisations to try to get them to revise their policies towards indigenous peoples and protected areas. The Alliance has stressed in these meetings that it is not involved in negotiating the rights of its members but only exploring ways of better defining the obligations of conservation organisations that deal with indigenous peoples. As part of this dialogue the International Alliance has evolved its own statement of principles, based on the Alliance's Charter, which sets out our vision of how we should be dealt with by conservation organisations.

The response from the conservation groups has been uneven. Officials from the World Conservation Union, stressing the intergovernmental nature of the Union, have expressed reservations about the wisdom of indigenous peoples insisting on a rights-based approach to conservation. On the other hand, the international non-Governmental organisation, the World Wide Fund for Nature International has responded by adopting

its own policy on indigenous peoples and conservation which explicitly recognises our rights to our territories and to free and informed consent about what happens on them.

Putting these new principles into practice on the ground will be a long process however and there are other pressures - from States, commercial ecotourism ventures, the more conservative conservation bodies and the international agencies funding conservation - which prefer the old model of conservation which gave them unlimited power over our lands.

## **Conservation in Indigenous and Tribal Territories: Guiding Principles**

*Draft: 23 May 1995*

The following text has been developed by the International Coordinating Committee of the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests. It provides the basis for discussion at the next meeting of the contact group of the IUCN, WWF-International and the International Alliance which has the aim of agreeing joint principles guiding conservation in indigenous territories.

### **General Recognition of Rights**

1. Indigenous and tribal peoples are the original and rightful owners of tropical forests. The survival of indigenous peoples is a fundamental prerequisite for the conservation of forests.
2. Since indigenous and tribal peoples are often discriminated against and marginalised by national societies, conservation programmes in their territories will take special steps to observe their basic human rights as set out in international law.
3. All conservation policies directed to forests must be based on a recognition of indigenous and tribal peoples' rights. The basis for this is the indigenous right to self-determination and the right for indigenous and tribal peoples to control all activities which take place on their territories.
4. Indigenous territorial sovereignty and institutional legitimacy must be recognised as constituting the basis for effective 'protected areas'. Conservation organisations recognise indigenous territorial rights and, where they have not been legally recognised, agree to support these claims to

national governments as part of national conservation strategies.

5. Conservation organisations appreciate the enormous contribution which indigenous peoples have played in the current existence of tropical forests. They will respect and recognise the importance of indigenous knowledge, culture and expertise in conservation.

6. Conservation organisations must respect the collective rights of indigenous peoples to cultural heritage and intellectual property, genetic resources, gene banks, biotechnology and knowledge of biodiversity. Any benefits deriving from this knowledge must be under indigenous control and management.

7. Without respect for the rights of indigenous-tribal peoples, no constructive agreements can be drawn up with conservation organisations.

### **Indigenous Peoples' Responsibilities for Conservation**

8. Indigenous peoples recognise that it is in their long-term interest to use their resources sustainably and respect the need for environmental conservation.

9. Indigenous peoples recognise that the expertise of conservation organisations can be of use to their self-development and seek a mutually beneficial relationship based on trust, transparency and accountability.

10. No protected area will be created without the free and informed consent of the peoples living in the area, as expressed through their own representative institutions. Adequate measures will be taken to ensure the peoples concerned have access to all relevant information.

11. There shall be no involuntary relocation.

12. Any proposed protected area must have a jointly-prepared social impact assessment made by indigenous peoples and the conservation organisations which will provide the basis for a mutually acceptable constructive agreement



13. Within the agreement, the conservation proposal will be clearly defined, benefits accruing to indigenous peoples stated clearly and procedures established. These will include provisions for indigenous control of decision-making, planning and management. Where appropriate, the conservation organisations will provide facilities for training.

14. Any zoning involved in conservation programmes must be based on recognition of indigenous peoples' traditional and current use of the territory and not imposed from above.

15. Conservation organisations will not promote development projects which encourage colonisation on or around indigenous territories. However all parties will strive to ensure that national governments provide fair and just land allocation in appropriate areas to address the needs of poor peasant farmers.

16. Mechanisms will be established for the restitution of the rights of indigenous and tribal peoples who have been affected by existing protected areas.

17. All research activities in a conservation area will take place with the informed consent of the local indigenous communities.

### **Access to Resources**

18. Conservation organisations will recognise and protect indigenous peoples' traditional and current use of resources in protected areas.

19. Indigenous peoples should decide on the appropriate technologies for the sustainable use of their resources. All harvesting of flora and fauna will be based on indigenous criteria of sustainability.

20. Any proposed restrictions on local peoples' access to resources on the grounds of sustainability will be negotiated with local communities and implemented only with their free and informed consent.

### **Indigenous Institutions**

21. Indigenous peoples must be recognised as custodians of conservation

strategies on their territories.

22. All conservation will take place in accordance with local community decisions coupled with the devolution of rights and responsibilities to indigenous-tribal institutions.

### **Benefits from Conservation**

23. Indigenous peoples must be the prime beneficiaries of conservation programmes.

24. Local indigenous peoples must be given preference for employment opportunities in or arising from the protected areas.

25. No outside interest should impose market forces onto protected areas and any economic initiatives such as eco-tourism must be under local control.

26. Conservation organisations will seek means to facilitate indigenous self-development within protected areas as part of mutually accepted constructive agreements.

## **WWF Statement of Principles : Indigenous Peoples and Conservation**

### **Foreword**

Indigenous peoples inhabit nearly 20 percent of the planet, mainly in areas where they have lived for thousands of years. Compared with protected area managers, who control about 6 percent of the world's land mass, indigenous peoples are the Earth's most important stewards.

During more than three decades of conservation work, WWF has been approached by many indigenous and rural communities seeking to collaborate on issues like protected area management and the conservation of natural resources. Notable amongst them are the Hupa Indians of northern California, the Inuit of Isabella Bay in Canada, the Zoque Indians of Mexico, the Karen of Thailand, the Shona people in Zimbabwe, the Kuna of Panama, the Shimshali of Pakistan, the Phoke people of northern Malawi, the Imagruen of Mauritania, the Ewenk of Siberia and

many others scattered all over the globe. WWF is, or has recently been, working with indigenous peoples in all regions of the world: in Europe, Latin America, North America, Asia, the Pacific, and Africa,

WWF's views on the relationship between indigenous peoples and modern conservation have been touched upon in several of our recent publications. As a result of its central role in discussing indigenous peoples issues at the IV World Congress on National Parks and Protected Areas, WWF published the book *The Law of the Mother*, edited by Elizabeth Kemf, which collects and analyses experiences at the interface between indigenous peoples and conservation, including several project sites where WWF has been involved. In publications like *Conservation with People and Forests For Life*, WWF has expressed its conviction that indigenous peoples are crucial actors in conservation. Together with IUCN -The World Conservation Union, in *Caring for the Earth*, WWF acknowledged the need for recognition 'of the aboriginal rights of indigenous peoples to their lands to participate effectively in decisions affecting their lands and resources'.

Despite this history, the Statement which follows represents WWF's first attempt to enunciate a broad policy to guide its work. It has been prepared following extensive consultation throughout the WWF network, which has an institutional presence in more than 50 countries. Building consensus on an emotive and politically sensitive topic is far from easy; moreover, there is a great diversity of national and regional situations in countries where WWF is active. The Statement is our current best effort, but there may remain certain issues on which full consensus has still to be built. The interpretation and application of the Statement may thus need to be adapted according to each national context. These variations must be interpreted as an expression of the diversity of circumstances within and outside the organisation. From time to time, as WWF learns more about the topic, the Statement may be updated to incorporate new views or perspectives.

Over the coming months, WWF will be preparing guidelines to assist its Programme staff in their work as it relates to the Statement. As always, the implementation of such guidelines will be determined by the twin constraints of personnel and funds.

We believe the Statement is a far-sighted step for an international organisation whose mission is the conservation of nature, but we also recognise it may not be perfect to all eyes. Therefore, we would be pleased to

receive comment and criticism from readers of this Statement, to enable us to continue to improve our approach and contribution in this field.

Gland, Switzerland, 22 May 1996

Dr Claude Martin, Director General

Dr Chris Hails, Programme Director

### **Statement of Principles: Indigenous Peoples<sup>1</sup> and Conservation**

Principles for partnership between WWF and indigenous peoples' organisations in conserving biodiversity within indigenous peoples' lands and territories, and in promoting sustainable use of natural resources.

#### **Preamble**

01. Most of the remaining significant areas of high natural value on earth are inhabited by indigenous peoples. This testifies to the efficacy of indigenous resource management systems. Indigenous peoples and conservation organisations should be natural allies in the struggle to conserve both a healthy natural world and healthy human societies. Regrettably, the goals of conserving biodiversity and protecting and securing indigenous cultures and livelihoods have sometimes been perceived as contradictory rather than mutually reinforcing.

02. The principles for partnership outlined in this statement arise from WWF's mission to conserve biodiversity, combined with a recognition that indigenous peoples have been often stewards and protectors of nature. Their knowledge, social and livelihood systems - their cultures- are closely attuned to the natural laws operating in local ecosystems. Unfortunately, such nature-attuned cultures have become highly vulnerable to destructive forces related to unsustainable use of resources, population expansion, and the global economy.

03. WWF recognises that industrialised societies bear a heavy responsibility for the creation of these destructive forces. WWF believes that environmental and other non-governmental organisations, together with other institutions worldwide, should adopt strategies with indigenous peoples, both to correct the national and international political, economic, social and legal imbalances giving rise to these destructive forces, and to address their local effects, The following principles aim to provide guid-

ance in formulating and implementing such strategies.

### **I. Rights and Interests of Indigenous Peoples**

04. WWF acknowledges that, without recognition of the rights of indigenous peoples, no constructive agreements can be drawn up between conservation organisations and indigenous peoples groups.

05. Since indigenous peoples are often discriminated against and politically marginalised, WWF is committed to make special efforts to respect, protect and comply with their basic human rights and customary as

well as resource rights, in the context of conservation initiatives. This includes, but is not limited to, those set out in national and international law, and in other international instruments.

In particular, WWF fully endorses the provisions about indigenous peoples contained in the following international Instruments:

- Agenda 21
- Convention on Biological Diversity
- ILO Convention 169 (Convention Concerning Indigenous and Tribal Peoples in Independent Countries)<sup>2</sup>
- Draft UN Declaration on the Rights of Indigenous Peoples<sup>3</sup>

06. WWF appreciates the enormous contributions indigenous peoples have made to the maintenance of many of the earth's most fragile ecosystems. It recognises the importance of indigenous resource rights and knowledge for the conservation of these areas in the future.

07. WWF recognises indigenous peoples as rightful architects of and partners for conservation and development strategies that affect their territories.

08. WWF recognises that indigenous peoples have the rights to the lands, territories and resources that they have traditionally owned or otherwise occupied or used, and that those rights must be recognised and effectively protected, as laid out in the ILO Convention 169.

09. WWF recognises the right of indigenous peoples to exert control over their lands, territories and resources, and establish on them the management and governance systems that best suit their cultures and social needs, whilst respecting national sovereignty and conforming to national conservation and development objectives.

10. WWF recognises, respects and promotes the collective rights of indigenous peoples to maintain and enjoy their cultural and intellectual heritage.

11. Consistent with Article 7 of the ILO Convention 169, WWF recognises indigenous peoples' right to decide on issues such as technologies and management systems to be used on their lands, and supports their application in so far as they are environmentally sustainable and contribute

to the conservation of nature.

12. WWF recognises that indigenous peoples have the right to determine 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 those lands, territories and resources.

13. WWF recognises and supports the rights of indigenous peoples to improve the quality of their lives, and to benefit directly and equitably from the conservation and sustainable use of natural resources within their territories.

14. In instances where multiple local groups claim rights to resources in indigenous territories, WWF recognises the primary rights of indigenous peoples based on historical claims and long-term presence, with due regard for the rights and welfare of other legitimate stakeholders.

15. WWF respects the rights of indigenous peoples to enjoy an equitable share in any economic or other benefits realised from their intellectual property and traditional knowledge, building on the provisions of the Convention on Biological Diversity.

16. In conformity with the provisions of the ILO Convention 169, WWF recognises the right of indigenous peoples not to be removed from the territories they occupy. Where their relocation is considered necessary as an exceptional measure, it shall take place only with their free, prior informed consent.

## **II. Conservation Objectives**

17. At the heart of WWF's work is the belief that the earth's natural systems, resources, and life forms should be conserved for their intrinsic value and for the benefit of future generations.

WWF bases all of its conservation work on the principles contained in its Mission statement.

In addition, WWF fully endorses the provisions about biodiversity conservation and sustainable development contained in the following

documents:

- Agenda 21
- Convention on Biological Diversity
- Convention on Trade in Endangered Species of Flora and Fauna (CITES)
- Convention on Wetlands of International Importance (Ramsar Convention)
- Caring for the Earth

18. WWF encourages and supports ecologically sound development activities, particularly those that link conservation and human needs. WWF may choose not to support, and may actively oppose, activities it judges unsustainable from the standpoint of species or ecosystems, or which are inconsistent with WWF policies on endangered or threatened species

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or with international agreements protecting wildlife and other natural resources, even if those activities are carried out by indigenous communities.

19. WWF seeks out partnerships with local communities, grassroots groups, non-governmental organisations, governments, corporations, international funding institutions, and other groups, including indigenous communities and indigenous peoples' organisations, who share WWF's commitment to the following conservation objectives:

1) Conservation of biodiversity: to conserve biological diversity at the genetic, species and ecosystem levels; to improve knowledge and understanding of species and ecosystems; to protect endangered species of animals and plants; to maintain ecosystem functions; to maintain protected areas and improve their management.

2) Sustainable use of resources: to ensure that any harvest of natural resources is sustainable; to support community management of renewable resources according to subsistence and cultural needs; to use recycling methods where appropriate; to use resource-efficient methods and technologies; and to substitute non-renewable with renewable resources wherever possible.



3) Pollution prevention: to prevent, wherever possible, discharges of environmentally damaging substances, and ensure that products and processes are non-polluting.

### **III. Principles of Partnership**

20. The following principles will govern: (i) WWF conservation activities within indigenous peoples' lands and territories; (ii) WWF partnerships with indigenous peoples' organisations; (iii) WWF partnerships with other organisations whose activities may impact upon indigenous peoples.

21. Whenever it promotes conservation objectives, and in the context of its involvement in conservation activities affecting indigenous peoples' lands and territories, WWF will encourage governments to 'take steps as necessary ... to guarantee effective protection of [indigenous peoples'] rights of ownership and possession' of those lands and territories, as determined by the ILO Convention 169 (Art. 14).

22. Prior to initiating conservation activities in an area, WWF will exercise due diligence to:

- seek out information about the historic claims and current exercise of customary rights of indigenous peoples in that area; and
- inform itself about relevant constitutional provisions, legislation, and administrative practices affecting such rights and claims in the national context.

23. When WWF conservation activities impinge on areas where historic claims and or current exercise of customary resource rights of indigenous peoples are present, WWF will assume an obligation to:

- identify, seek out, and consult with legitimate representatives of relevant indigenous peoples' organisations at the earliest stages of programme development; and
- provide fora for consultation between WWF and affected peoples so that information can be shared on an on-going basis, and problems, grievances, and disputes related to the partnership can be resolved in a timely manner.

In addition, consistent with the relevance and significance of the proposed activities to the achievement of conservation objectives, WWF will be ready to:

- assist indigenous peoples' organisations in the design, implementation, monitoring, and evaluation of conservation activities, and to invest in strengthening such organisations and in developing relevant human resources in the respective indigenous communities;
- assist them in gaining access to other sources of technical and financial support to advance those development objectives that fall outside WWF's mission.

24. In instances where states or other stakeholders, including long-term residents, contest the rights of indigenous peoples, WWF will be ready to assist indigenous peoples to protect, through legally accepted mechanisms, their natural resource base, consistent with the achievement of WWF's Mission and subject to availability of resources.

25. Where the resource rights of indigenous peoples are challenged by national governments, private corporations, and/or other groups, and the defense of those rights are deemed relevant and significant to the achievement of its Mission, WWF will, in coordination and consultation with indigenous peoples' organisations and subject to availability of resources:

- seek out and/or invest in the development of legitimate and transparent mechanisms to resolve conflicts at local, regional, national and international levels, as appropriate;
- seek to ensure that the primary rights and interests of indigenous peoples are well represented in such fora, including investment to inform and prepare indigenous peoples' representatives to take part in negotiations.

26. Consistent with WWF conservation priorities, WWF will promote and advocate for the implementation of Article 7 of the ILO Convention 169:

'Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit'.

27. WWF will not promote or support, and may actively oppose, interventions which have not received the prior free and informed consent of affected indigenous communities, and/or would adversely impact - directly or indirectly - on the environment of indigenous peoples' territories, and/or would affect their rights. This includes activities such as:

- economic or other development activities;
- natural resources exploitation;
- commercially oriented or academic research;
- resettlement of indigenous communities;
- creation of protected areas or imposition of restrictions on subsistence resource use;
- colonisation within indigenous territories.

28. With respect to the existing knowledge of indigenous communities, prior to starting work in a particular area, WWF will establish agreements with the indigenous organisations representing local communities, to ensure that they are able to fully participate in decisions about the use of knowledge acquired in or about the area they inhabit and equitably benefit from it. These agreements will explicitly determine the ways and conditions under which WWF will be allowed to use such knowledge.

29. In the context of its partnerships with organisations other than those specifically representing the interests of indigenous peoples (including national governments, donor agencies, private corporations, and non-governmental organisations), WWF will:

- ensure that such partnerships do not undermine, and if possible serve to actively promote, the basic human rights and customary resource rights of indigenous peoples;
- ensure that all relevant information developed through such partnerships and accessible to WWF is shared with the appropriate representatives of indigenous peoples;
- ensure that any national or international advocacy or fundraising activity related to indigenous peoples will be undertaken in consultation with representatives of relevant indigenous peoples' organisations.

30. WWF recognises that the resolution of problems related to indigenous peoples may require action in international fora, in addition to national interventions. In pursuit of the foregoing principles, and in order to enhance

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its own understanding of indigenous peoples' issues, and when consistent and relevant to its conservation objectives, WWF will:

- actively seek inclusion and engagement in relevant international, as well as national fora
- initiate an ongoing process of dialogue with indigenous peoples' groups on the principles for partnership proposed herein.

31. WWF commits itself to promoting nationally and internationally, whenever possible and appropriate, the implementation of all these principles in the context of conservation actions within indigenous peoples' lands and territories.

32. WWF is committed to upholding the above principles and the spirit that informs them to the best of its abilities.

### **International Alliance Resolution re WWF-International**

Following the meeting with the WWF-International in Quito, Ecuador, 4 - 5 June 1996, the International Coordinating Committee (ICC) of the International Alliance of Indigenous/Tribal Peoples of the Tropical Forests has decided the following.

1. That it will seek to continue its dialogue with the WWF-international in order to deepen mutual understanding about the rights of Indigenous peoples and conservation;
2. That further interactions with the WWF-International will be taken step by step subject to regular review by the ICC;
3. That it will seek the WWF-International's support to carry out international advocacy of the Alliance's concerns, particularly at the Intergovernmental Panel on Forests and the processes related to the Convention on Biological Diversity;
4. That at such meetings it will seek the WWF's support for Alliance statements and make joint statements where these coincide with the Alliance's position;

5. In all this work make fully clear the independence of the Alliance and the fact that the WWF's statement of principles on Indigenous Peoples and Conservation differs in important respects from the Charter of the International Alliance;
6. In seeking support from the WWF-International for capacity building and conservation-related projects make clear the Alliance's confirmed commitment to its principles as expressed in the Charter;
7. Emphasise that field projects with members of the Alliance are to be negotiated regionally and locally with the appropriate member organisations;
8. Request the WWF to provide a list of its projects in the 31 countries where the Alliance has members;
9. Express concern about the number of WWF projects which are represented by indigenous peoples and which are not being developed in conformity with the WWF's new principles;
10. Instruct the International Secretariat of the Alliance to draw these cases to the attention of the WWF as and when requested by the regional coordinators of the Alliance, and specifically to ask that the WWF's partner organisations in the Philippines cease pressurising the indigenous peoples of the country to relocate from their ancestral lands under the NIPAS program;
11. Communicate these decisions to the members of the Alliance and to WWF-International.

Signed on 8 June 1996

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1 In this position statement, as well as in other institutional documents, WWF refers to indigenous and tribal peoples using the definition of the ILO Convention 169. Unless explicitly said otherwise, the term 'indigenous peoples' includes both concepts, 'indigenous' and 'tribal'.

Valerio Grefa, South America  
Apam Muivah, South Asia  
Benon Mugarura, Francophone Africa  
Raymond Abin, Bahasa Region  
Herminia Degawan, Maritime Asia Pacific  
Marcial Arias, Central America  
Prasert Trakansuphakon, South East Asia  
Alfred Ilenre, Anglophone Africa

## Chapter 6: Resolutions of the International Alliance

The international processes related to forests and biodiversity are still a very long way from helping resolve the problems of indigenous and tribal peoples in the tropical forests. Throughout the tropics we find that our communities are coming under increasing pressure as our lands and forests are coveted by outside interests.

The following resolutions passed by the International Alliance in recent years at the meetings of its International Coordinating Committee, its Conferences and in other fora, give an idea of these forces.

The reality for our peoples in many parts of the world continues to be that we suffer severe discrimination as indigenous or tribal peoples. Our traditional ways of life are considered ‘backward’ and ‘primitive’ and many governments have adopted social policies aimed at eliminating our traditional beliefs and languages and encouraging our ‘integration’ into the national mainstream. Forced resettlement has, all too often, been part of this process.

Crucially, we find that our rights to our traditional lands are denied or given ineffective protection in many countries. In other cases we are made to conform to inappropriate land laws which break up our ancestral domains into individually owned fragments. In either case, the result has been the wholesale takeover of our lands by outsiders.

At the same time, national laws and forestry policies in many coun-

tries have taken over our ancestral territories as 'state lands' and 'state forests' thus opening these areas to exploitation by outside mining and logging enterprises without our being involved in decision-making. It is a process we reject.

## **Resolutions of the 2nd Conference of the International Alliance, August 1993, Iquitos, Peru**

The Conference of Iquitos was an appropriate place for each one of the participating organisations to denounce the violation of their rights in their native countries. That is why there were complaints of all kinds. However for the purpose of this text we think it convenient to publish the resolutions of two of them, the massacre suffered by our fellow Yanomamis of Brazil and Ashaninkas of Peru, because we consider them the most violent and several.

### **The Yanomami case**

The II Conference of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, in which participated representatives of the indigenous organisations of: Continental Asia, Maritime Asia and Pacific, Bahasa Region, Central America and the Caribbean, South America and Africa gathered in the city of Iquitos-Peru, facing the terrible massacres of the Yanomami people at the hands of illegal gold miners in the Brazilian State of Roraima:

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*Considering:*

That this new wave of violence follows a long series of criminal actions against the Yanomami People, our peoples and organisations must give priority attention to resolving this problem;

That it is necessary to alert the World community to the genocidal character of this persistent criminal aggression;

That the United Nations have international instruments directed to prevent and condemn this kind of crime against peoples;

That it is necessary to emphasise the need to guarantee preventive, sure and effective measures that end this intolerable holocaust;

That the governmental bodies and institutions of Brazil have not been able to successfully prevent consecutive massacres;

That the Nations and governments of the World must do more than mourn the progressive destruction of people done in front of all the consciences of an International Society and cannot avoid their historic responsibilities for events such as those which occurred in the state of Roraima;

*Resolves:*

1. To give the Yanomami People the solidarity and sorrow of all the Indigenous-Tribal Peoples of the Tropical Forests of the whole World.
2. To declare that the peace and security of the Yanomami People is a priority objective in the agendas of all the Regional Indigenous Organisations: to coordinate jointly a plan of action to intercede before the governments and multilateral bodies, in order to end the genocide of this people: to include the fulfilment of this resolution in the agenda of the II Conference.
3. To make known to the Government of Brazil the statement of this II Conference, demanding their cooperation to end the genocide of the Yanomami People based on efficient and certain measures, coordinated with the Yanomami people themselves, the Indigenous Organisations of



Brazil and all the organisations that can support this objectives. In the same way request an exhaustive investigation of the events in such manner as to make sure that there are no doubts about who is responsible in so far as this can be determined.

4. To exhort the United Nations to activate the relevant mechanisms to coordinate and support the investigation of the events with the help of the government of Brazil and try to apply such measures that correspond to the responsibilities deduced from the investigation.

5. To exhort the United Nations and the Government of Brazil to prepare a plan of action which contains preventive measures and assures the obligatory achievement of a definitive protection of the life and resources of the Yanomami People, and which stipulates procedures for joint control in order to guarantee the carrying out of the programmed measures.

Register this in Acts, and execute it.

Communicate this to:

The Yanomami People  
The United Nations  
Government of Brazil

Signed by the Steering Committee:

Valerio Grefa, Cuenca Amazonica, COICA

Komene Famaa, Africa, EMIROAF

Pablo Sibar, Central America, SEJEKTO

Herminia Degawan, Maritime Asia & Pacific, Cordillera Peoples Alliance

Subodh Bikash, Continental Asia

Raymond Abin, Bahasa Region, Sahabat Alam Malaysia

Ariel Araujo, Cono Sur, Mocovi Center

### **The Ashaninkas' Case**

Open Letter

to the President of the Republic of Peru Ing. Alberto Fujimori Fujimori,

to the Political, Civil and Military Authorities of Peru,  
to the National and International Public Opinion.

The II Conference of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests, in which participated representatives of the indigenous peoples of the world which were organised in 7 regions: Continental Asia, Bahasa Region, Maritime Asia and Pacifics, Southern Cone, Africa, Central America and the Caribbeans and the Amazon Basin. and also representatives of international organisations of cooperation and some NGOs concerned with the protection and handling of the environment, facing the serious events that took place on the 18 of August, 1993 in the central forest of Peru:

Express our strong condemnation and rejection of the massacre in Satipo Mesomere of 52 Ashaninka brothers and sisters including innocent men, women and children, who were brutally killed, mutilated and carved up by the murderous group Sendero Luminoso, and of the wounding, arresting and abduction of others. This genocidal group, which is linked to drug trafficking, which has not been able to subdue the Ashaninka people between their attempt in 1987 and their being finally dislodged in April 1990. This brutal aggression is the reaction to encounters in which Ashaninka brothers and sisters achieved a political and military victory against the subversion and drug trafficking, protecting their lands with order and organisation. In this way the Ashaninka have maintained peace. But in the face of intimidations and evidence of future attacks the Ashaninka requested the protection of the army to protect their communities and territories and liberate more than 1,000 of our Ashaninka brothers and sisters that were prisoners of the genocidal killers. However they have not listened to our brothers and sisters and the tragic outcome has surpassed all hope of a solution.

To this genocidal violence and the economic and social complications in which our Ashaninka brothers and sisters live, is added the invasion of their lands by 'colonos' and drug dealers who try to take possession of their forests and introduce the cultivation of coca.

The solution to this crisis of violence, invasion and drug trafficking is to pay attention to the demands of the indigenous peoples concerning their rights to their territories seeing that for the indigenous peoples their ancestral land is the source of life and the guarantee of the survival of the future generations.

Legal title to indigenous lands is not a guarantee of safety and our brothers and sisters will be vulnerable to subversion until it is completely defeated. and to the invasion by 'colonos' who in their eagerness for gain, will drain the resources of the territories sowing death and desolation.

Due to these events and the expressed concerns the representatives and leaders of the indigenous peoples of the tropical forests of the world, gathered in the city of Iquitos-Peru, in our II Conference demand:

*To the President of the Republic of Peru, Ing. Alberto Fujimori Fujimori:*

1. The security and protection of the indigenous peoples and their territories.
2. The immediate liberty of our Ashaninka brothers and sisters unjustly put under arrest.
3. Immediate help for our Ashaninka brothers and sisters so that they can return to the communities they have been forced to abandon.
4. To guarantee a process for obtaining title to the ancestral and native lands of the indigenous peoples of the Amazon.

*To the political, civil and military authorities of Peru:*

1. To support actions to provide security and protection of the indigenous peoples and their territories.
2. To offer guarantees and provide the necessary conditions for the return of our brothers and sisters that were displaced.
3. In coordination with our Ashaninka brothers and sisters to promote actions and programs to obtain peace in the area.
4. To impose the full force of the law on those responsible for this massacre.

*To the Indigenous Peoples:*

1. Solidarity and permanent action to preserve peace in the indigenous communities and in the process of obtaining national peace.

2. Develop all their capacities to reject aggression and invasion of their peaceful life and territories.

*To the Interethnic Association for the Development of the Peruvian Forest (AIDSESEP):*

1. Undertake their active participation to demand and guarantee peace, in coordination with the civil, political and military authorities.

*To the National and International Public Opinion:*

1. Solidarity to our Ashaninka brothers and sisters in the fight for their survival and peace.

Fraternally,

The Indigenous Peoples of the World

## **Resolutions of the International Alliance, December 1993**

### **Resolution on the Batwa of Rwanda**

*Whereas* Batwa in Rwanda were starting to organise themselves through the Association pour la Promotion Batwa;

*Whereas* through the Association pour la Promotion Batwa, Batwa were trying to speak and tackle their own problems because they know what is handicapping their development like the rest of Rwandans;

*Whereas* some associations which had earlier been in existence pretending to help Batwa were not happy about the creation of the Association pour la Promotion Batwa;

*Whereas* this envy made them decide to divide and rule which has created a division among Batwa;

*Whereas* the Forest of Gishwati is now being cut down and cleared for cultivation by persons unknown;

*Whereas* the forest-dwelling Batwa are being dismissed from the forest and are roaming helplessly without the Government taking heed of their uprootedness;

*Whereas* some of the Batwa in the country are being harassed and sometimes injured or killed as in Nshili, Gikongoro, Burokiree, Kibuye and elsewhere;

*We resolve* that the International Coordination Committee (ICC) of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests sends a letter to the President of the Republic of Rwanda and informs the Prime Minister, the Minister of Environment and Tourism and the Minister of Work and Social Affairs of their concerns for the Batwa of Rwanda.

23 December 1993

To the President of the Republic of Rwanda

Your Excellency,

We are extremely concerned to learn that the Forest of Gishwati has almost disappeared from the map of Rwanda due to people who are rushing to acquire land for cultivation. We are also concerned that the forest Batwa who were living in the forest and have now been dispossessed, are not being provided with adequate substitute housing and shelter.

We respectfully request your Excellency to carry out the following:

1. to set up a Commission to investigate and stop those who are destroying the natural forest,
2. to recognise the desperate situation of the Forest-Batwa who are being forced to leave the forest, and provide these helpless and uprooted people with adequate replacement housing. The forest Batwa should be given the same consideration as the refugees who were displaced by the war in the north.

Yours very faithfully,

(signed by the members of the International Coordinating Committee)

## **Resolution on the Forest Stewardship Council**

23 December 1993

Dear FSC board members,

As you are probably aware, the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests is an indigenous organisation that brings together indigenous peoples from tropical forest countries around the world.

Many of our communities suffer the devastating effects of logging, which we consider a crime against humanity. We have long called for a suspension of all logging concessions which affect our territories.

We have also called for a moratorium on all trade in tropical forest timbers since we know of no examples of timber extraction which can be said to be sustainable.

While we appreciate that the aims of the FSC are to ensure that logging respects indigenous peoples rights and is carried out in an environmentally responsible manner we are concerned that the proliferation of certification systems may serve to legitimise the trade in tropical timbers.

We ask therefore that the FSC board develops open communications with the Alliance and that you ensure that the activities of the FSC in accrediting certification bodies does not end up by promoting this destructive trade.

We look forward to maintaining active links with you.

Yours sincerely,  
(signed by the ICC)

## **Resolution on the Ogoni People of Nigeria**

The International Coordinating Committee of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests met in London from 21-23 December 1993, discussed the problems of the indigenous Ogoni people of south-eastern Nigeria and

*Noted* the continuing degradation of the Ogoni environment resulting from oil exploitation by the multinational oil companies Shell and Chevron;

*Noted* the heroic struggle of the Ogoni people against the destruction of their environment, their forests, land, streams and air;

*Noted* that as a result of that struggle, armed troops have been used against the Ogoni people leading to great loss of lives and massive destruction of property; and

Concluded that the Ogoni people need to be fully protected against the actions of the multinational oil companies, namely Shell and Chevron, and of the Nigerian government.

*And resolved to:*

1. Condemn without reservation the use of Nigerian troops by multinational oil companies to terrorise Ogoni peasants protecting their ancestral land;
2. Call upon the Nigerian government to institute a Judicial Commission and Inquiry into the massacre of over 1000 Ogoni people and the destruction of eight Ogoni villages and to take steps to ensure that the massacres end forthwith;
3. Call upon the Nigerian government and Shell to enter into immediate dialogue with the Ogoni people in order to resolve the conflict which has arisen between them;
4. Call upon the Nigerian government to drop all trumped-up charges laid against Ogoni leaders; and
5. Appeal to the Nigerian head of State and Commander-in-Chief of the Nigerian Armed Forces to ensure that in the forthcoming Constitutional Conference, the Ogoni people and other ethnic minorities are offered a full opportunity to exercise their democratic rights and to make their political choices.

23 December 1993

To the Head of State, Nigeria

Your Excellency,

Our attention has been drawn to the considerable suffering of the Ogoni people of the Niger delta of your country.

We note that troops have been used against them because they are struggling for their environmental, political and economic rights.

We are of the view that the Ogoni people have a right to protest their lack of political power, their dehumanisation by the oil companies and the double standards of the latter.

We are aware that since July 15th, over 20,000 people have been displaced and rendered homeless.

We think that your Excellency's government should address this issue without further delay and send relief to the victims as soon as possible. Steps should also be taken to stop the recurrence of the massacres.

Yours sincerely,

(signed by the ICC)

## **Resolutions of the International Alliance, July 1994**

### **Resolution on Sarawak**

We the undersigned - the International Coordinating Committee of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests - met in Geneva from 19- 22 July 1994, and collectively discussed the issues and problems faced by the Dayak native communities on Sarawak, Malaysia and do hereby note that:

1. Current development activities such as logging, plantations, establishment of protected and reserved forests, parks and resorts, continue to encroach and damage the native customary land (NCL) and resources therein of the Dayaks, subsequently extinguishing their rights and threat-



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ening their survival.

2. Logging licences issued by the Sarawak state government which largely affected vast areas of the Dayaks customary land and indiscriminate logging have led to extensive destruction of their lands and forest resources and pollution of their rivers.

3. The Sarawak government has earmarked hundreds of thousands of hectares of NCL land of the Dayak communities for large-scale plantations and had granted permits to state land development agencies and private companies without the consent of the Dayaks. This will gradually extinguish their land rights and deprive them of their land.

4. Establishment of protected forest, forest reserves, national parks and resorts by the state government over native customary land is being done without consulting the Dayak communities affected. As a result, many Dayak communities have innocently suffered loss of rights to their customary land which the government now claims are state land.

*We have unanimously resolved that:*

1. The Sarawak state government should withdraw all timber concessions and licenses affecting the Dayak communities customary land area and present logging activities within their customary land must be stopped immediately.

2. The Sarawak government should not implement and/or issue permits for plantations within the NCL of the Dayaks and the State Government and private companies should not impose and force upon the Dayak communities the implementation of plantations in the customary land and territories.

3. The Sarawak government should excise all the protected forest areas, forest reserve areas, national parks and resorts that had been established within customary land. The government must demarcate their lands based on their established customary boundaries and guarantee them of total recognition and protection of their land rights.

4. We call upon the Sarawak government to properly consult and inform

the Dayaks of any development activities affecting them or implementing on their customary land.

(signed by the ICC)

**Resolution on Indigenous Adivasi Peoples in the Indian Sub-Continent**

The International Coordinating Committee of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Rainforests, which met in Geneva from 19 - 22 July 1994, discussed the problems of the indigenous Adivasi peoples of the Indian sub-continent in South Asia including the Adis, Borok (Tripuris), Boros, Garos, Laintias, Khesis, Karbis, Mising, Mizos and Nagas from the north east region, the Adivasi indigenous peoples in India including the Nos, Mundas, Santhals of Jharkhand Gonds and Bhils in Madhya Pradesh, Gujarat and Rajasthan.

Noted that the traditional homelands of indigenous Adivasi peoples have been arbitrarily cut up by former colonial rulers, resulting in the division of their traditional homeland into different states or provinces within the country as well as between nation states across international borders;

Concluded that these divisions are being perpetuated by the ruling elites of the colonial and post colonial nation-states;

Concluded that this has led to militarisation and the invoking of national security considerations to justify the ruthless suppression of the just demands of re-unification of homelands and right of self-determination of divided indigenous peoples;

Concluded that intensive militarisation of the north east region has led to derogation of Human Rights of the indigenous peoples. Large areas of land and forest have been forcibly occupied by the Armed forces who are also responsible for large scale deforestation;

Concluded that militarisation includes engineering ethnic conflicts among the indigenous peoples, thereby legitimising the heavy presence of armed forces, blaming the indigenous peoples for Human Rights violations in the national and international forums;

Concluded that the proposed pilot project Netarhat Field Firing Range will displace 245 indigenous villages in the Chotanagpur Santhal Pargaon region, Palamu district in Bihar, India. The army is trying to grab the indigenous peoples' land through the Land Acquisition Act;

Noted with alarm that the lands and resources of many indigenous peoples have been taken over by outsiders and these nationalities have been completely marginalised in their own ancestral homelands. The case of Tripura in the north east of India was noted, where, within the last 45 years the Tripura/ Kokborok indigenous peoples have been reduced to a minority by constant influx of outsiders from India and erstwhile East Pakistan, now Bangladesh;

Noted that the Tiger project in Ot-Kargoan Madhya Pradesh, India will displace 116 villages of the indigenous Bhils.

(signed by the ICC)

### **Resolution on Nigeria**

The International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests views with dismay the continued detention by the Nigerian State Government authorities of Mr Ken Saro-Wiwa, President of the Movement of the Survival of Ogoni People and his deputy Mr Ledum Mitee since May 21, 1994, without trial.

The people of the Tropical Forests are aware of the struggle of the long suffering people of Ogoni in Nigeria whose ecosystem has been degraded due to many years of multinational oil companies exploitation of crude oil in the area.

Rising from an international meeting of the Alliance held in Geneva from 19-22 July 1994, delegates drawn from South and Central America, Africa and Asia call on the Nigerian state authorities to withdraw its military forces which have forcefully occupied Ogoni land since April 1994. The organisation views the occupation of Ogoni by armed forces as an act of militarism against a poor and weak people who are fighting against all forms of human rights abuses and ecological degradation of their land.

We understand Ken Saro-Wiwa was not present in Ogoni at the time four prominent Ogoni persons were killed as a result of the military occu-

pation of Ogoni. The Alliance views the detention of Ken Saro-Wiwa and other MOSOP leaders as a government action directed at intimidating and harassing the indigenous people of Ogoni for their many years of campaigning against government marginalisation and ecological degradation of their land by multi-national firms.

We call for an independent commission of enquiry with international observers to investigate the extent of violence in Ogoni and to expose those responsible for the frequent killings in the area.

(signed by the ICC)

### **Statement to the United Nations Working Group on Indigenous Populations, July 1994, Geneva, Switzerland**

*Agenda item 5. Review of Developments pertaining to the Promotion and Protection of Human Rights and the Fundamental Freedoms of Indigenous Peoples.*

Madam Chair of the Working Group on Indigenous Populations, Mr Coordinator of the International Decade of Indigenous Peoples, Indigenous brothers and sisters present here, Ladies and gentlemen.

The organisations and peoples which form the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests have honoured me by designating me to transmit our cordial greetings to this great forum and at the same time to relay to you some of the reflections and recommendations derived from our experiences with regard to the process of adopting the Declaration on the Rights of Indigenous Peoples and the International Decade of Indigenous Peoples.

The International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests is the largest intercontinental indigenous organisation of the Third World, bringing together the indigenous and tribal peoples of the tropical forest countries of Central and South America, Africa, Asia and Oceania. Many of our Alliance's constituent organisations have been regular participants of the Working Group for many years. Today we speak to the Working Group as a unified Alliance of indigenous-tribal peoples.

I should begin by saying that the indigenous-tribal peoples of the world have agreed through our various undertakings to redouble our

efforts to create a better relationship with State governments; this is fundamental if we are to undertake joint actions which will benefit all of humanity.

Within this context, we indigenous and tribal peoples are trying through all possible means to improve this relationship, without disregarding our continual desire for the development of humanity in areas such as medicine, agriculture, astronomy and sustainable development of natural resources etc. Therefore we urge all State governments to adopt a similar attitude.

The fundamental rights of our peoples, as the twentieth century draws to a close, continue to be denied and we are passing through a very critical moment in our history; genocide and ethnocide are practices which are happening all over the world. So, our very existence as indigenous peoples is threatened both physically and culturally.

Our basic rights and very existence as indigenous and tribal peoples depends basically on physical space and this space is our territories within which we live. Unfortunately we have some peoples who have disappeared through the activities of various State governments and other peoples although surviving, are submitted to constant pressure which threatens our integrity. It is in this sense that we demand that State governments respect our territories.

It is necessary to carry out programmes to demarcate and legalise land in favour of those whose ancestors have occupied it, namely indigenous and tribal peoples. However we demand that all demarcation of territories be carried out in consultation with and with the effective participation of indigenous peoples.

Our territories are our historical continuity both as cultures and as peoples. The land has created our existence and for that reason we respect and preserve it for future generations.

The right to free self-determination is another of our aspirations which we demand should be respected, that is to say, the right to decide our own future. The indigenous-tribal peoples of the world. Madam Chair, do not accept the influence of outsiders who tell us what we should do, what our priorities are and who wish to submit us to a progressive incorporation within a society which has always marginalised us. To permit this would be to leave aside our cultural practices and identity as indigenous peoples.

Given the situation which we indigenous-tribal peoples living in the

tropical forests face, and in particular the aggressive impacts on our natural environment from which we suffer, we demand that within International Law, ecocide be declared a crime and punished with the strongest possible measures. Therefore we reiterate that an International Tribunal of Environmental Justice be established at the heart of the United Nations, through which predatory activities harmful to the environment and uncontrolled exploration of natural resources can be exposed. Obviously the participation of indigenous peoples within this international forum should be seriously considered.

The development of nation states should not be at the expense of over exploitation of natural resources. Both the present well being and the future of humanity depend on natural resources: minerals, hydrocarbons, timber and biodiversity are among the main resources, but today all these

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have all notably diminished. A great part of these resources are found precisely in indigenous territories. The very Earth Summit (Rio de Janeiro 1992), set up to prevent natural disasters which may occur due to this accelerated process of destruction, adopted the Convention on Biodiversity and among other things, Agenda 21.

However, in many areas of the world, even our most basic human rights are being denied and we suffer the militarisation of our territories and the imprisonment, torture and assassination of our leaders. We therefore call on state governments to recognise and give effect to these rights.

The indigenous-tribal peoples of the world, therefore call upon state governments to ratify the aforementioned Convention and to take and adopt appropriate norms to safeguard the future of all humanity.

Madam Chair, to summarise, what we are demanding is the collective recognition of our rights, especially in the following areas:

1. Territories, natural resources and the right to a healthy life.
2. The right to free determination, self-determination and autonomy regarding our future.

3. The right to our own identity and culture as indigenous and tribal peoples.

4. Participation in the social, political, economic and cultural life of every state, since we are part of them.

Finally, Madam Chair, in the name of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Rainforests, allow us to request in conjunction with this Alliance and other indigenous organisations in the world, that mechanisms be adopted that allow the participation of our peoples in the process of adoption of the Universal Declaration on the Rights of Indigenous Peoples as expressed in the 1993 draft, and in particular to request that we participate in the United Nations' Commission on Human Rights and the General Assembly, so that the opinion of indigenous peoples is heard and taken into account. As you know, despite the long preparatory process which has taken place and even though we indigenous peoples have been consulted, in the end those who will approve or reject the Declaration are the State governments.

In the same way, we also request that means be established for our participation in the Coordinating Committee of the United Nations' International Decade of Indigenous Peoples.

The indigenous and tribal peoples of the world have the full right to express our reservations regarding the final adoption of the Declaration. Our future lies in the hands of the State governments and for this reason we urge that our right to legitimate participation be acknowledged.

Thank you Madam Chair. Ladies and gentlemen.

Valerio Grefa, COICA, Ecuador

Alfred Ilenre, Ethnic Minorities Organisation of Africa, Nigeria

Jose Dualok Rojas, Asociacion Cultural Sejekto, Costa Rica

Apam Muivah, Naga Peoples Movement for Human Rights

Minnie Degawan, Cordillera Peoples Alliance

Raymond Abin, Sahabat Alam Malaysia

Charles Uwiragiye, Association pour la Promotion Batwa

**Statement to the International Alliance's Asia Regional Meeting, 31 January 1995, Baguio City, Philippines**

## **Indigenous Peoples' Responses, Impact and Strategies**

1. We who are here today come from among 30 distinct peoples out of the surviving distinct peoples in Asia:

Philippines -70  
 Vietnam -56  
 Sabah-39  
 Thailand - 12 in the North  
 Sarawak -30+  
 Burma-21

India -440 with 20 major groups  
 Taiwan - 11  
 Nepal -22  
 West Papua -  
 Papua New Guinea -  
 Kalimantan -900

2. Today we embody a large part of the world's cultural diversity, even as global forces work towards our incorporation and death as distinct peoples.

3. We continue to survive because we fight to retain our rights to our lands from which we draw sustenance and which we continue to nurture.

4. In our communities we are involved in many active campaigns for the defense of our land, lives and culture:

- Dayak peoples against logging, plantations, dams, declaration and establishment of native customary land rights for permanent forest estates, protected forests and reserves, national parks and wildlife sanctuaries and resort development in Sarawak;
- Murots and Duzons of Sabah against the plantation and dam displacement;
- Kachins against hardwood extraction and government-controlled village plantations and foreign logging concessions;
- Karens against forced relocation and for the recognition of our right to land and citizenship;
- Arakenese against militarisation and threatened mining, fishing and



- highway construction;
- The Adivasi of India resisting the imposition of a new Forestry Policy that violates our rights to the forests;
  - Bhils in the Central Indian Zone oppose exclusion contained in the new Indian Forest Act, against the SSP Dam and fighting for regional autonomy, the Bhils in the Western Zone fighting to stop the dams in the Narmada;
  - The Adivasi of Jharkland against national park and fighting for regional autonomy;
  - Taiwan aborigines against impoverishment and marginalisation in the cities and for the recovery of indigenous names;
  - Tamang peoples safeguarding the human rights of women and children from the negative impacts of forest degradation, promoting and protecting our own language, culture and religion and fighting for our identity;
  - Exposure of forest problems among the different indigenous peoples of Indonesia;
  - Philippine indigenous peoples reject the Philippine 2000/ Philippine Medium Term Development Plan which is being posed as sustainable development and masking capitalist exploitation;
  - The Ibaloy of Benguet opposing the strip-mining of their territories and the building of hydro-electric dams;
  - The Kankanaeys rejecting the commercialisation of their indigenous cultures in the name of tourism, while massive military operations are on-going in their resource-rich territories;
  - West Papua peoples oppose destructive logging, mining and human rights abuse, asserting our right to self-determination and full independence from Indonesia;
  - Naga people against human rights violations, economic exploitation, political and military domination and social separation from the imposition of the cultural and legal system;
  - the indigenous peoples of Papua New Guinea oppose destructive logging, plantation and mining.
5. As we experience the full impact of modern capitalist and state exploitation of our lands and peoples, we become convinced of the need to strengthen and recover viable traditional perspectives and practices that have served us well for many generations. These continue to be relevant

and inspirational to our movements and to other peoples interested in finding appropriate local solutions to global problems.

6. In varying situations, we have employed different strategies including barricades, silence and non-cooperation, petition, public education campaigns, lobbying, alliances with political parties, policy advocacy and reforms, armed resistance, implementation of communal development projects, community organising, and building international linkages and solidarity.

7. Therefore we are happy to be present at this Asian Regional Meeting of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests and join each other in solidarity for our common struggle.

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### **Resolutions and Statements Passed During the Asian Regional Meeting of the International Alliance, 29 January - 2 February 1995, Baguio City, Cordillera, Philippines**

#### *Resolution concerning Indian Forest Policies and the Adivasi/Tribal Peoples*

*Concerned* that the Indian Government is in the process of enacting a new Forest Policy known as the Conservation of Forests and Natural Ecosystems Act.

*Believing* that the proposed law does not take into consideration the fact that the Adivasi/Tribal Peoples have been the original inhabitants of the forests and traditional gardens in India.

*Deeply concerned* that the proposed legislation have the following negative aspects: greater control and state monopoly, centralisation, concentration of decision making power at the centre, give unlimited power to bureaucrats and forest departments, anti-democratic, anti-participatory, restrict peoples rights in the reserved forests, limits local communities (Adivasi/Tribal Peoples) to exercise more effective and independent

control, discrimination against Adivasi/indigenous communities whose basic livelihood depends on forest products, discrimination towards commercial forestry activities and negates shifting cultivation.

*Having been informed* that the Adivasi/Tribal peoples of India are in the process of drafting an Adivasi/Tribal Peoples Forest Policy as a product of a broad-based consultative process across India.

*Therefore, we the delegates of the Asian Regional Meeting of the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests support* the Adivasi/Tribal peoples and urge the government of India to consider the Adivasi/Tribal Peoples Forest Policy as a significant statement of the demands, rights and concerns of the indigenous peoples of India.

### **Resolution in Support of the Struggle of the Atamanobo in Talaingod, Davao Del Norte, Philippines Against Alson's Industrial Forest Management Agreement (IFMA) Project**

Whereas, the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests was informed of the Philippine Government's Industrial Forest Management Agreement (IFMA) funded by the Asian Development Bank;

Whereas, it is reported that this program has displaced indigenous peoples from their forested ancestral domains and threatened their survival;

Whereas, it is further reported that the Ata-Manobos of Talaingod, Davao del Norte is among those affected by this IFMA and is now under militarisation because of their opposition to the project;

Whereas, the Ata-Manobos through the Salugpungan Ta Tana Nigkanuhon (Lumads Unity for the Defense of Ancestral Domain) are demanding for the cancellation of Alson's IFMA and withdrawal of the military from their ancestral domain;

*Now, therefore we*, the participants to the Asian Regional Meeting of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests express our support to the demand of the Ata-Manobos through

their organisation Salugpungan Ta Tana Nigkanuhon for the cancellation of Alson's IFMA, demand for demilitarisation and of their struggle for their ancestral domain.

### **Resolution on Rimbunan Hijau**

Having been made aware of the negative effects of the operations being conducted by the Malaysian logging company Rimbunan Hijau on the territories of the indigenous peoples of Papua New Guinea (PNG) such as:

- a) damage to the forest and environment of PNG;
- b) deprivation of the indigenous peoples of their food and other resources from the forests;
- c) violation of the rights of indigenous peoples to their lands and customs;
- d) violation of the basic human rights of the indigenous peoples.

*Therefore*, we, the participants to the Asian Regional meeting of the IAITPTF call upon the governments of PNG and Malaysia and the Rimbunan Hijau Logging Corporation to halt the latter's operations in PNG and respect the indigenous peoples rights to their lands and to self-determination.

### **Resolution on the Campaign for Recognition of Indigenous Peoples Rights in Asia**

*Whereas*, the campaign for recognition of indigenous peoples in Asia is one of the activities approved by the participants to the Asian Regional Meeting of the IAITPTF;

*Whereas*, there are other existing organisations and alliances of indigenous peoples in Asia and worldwide;

*Whereas*, this campaign requires a coordinated effort from all local, national, regional and international indigenous peoples' groups;

*Resolved*, that we urge other indigenous peoples' organisations to work for the recognition and respect of indigenous peoples rights in Asia;

*Resolved*, further, that we shall seek friendly relations with existing and

emerging indigenous organisations for the realisation of this goal.

**Resolution requesting the Asian Development Bank to conduct a Consultation/Dialogue with all Members of the Alliance of the Indigenous-Tribal Peoples in Asia concerning the Bank's Working Paper on Indigenous Peoples**

*Informed* that the Asian Development Bank is in the process of drafting a policy to guide its operations in relation to Indigenous Peoples in Bank-assisted projects in developing countries member of the Bank and is soliciting views of people knowledgeable and interested in the subject;

*Considering* that the Indigenous-Tribal Peoples are the subject of the Bank's policy and therefore it is important that their views should also be heard and given due consideration;

*Therefore*, we Indigenous-Tribal Peoples in the Tropical Forests and participants of the Asia Regional Meeting of the International Alliance of the Indigenous- Tribal Peoples of the Tropical Forests request the Asian Development Bank to conduct a formal consultation and/or dialogue with us. We therefore request that copies of pertinent documents concerning Bank-assisted projects in the country of the participants be provided for their information and guidance;

**Resolution supporting the Campaign against the Large-Scale Development of Club John Hay, Baguio City, Philippines**

*Whereas*, one of Baguio's remaining forests and only surviving watershed is located in Camp John Hay (CJH), a former U.S. facility reverted back to the Philippine government in 1991. Its management is now under the Bases Conversion Development Authority (BCDA), a government agency entrusted by the Law the power to own its original 695 hectares area which includes 13 outlying communities, some of which are occupied by indigenous peoples, and delegated the power for eminent domain;

*Whereas*, the BCDA has entered into a Memorandum of Agreement with Baguio International Development Management Corporation, a consortium led by Tuntex-Asiaworld, a Taiwanese company for the development of the facility into an international village of mountain resort, with the foreign company leasing the area for a maximum of 75 years

and owning 80% equity. One of the conditions for development set by Tuntex-Asiaworld is the declaration of the facility as a Special Economic Zone which was favourably acted upon by the Philippine government;

*Whereas*, the project will have very adverse effects on the outlying communities and to the Baguio community as a whole: it pushes the limits of the environment, it has high social costs, it is an economic loss to the City and the National Government and it limits public access to the facility in accordance with SEZ provision specifying a visitor's center to the area;

*Whereas*, there has been a strong people's protest against the project

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demanding the following:

- that the BCDA Law be repealed
- that the BCDA-Tuntex Memorandum of Agreement be abrogated
- that the Special Economic Zone proclamation be revoked
- that genuine consultations with all affected persons of the Baguio community be consulted;

*Whereas*, the government in an attempt to quell the people's protest, has approved a low-impact development plan for the facility on 3 November 1994;

*Whereas*, such move has not really addressed the multi-layered nature of the problem;

*Be it be resolved therefore*, as it is hereby resolved that we the participants of this Asia Regional Meeting of the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests declare our solidarity with the people of Baguio in their struggle against this destructive project.

*Resolved* further that we carry on a campaign in our respective countries to dissuade possible investors from participating in the project.

**Resolution against the implementation of the Forestry Master-plan declaring lands as Conservation Areas in Thailand**

*Informed* that the government of Thailand through the Forestry Department has prepared a master-plan declaring lands as conservation areas;

*Believing* that the plan did not consider the legitimate claims of the indigenous peoples of Thailand to their ancestral lands;

*Deeply* concerned that this plan when enforced will result in the forcible relocation and disruption of the lives of the indigenous peoples of Thailand;

*Therefore*, we urge the government of Thailand to defer the implementation of the master-plan and to consult the people in the areas identified as conservation areas and respect their rights to their lands, livelihood and traditional resource management system.

### **Resolution calling for the participation of the Indigenous Peoples of Burma to projects affecting their lands**

*Whereas*, government and multi-national development projects had been implemented in the lands of indigenous peoples of Burma without genuine consultations with the people;

*Whereas*, the affected peoples should be informed of the environmental and social impacts of such projects to their lives;

*Whereas*, the indigenous peoples affected have the right to be consulted and participate in any project conducted or implemented in their lands;

*Resolved*, therefore as it is hereby resolved that the government of Burma and multi-national development agencies be urged to respect the right of indigenous peoples of Burma to determine their own development and genuine consultations with all the people affected should be ensured before any project is conducted or implemented in their lands.

### **Resolution Calling for the Boycott of the ‘Visit Burma Year ’**

*Concerned* of the report that militarisation is the main cause of the violation of human rights, indigenous peoples rights and the destruction of forests in Burma;

*Informed* that no non-government or human rights organisation is allowed to freely operate to monitor and take actions on human and peoples rights violations;

*Deeply* concerned that the indigenous peoples of Burma are struggling in an extremely difficult situation for their freedom;

*Believing* that international concern and action is necessary to pressure the State Law and Order Restoration Council of the government of Burma from pursuing its reported militarist rule;

*Also aware* that the SLORC of the government of Burma has launched the ‘Visit to Burma Year ’ in 1996;

*Therefore, we call* for the boycott of the ‘Visit to Burma Year ’ as it is only meant to fool the world’s opinion and gain access to greater resources as it continues the war against the indigenous peoples.

### **Resolution Calling for the Stop of Logging Operations, Mono-culture Plantation Expansion and Violation of Indigenous Peoples Rights in Indonesia**

*Whereas*, the implementation of logging operations, huge mono-culture plantations as well as transmigration on the Indonesian islands other than Java has violated the rights and denied the existence of many indigenous peoples inhabiting the areas for thousands of years;

*Whereas*, it is reported that the indigenous peoples have suffered economically and socio-culturally from the destruction of their livelihood and environment when those projects were conducted in their lands and forests;

*Whereas*, it is further reported that these projects were implemented without consultation and agreement with the indigenous peoples;

*Whereas*, there are complaints that the Indigenous peoples suffered various kinds of intimidation when they protested and rejected these destructive projects and that floods, long droughts and massive forest fires result from careless and irresponsible management of these projects;



*Whereas*, indigenous peoples had always been erroneously accused by the government as the cause of those calamities because of the practice of indigenous farming;

*It is therefore resolved by the participants of the Asia Regional Meeting of the IAITPTF to demand the Government of Indonesia:*

1. To recognise legally the customary rights of the indigenous peoples and support the indigenous management of forest and environment.
2. To stop the destruction and encroachment of indigenous peoples' land and forests all over Indonesia by logging and plantation projects.
3. To fulfill the demands of the indigenous peoples affected by various plantation projects which are still not solved in many parts of the country.
4. To stop the involvement of the military in solving conflicts between the indigenous peoples and the companies.
5. To stop the programs on logging concessions, huge mono-culture plantation projects and transmigration in Indonesia.

### **Resolution Supporting the Struggle of the Indigenous Peoples of Nepal for the Recognition of Their Rights to Their Forests**

*Whereas*, the indigenous peoples of Nepal regard the forest as part of their ancestral domain and as such is very important to their existence;

*Whereas*, the remaining forests in Nepal is largely credited to the care, sustainable management and use of the indigenous peoples especially the women;

*Whereas*, the invasion of the forests by government and huge private companies is causing damaging effects to the indigenous peoples particularly the women and children who have more frequent interaction with the forests;

*Whereas*, the declaration of the forests by the government of Nepal as national parks, wildlife conservation parks and resort caused further displacement of the indigenous peoples as the original caretakers and managers of the forests;

*Whereas*, it is reported that no just compensation is given to the affected peoples especially the women and children;

*Whereas*, the indigenous peoples' of Nepal are fighting for the respect and recognition of their right to the forests as original caretakers/managers;

Resolved, therefore as it is hereby resolved, that we participants to the Asia Regional meeting of the IAITPTF support the struggle of the indigenous peoples of Nepal for the respect and recognition of their right to their ancestral domain and we urge the Nepalese government to halt the dam and favourably act on their demands. in Sarawak, Malaysia as part of its power generation program in

**Resolution Supporting the Struggle of the Dayak Peoples of Sarawak Against the Construction of the Bakun Dam**  
2020 Development Plan which is being opposed by the Dayak peoples of Sarawak;

*Having known* that the State Government is ignoring the protests of the affected peoples and their support groups;

*Concerned* that the indigenous peoples' right to information and participation in the decision of such project was reportedly denied by the State Government;

*Deeply concerned* that the construction of the dam will affect some 15 longhouses of Dayak peoples and will submerge large tracts of their ancestral homelands;

*Believing* that the dam will not truly benefit the indigenous peoples of Sarawak;

*Therefore, we participants of the Asia Regional Meeting of the IAITPTF urge* the Government of Malaysia and its foreign partners in the project to listen to the peoples' voices and immediately stop the construction of the Dam.

**Resolution Demanding the Halting of the Construction of the Casecanan Transbasin Dam in the Triboundary of Nueva Viscaya, Nueva Ecija and Quirino Province, Philippines**

*Whereas*, the National power Corporation in response to the power crisis is going to construct a hydro-electric power dam in the Casecnan River which is the ancestral domain of the Bugkalot people;

*Whereas*, the Ibaloy and Kankanaey peoples displaced during the construction of the Ambuklao-Binga dams in the province of Benguet resettled in what is now known as Conwap Valley which shall also be affected by the construction of the dam;

*Whereas*, the Ibaloy and Kankanaey peoples have earned the confidence and trust of the Bugkalot people as co-stewards of the land area;

*Whereas*, the Ibaloy, Kankanaey and Bugkalot peoples oppose the project and demand that the Philippine government stop its construction with the following reasons:

1. The dam will submerge their farms, hunting and fishing grounds in the Casecnan River Basin and Conwap Valley. Thus will deprive them of their livelihood, with it their traditional ways of life.
2. The dam will displace more than 10,000 indigenous peoples who are uncertain of being provided resettlement by the government.
3. The Ibaloy and Kankanaey worked more than 20 years to be resettled in Conwap Valley only to find out that the place is the ancestral domain of the Bugkalot people.

*Let it be further resolved*, that the participants of the Asia Regional Meeting of the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests support the opposition towards the construction of the Casecnan Transbasin Dam Project.

### **Resolution Supporting the Protest of Indigenous Peoples of Nepal on the Construction of the Arun Dam**

*Aware* that the indigenous peoples of Nepal have not yet forgotten the death and damage caused by the great flood in 1993 to the peoples of Nepal;

*Concerned* that a new dam called Arun III has been planned to be constructed in the eastern part of Nepal where indigenous peoples live;

*Believing* that the dam will surely displace the indigenous peoples and may result to the same calamity experienced in 1993;

*Having* been informed that the dam is funded by the World Bank and that the present government is going to finalise the dialogue with the World Bank;

*Therefore*, we participants to the Asia Regional Meeting of IAITPTF condemn the construction of the Arun III Dam and urge the government of Nepal to stop its construction.

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### **Statement of the Organisasi Papua Merdeka**

On behalf of the West Papuan Peoples, I declare my full support to the resolutions passed in this Asian Regional Meeting of the IAITPTF, specially those that pertain to Indonesia.

We demand that the Indonesian government recognise the right to self-determination of the indigenous peoples of Indonesia.

We demand that the Indonesian government recognise the right to political, economical and socio-cultural independence of the indigenous peoples who are struggling for full independence.

Signed: Ottis Simopearef

This statement was adopted in full by the Conference participants as part of the official documents of the Conference.

### **Resolution Supporting the Indigenous Peoples' Struggle in Mining Communities in the Cordillera, Philippines**

*Concerned* that the mining companies in the Cordillera have shifted their mining method from underground to open-pit and bulk mining in order to maximise production and profit;

*Concerned* that the government enacted People's Small-scale Mining Act or RA 7076 with the purpose of developing small-scale mining;

*Concerned* that the Philippine Congress is presently deliberating the passage of a new Mining Code and other laws supposedly for the purpose of saving the present slump of the mining industry;

*Believing* that the policy of the Philippine government is to promote mining as part of its Medium Term Development Plan;

*Deeply concerned* that these developments in the mining industry would only intensify the hardship presently faced by the indigenous peoples in mining communities of the Cordillera where:

1. The shift to open-pit and bulk mining aggravated the degradation of the environment and caused retrenchment to mine workers, loss of livelihood to small-scale miners and peasants and destruction of indigenous communities;
2. The People's Small-scale Mining Act is another ploy to disenfranchise the indigenous peoples in the mining communities of their land, adding to their burden in their struggle against patented mining claims as form of land rights by large mining companies;
3. The People's Small-scale Mining Act burdens the small scale miners to numerous fees and taxes aside from the red tapes that they will undergo in processing the needed papers and documents;
4. The Mining Code, if passed in its present form, is a total sell-out of our lands and resources to foreign corporations, bring more large-scale destruction to the land and to the whole environment and will further violate and erode the lights of indigenous peoples to their ancestral lands as a consequence of granting easement and eminent domain rights to mining corporations;

*Therefore, we participants of the Asia Regional Meeting of the IAITPTF strongly support:*

1. The ban of destructive mining methods such as open-pit and bulk mining and the usage of tailings dam as a waste disposal system;
2. The exemption of the Cordillera from the implementation of the Peo-

ple's Small-scale Mining Act or RA 7976 and instead develop indigenous small scale mining as practised in the Cordillera:

3. The campaign against the passage of a pro-foreign investment Mining Code and work towards the passage of a mining code that promotes and support the needs of genuine industrialisation:
4. The repeal of the law that recognises patented mining claims as a form of mineral land ownership and immediately stop giving mining patents to patentable mining claims.

Resolutions adopted by the participants to the Asian Indigenous Peoples Conference on Forest Issues, 29 January - 2 February 1995, Baguio City, Philippines

Jannie Lasimbang  
 Raymond Abin Bira  
 Luingam Luithui  
 Soe Myint  
 Arisa Witayachaya  
 Felicia Maranjala  
 Sittiphong Samathimankong  
 Chindarat Samanthimankong  
 Parassert Trakansuphakon  
 Dechawut Krongborisut  
 Rastit Harsuna Lubis  
 Asi Winnie  
 Apam Muivah  
 Raajen Singh  
 Devendra Nath Hasdah  
 Nikunja Bhutia  
 Ottis Simonpiaref  
 Stella Tamang  
 Dao the Duc  
 Joji Carino  
 Mao Lung Chung  
 John Hamba  
 Minnie Degawan  
 Yul Caringas

Jeanette Ribaya-Cawiding  
 William Solina  
 Ramon Bayaan

### **Participating organisations:**

Arakan Human Rights Research Center (AHRRC)  
 Adivasi Mukti Sangathan (AMS)  
 Alliance of Taiwan Aborigines (ATA)  
 Cordillera Peoples' Alliance (CPA)  
 Hill Area Development Foundation (HADF)  
 Inter-Mountain Peoples' Education and Culture in Thailand  
 (IMPECT)  
 Institute of Dayakology Research and Development (IDRD)  
 Jharkandis' Organisation for Human Rights (JOHAR)  
 Kalipunan ng Katutubong Mamamayan ng Pilipinas (KAMP)  
 (National Federation of Indigenous Peoples' Organisation in the Philip-  
 pines)  
 Naga Peoples' Movement for Human Rights (NPMHR)  
 Nepal Tamang Ghedung (NTG)  
 Organisasi Papua Merdeka (OPM) (Organisation for Papuan  
 Independence)  
 Partners of Community Organisations (PACOS)  
 Pan Kachin Development Society (PKDS)  
 Sahabat Alam Malaysia (SAM)  
 South Pacific Appropriate Technology, Foundation (SPATF)  
 Sekretariat Kerjasama Pelestarianitutan Indonesia (SKEPHI)

### **Resolution on the Indigenous Olympics being organised by the Philippine Government, November 1995**

We, the members of the International Coordinating Committee of the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests,

Having been informed that the Philippine government will be hosting an Indigenous Olympics in 1996, in observance of the International Decade of the World's Indigenous Peoples wish to state the following:

1. The Philippine government's credibility for hosting such an event is undermined by its historical and current record of violations of the rights of the more than 6 million Philippine indigenous peoples. Early plans for the Indigenous Olympics Games put great stress on the trade and tourism aspects of the event, rather than the welfare of indigenous peoples. In recent years, the Philippine government has passed several laws including the New Mining Code, Forestry Regulations and the imposition of Parks and Protected Area Systems which grab and destroy ancestral lands of indigenous communities.

The holding of the Indigenous Olympics in the Philippines covers up and does not address the real problems faced by the Philippine indigenous peoples and legitimises the Philippine government's hypocritical policy towards indigenous peoples.

We therefore urge the Philippine government to address the fundamental demands of Philippine indigenous peoples for land rights and self-determination and to desist from its commercialisation of indigenous peoples' cultures in its pursuit of international acclaim;

2. Indigenous peoples organisations have called for the holding of Indigenous Olympics Games to strengthen our peoples' cultures and to build solidarity among indigenous peoples.

We assert that such activities should be organised by, and for Indigenous Peoples;

3. We urge the United Nations and its subsidiary organs to channel their support for Indigenous Olympic Games to indigenous organisations willing and capable of organising such events;

4. We call upon other indigenous organisations to support Philippine indigenous peoples in their struggles for recognition of their inherent rights. Please write letters to the Philippine government protesting and calling for a halt to the planned 1996 Indigenous Olympics in the Philippines until the government recognises the basic rights of indigenous peoples.

## **Resolutions of the International Alliance, June 1996**

### **Resolution on the Community Forest Law, Thailand**



The International Alliance of the Indigenous-Tribal Peoples of the Tropical Forest, at the meeting of its international Co-ordination Committee held in Quito, Ecuador, May, 1996, passed the following resolution to be forwarded to the Prime Minister of Thailand.

To the Prime Minister of Thailand, Mr. Banhan Silapa-acha.

We have become aware of the existence of a final draft Community Forest Law in Thailand of April 1996. This positive initiative stands to benefit the tribal peoples of Thailand and secure the conservation of the forests throughout the country. In spite of the law having been approved by the Committee of Ministries, we are concerned to hear that there has been a considerable delay in the passing of this law. The indigenous-tribal peoples of Thailand who live in forest areas have demonstrated their capacity for managing their resources for thousands of years. This law stands to respect their rights and ensure that the forests are sustainably managed. We therefore urge you most strongly to facilitate the draft so that it can be discussed in Parliament and become law as soon as possible.

(signed by the ICC)

### **Resolution on Logging on Yamdena Island.**

**We, the International Coordinating Committee of the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests, would like to address this resolution to the Ministry of Forestry of the Republic of Indonesia regarding logging operations on Yamdena island, South East Molucca, Indonesia.**

Yamdena's indigenous peoples hold traditional collective land rights which cover the whole island leaving no unclaimed areas. By granting new concessions and starting logging operations in July 1995, the Department of Forestry and the logging companies alike have chosen to ignore these rights.

The Indigenous peoples depend on the forest for fresh water and their livelihood based on agriculture and fishing. Since the logging operations started, water shortages have already been felt by coastal villages. There has also been a decrease of water levels in the major rivers such as the Thamrian river which is located within the logging concession.

If the logging operations do not stop, within several years the

island will become a pile of limestone due to the erosion. The erosion will also destroy the coral reefs ringing the island, leading to destruction of local fisheries.

For these reasons, we the International Coordinating Committee of the International Alliance of Indigenous-Tribal Peoples of the Tropical Forests, sign this resolution to the Minister of Forestry of the Republic of Indonesia to stop all logging operations on Yamdena island and respect the rights of the indigenous peoples of Yamdena who have lived on their island for centuries.

(signed by the ICC)

#### **Resolution on Abuses of Indigenous Rights in Nigeria**

The International Alliance of Indigenous-Tribal Peoples of the Tropical Forests in its meeting in Quito, Ecuador, from 5-8 June 1996 has decided on the next resolution:

The International Alliance of Indigenous-Tribal Peoples of the Tropical Forests (International Alliance) is concerned about the extent of the multi-dimensional cases of human rights violations and abuses directed against indigenous communities by the Nigerian military dictatorship.

The Alliance is particularly disturbed by the execution of the President of the Movement for the Survival of Ogoni People (MOSOP), Mr. Ken Saro Wiwa on 10 November 10 1995, because of his commitment to the cause of environmental protection in the indigenous territory of Ogoni-land.

Our organisation is aware that Nigeria has earned itself a pariah image within the international community as a result of its poor human rights record which has led to the imposition of economic and sporting sanctions by the European Union, condemnation vote by the United Nations General Assembly and the suspension of its membership from the Commonwealth of Nations.

By the execution of Mr. Saro-Wiwa and eight other MOSOP members, the Nigerian authority has demonstrated a high level of insensitivity to the world opinion. We view the Nigerian government's action as an act of intimidation and repression directed against indigenous communities all over the world.

The Alliance therefore calls on all international bodies including intergovernmental and non-governmental bodies to make

**Nigeria comply with all international conventions which guarantee human rights to which it is a signatory.**

**We note with dismay that although the international community recognised the justness of the Ogoni struggle, neither the Nigerian government nor the multi-national oil companies polluting the environment, are doing anything to rehabilitate or clean up the area or pay compensation to the aggrieved communities.**

**We call on the Nigerian government and the multi-national oil companies to go into dialogue with the indigenous communities of oil rich Niger Delta of Nigeria in order to avoid the recurrence of the Ogoni experience.**

**(signed by the ICC)**

#### **Resolution on Mining in Indigenous Peoples' Territories**

**We, the members of the ICC of the IAITPTF, holding our regular meeting in Quito, Ecuador from 6-9 June 1996 wish to declare our position with regard to the issue of mining in indigenous peoples territories. We have received information from Panama, the Philippines, Surinam, West Papua, India and Indonesia regarding the increasing activities of multi-national mining companies in these territories. Likewise, we were informed of the results of the International Consultation on Indigenous Peoples and Mining held in London from 6-16 May 1996.**

**We condemn state governments that allow mining companies free access to mineral resources while flagrantly violating the land rights of indigenous peoples. We further condemn mining companies that employ environmentally destructive processes in their mining activities.**

**We express our full support to the declaration of the International Consultation on Indigenous Peoples and Mining and at the same time, adding the cases of Panama and the Philippines as among the 'hot spots'. We express our solidarity with the other indigenous peoples who are threatened by mining activities. We support the call for an international movement to defend Mother Earth, a movement which our Alliance is fully committed to.**

**We call upon all indigenous peoples to stand firm in the struggle to retain and recover our lands and ways of life.**

**(signed by the ICC)**























