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American States

SOCIAL ACTORS PARTICIPATION IN THE ACTIVITIES OF THE
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**CONCLUSIONS AND RECOMMENDATIONS ARISING FROM THE SUB-REGIONAL MEETING OF
INDIGENOUS PEOPLES FROM CANADA, THE UNITED STATES AND THE CARIBBEAN**

OTTAWA, CANADA. DECEMBER 13, 2010

UNION NACIONAL DE ABOGADAS Y ABOGADOS INDIGENAS DE PANAMA (UNAIPA)

Panama, city, 13 of july 2011.

Ms. Sherry Tross

Executive Secretary
Summits of the Americas Secretariat
Organization of American States (OAS)

Dear Ms. Tross:

Who signs, Héctor Huertas Gonzalez, in name of my organization National Union of Attorneys Indigenous to Panama (UNAIPA), Meso-American coordinator of the Summit Indigenous to the Americas has the pleasure of addressing you in your capacity as Executive Secretary of the Summits of the Americas Secretariat of the Organization of American States to request that you kindly distribute, among all the stakeholders and/or other parties interested in the Summits process –specifically, the member states, Colombia as the host country of the Sixth Summit of the Americas, the indigenous peoples in your databases, the Joint Summit Working Group, civil society organizations, and other parties you deem necessary– the final outcome document of the Sub-regional Meeting of Indigenous Peoples of North America and the Caribbean in follow up on the Third Indigenous Leaders Summit of the Americas, titled “CONCLUSIONS AND RECOMMENDATIONS OF THE SUBREGIONAL MEETING OF INDIGENOUS PEOPLES OF NORTH AMERICA AND THE CARIBBEAN,” held in Ottawa, Canada, on December 13, 2010, the text of which, in the English and Spanish languages, is attached hereto.

Thanking you in advance for the kind attention paid to this request, I avail myself of this opportunity to extend to the OAS General Secretariat the assurances of our highest consideration.



Hector Huertas Gonzalez
8-577-103

Hector Huertas Gonzalez
Coordinator for mesoamerica of The CLIAS

CC: Andrea Montilla
Summit of the Americas Secretariat

**CONCLUSIONS AND RECOMMENDATIONS ARISING FROM THE SUB-REGIONAL MEETING OF
INDIGENOUS PEOPLES FROM CANADA, THE UNITED STATES AND THE CARIBBEAN**
OTTAWA, CANADA. DECEMBER 13, 2010

Indigenous peoples made the following conclusions and recommendation at the Sub-Regional Meeting of Indigenous Peoples from Canada, the United States and the Caribbean held in Ottawa on Monday, December 13, 2010:

INDIGENOUS PEOPLES' RELATIONSHIPS WITH EACH OTHER

1. CONCLUSION:

There is a need for an Indigenous Peoples Caucus of the Americas with a structure of co-chairs that are English-speaking, Spanish-speaking and Portuguese-speaking, with balanced gender and regional representation, to meet on issues concerning the OAS, including the upcoming IV Indigenous Leaders' Summit of the Americas (ILSA) and VI Summits of the Americas (SOA). It is necessary to have a session prior to the OAS General Assembly (GA) next year to effectively participate in the GA. At that point, there could be a discussion among the leaders of how to ensure there is a Government-to-Government relationship established. We can use the support of the Summits of the Americas Secretariat (SAS) to the extent that we can, including relying on the Virtual Community. There must also be face-to-face meetings, with a focal point established in between these meetings. We need to further elaborate on how this will function. The OAS should be requested to support the activities of this body. The Caribbean region has identified the need for a capacity-building workshop focusing on engagement in the ILSA process, which it has offered to host.

1.1. Recommendations:

- a. Request the OAS/SAS to support an Indigenous Peoples Caucus meeting, prior to the GA as well as ongoing dialogue through the Virtual Community.
- b. That a Planning Committee for the IV ILSA be established at the next Indigenous Peoples Caucus meeting in January 2011 at the OAS Working Group on the Draft American Declaration in Washington. This Planning Committee should be composed of two representatives from each region of the Americas (North, South and Central America, as well as the Caribbean) along with Youth and Elder representatives, ensuring a gender balance is achieved. A media strategy should be developed early on in the process to highlight Indigenous peoples' perspectives.
- c. Indigenous leaders from all Indigenous peoples throughout the Americas should be encouraged to participate in the IV ILSA as well as the VI Summit of the Americas. Funding to support their participation should be sought.
- d. All Indigenous peoples and their representative organizations widely post the III ILSA Declaration and Plan of Action on their respective websites, as well as information and

draft documents in preparation for the IV ILSA. There should be a fortification of communication platforms throughout the region.

- e. Contact via email, fax or post the Foreign Ministries and other relevant Ministers of countries represented in the North, South and Central American Regions to request follow-up information about the III ILSA Declaration and Plan of Action. This has already been completed in the Caribbean region.
- f. To support the offer by the Caribbean region to host a capacity-building workshop.

INDIGENOUS PEOPLES' RELATIONSHIP WITH THE OAS SYSTEM

2. CONCLUSION:

It is essential that Indigenous peoples engage at the earliest opportunity with the OAS and member states in the preparatory process leading into the VI SOA. Indigenous peoples must be involved right from the onset of the Summit Implementation Review Group (SIRG) process. This includes having an opportunity to participate in the definition of the thematic approach, the development of the concept paper and the draft Declaration itself. This will help to prevent the errors of past Summits, such as paragraph 86 of the Declaration of Commitment from the V SOA which states, in part: "In accordance with domestic laws of each State, we will promote the exercise of their [Indigenous peoples'] rights..." The qualification of Indigenous peoples' rights by domestic laws is unacceptable and inconsistent with the UN *Declaration*.

2.1. Recommendations:

- a. That the OAS facilitate access and participation of Indigenous peoples throughout the process leading up to the VI SOA, including the relevant Ministerial and SIRG meetings. Indigenous peoples should have space on the agenda of each meeting.
- b. Seek out significant resources to support the participation of Indigenous peoples in the preparatory process.
- c. Send a letter to the OAS identifying our concerns with the language of "in accordance with domestic laws of each State" utilized in paragraph 86 of the Declaration of Commitment (2009).

3. CONCLUSION:

It is essential that Indigenous peoples participate in the full proceedings of the VI SOA with full status equivalent to others. Indigenous peoples' participation in SOA should not be subject to the discretion of the host country.

3.1. Recommendations:

- a. That the OAS institute a policy that provides access to Indigenous leaders at all State Summits on an equivalent basis to States on a permanent basis.
- b. That there was support for Indigenous peoples, nations and governments to have a direct relationship with the organs of the OAS/Summits, and not through Civil Society Organizations or Social Actors, but in our right as peoples and nations.
- c. That the OAS acknowledge Indigenous peoples as equal in status but separate and distinct from Civil Society Organizations or Social Actors, with equivalent access to these groups. For example, at the Ministerial Forums and the OAS Annual General Assemblies, Indigenous peoples should be granted a 2-hour time period for interaction with the OAS and its member states.
- d. That there was support for the creation of an Americas-wide Indigenous Leaders' organization (whether called a forum, summit, organization, etc). This would be outside of, and independent of, the OAS, but could coordinate its meetings to coincide with the Summits of the Americas.

4. CONCLUSION:

At the II Indigenous Peoples Summit of the Americas, III ILSA and related SOAs, it was recommended that an OAS Permanent Forum be established. Currently, engagement with the OAS and SOA is only permitted through the Ministerial Forums and the Committee on Inter-American Summits Management and Civil Society Participation in OAS Activities (CISC) of the Permanent Council that lead into the SOA. At the existing UN Permanent Forum on Indigenous Issues, Indigenous peoples make recommendations to the Permanent Forum, which feeds into the Economic and Social Council (ECOSOC), along with the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), which is research based, and the Special Rapporteur on the Rights of Indigenous Peoples (focused on country visits and complaints). The concern is how these recommendations get implemented into the UN system. We need to assess this in the OAS system – how can we structure a new mechanism in the most effective way. Methodically, we must be clear about the mechanism's mandate, structure, etc that should be developed in order to give life to the words voiced by Indigenous peoples at the previous ILSAs.

4.1. Recommendations:

- a. Indigenous peoples throughout the Americas should meet during the next Indigenous Peoples Caucus meeting prior to January 18th to 20th, 2011 when the Working Group on the Draft American Declaration on the Rights of Indigenous Peoples meets. The Caucus can use this opportunity to determine the most suitable mandate, structure and objectives of a new mechanism and whether the title "Permanent Forum" is most suitable or whether another title would be better. The Sub-Regional Spanish Speaking Meeting should be utilized as another opportunity for Indigenous peoples to meet and discuss these ideas.

- b. To create within the OAS an integrated secretariat dedicated to dealing solely with Indigenous peoples, nations and governments.

5. CONCLUSION:

Indigenous peoples of the Americas have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements in accordance with their original spirit and intent as understood by Indigenous peoples in accordance with article 37 of the UN *Declaration*.

5.1. Recommendations:

- a. Renounce discriminatory legal doctrines and practices related to Treaties between Indigenous peoples and states, especially the Doctrine of Discovery and the Law of Nations.
- b. Institute just, fair and balanced dispute resolution mechanisms between Indigenous peoples and states with regards to treaties and the restoration of lands and resources which have been appropriated as a result of treaty abrogation. Dispute resolution mechanisms should include, but not be limited to, all international systems including the International Court of Justice and the Inter-American Court of Human Rights.

THE OAS SYSTEMS' INTEGRATION OF INDIGENOUS PEOPLES ISSUES

6. CONCLUSION:

In order for the OAS to adequately follow up on court decisions, declarations and resolutions passed by the OAS and its member states, there must be institutional mechanisms for this to occur. We can continue to support the creation of a Permanent Forum within the OAS or a similar option. If so, there are two options: the direct participation of Indigenous peoples within the OAS system (at the General Assembly, for instance) which could be the Permanent Forum. This would lead to permanent engagement of Indigenous peoples with states. If not, we would have to look at how else this could be structured. We need further discussion on how to elaborate on this structure in future discussions. Another possible name could be Commission of Indigenous Peoples with a strong Secretariat that can ensure the necessary work gets done. The Indigenous Peoples Caucus has to have the ability to meet and inform the work of the Secretariat that serves the Commission. This could provide a venue where Indigenous peoples can talk about the situations that occur in their territories – a venue to allow Indigenous peoples to speak about their concerns once a year is an important mechanism to develop. The Inter-American Indian Institute is not supported by Indigenous peoples as an option to be revived.

6.1. Recommendation:

- a. The Indigenous Peoples Caucus should put forth a recommendation based on further discussions about the priority mechanism(s). One option is the establishment of a Commission of Indigenous Peoples, with a strong, well-supported Secretariat within the OAS system to address issues related to Indigenous peoples. This mechanism would ensure that there is follow up on declarations and resolutions passed by the OAS. It must allocate sufficient resources for this work to be carried out effectively with a strong mandate. Another option to be considered is the development of a “Permanent Forum” as put forth at II Indigenous Peoples Summit of the Americas, III ILSA and related SOA.

7. CONCLUSION:

The upcoming World Conference of Indigenous Peoples to be held by the UN in 2014. This will be a significant event that should be considered by the OAS.

7.1. Recommendation:

- a. That the OAS hold a preparatory meeting in 2012 in advance of the World Conference to ensure the adequate integration of the perspectives of Indigenous peoples in the Americas.