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Plenary

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GENERAL ASSEMBLY ADOPTS DECLARATION ON RIGHTS OF INDIGENOUS PEOPLES;

'MAJOR STEP FORWARD' TOWARDS HUMAN RIGHTS FOR ALL, SAYS PRESIDENT

Vote: 143 – 4 (Australia, Canada, New Zealand, United States) -- 11;

Also Adopts Texts on South Atlantic Zone of Peace, Preventing Armed Conflict

The General Assembly today overwhelmingly backed protections for the human rights of indigenous peoples, adopting a landmark declaration that brought to an end nearly 25 years of contentious negotiations over the rights of native people to protect their lands and resources, and to maintain their unique cultures and traditions.

By a vote of 143 in favour to 4 against (Australia, Canada, New Zealand and the United States), with 11 abstentions, the Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples, which sets out the individual and collective rights of the world's 370 million native peoples, calls for the maintenance and strengthening of their cultural identities, and emphasizes their right to pursue development in keeping with their own needs and aspirations.

A non-binding text, the Declaration states that native peoples have the right "to the recognition, observance and enforcement of treaties" concluded with States or their successors. It also prohibits discrimination against indigenous peoples and promotes their full and effective participation in all matters that concern them.

The Human Rights Council adopted the Declaration in June 2006, over the objections of some Member States with sizeable indigenous populations. The Assembly deferred consideration of the text late last year at the behest of African countries, which raised objections about language on self-determination and the definition of "indigenous" people.

"The importance of this document for indigenous peoples and, more broadly, for the human rights agenda, cannot be underestimated," said General Assembly President Sheikha Haya Rashed Al Khalifa in a statement delivered by Assembly Vice-President, Aminu Bashir Wali of Nigeria.

She warned that, even with the progress achieved by events such as the 1995 first United Nations International Decade of the World's Indigenous Peoples and the beginning of the Second International Decade last year, native peoples still faced marginalisation, extreme poverty and other human rights violations. They were often dragged into conflicts and land

disputes that threatened their way of life and very survival; and, suffered from a lack of access to health care and education.

“I am acutely aware that the Declaration is the product of over two decades of negotiations,” she said, and stressed that, by adopting the Declaration, the Assembly was also taking another major step forward towards the promotion and protection of human rights and fundamental freedoms for all. It was also actively demonstrating the General Assembly’s important role in setting international standards.

Countries voting against the Declaration said they could not support it because of concerns over provisions on self-determination, land and resources rights and, among others, language giving indigenous peoples a right of veto over national legislation and State management of resources.

Speaking in explanation of vote before the text was adopted, Canada's representative said that, unfortunately, the provisions in the Declaration on lands, territories and resources were overly broad, unclear, and capable of a wide variety of interpretations, discounting the need to recognize a range of rights over land and possibly putting into question matters that have been settled by treaty.

The representative of the United States said that it was disappointing that the Human Rights Council had not responded to his country’s calls, in partnership with Council members, for States to undertake further work to generate a consensus text. The Declaration had been adopted by the Council in a splintered vote “...and risked endless conflicting interpretations and debate about its application, as already evidenced by the numerous complex interpretive statements issued by States at its adoption at the Human Rights Council, and the United States could not lend its support to such a text”.

Australia’s representative said his Government had long expressed its dissatisfaction with the references to self-determination in the text. Self-determination applied to situations of decolonization and the break-up of States into smaller states with clearly defined population groups. It also applied where a particular group with a defined territory was disenfranchised and was denied political or civil rights. Australia supported and encouraged the full engagement of indigenous peoples in the democratic decision-making process, but did not support a concept that could be construed as encouraging action that would impair, even in part, the territorial and political integrity of a State with a system of democratic representative Government.

In an informal meeting following adoption of the text, Victoria Tauli-Corpuz, Chair of the United Nations Permanent Forum on Indigenous Issues, said: “This day will forever be etched in our memories as a significant gain in our peoples’ long struggle for our rights as distinct peoples and cultures.” While she respected the interpretive statements made by Member States, indigenous people believed the significance and implications of the Declaration should not be minimized in any way. That would amount to discrimination. “For us, the correct way to interpret the Declaration is to read it in its entirety or in a holistic manner and to relate it with existing international law,” she said.

She said that effective implementation of the Declaration would test the commitment of States and the whole international community to protect, respect and fulfil indigenous peoples’ collective and individual human rights. “I call on Governments, the UN system, indigenous

peoples and civil society at large to rise to the historic task before us and make the UN Declaration on the Rights of Indigenous Peoples a living document for the common future of humanity,” she concluded.

Les Malezer, Chairperson of the Global Indigenous Caucus, said that, with the adoption of the Declaration, the United Nations and indigenous people had found common ground. The text did not represent the sole viewpoint of the United Nations, nor did it represent the viewpoint of all the world’s indigenous people. It was based on mutual respect. It contained no new provisions of human rights. It was based on rights that had been approved by the United Nations system but which had somehow, over the years, been denied to indigenous peoples.

It was a framework for States to protect and promote the rights of indigenous people without exclusion or discrimination.

In other business today, the Assembly adopted without a vote, a resolution on the zone of peace and cooperation in the South Atlantic.

[...]

Introduction and Action on Draft Resolutions

[...]

Introducing the text on the Declaration on the Rights of Indigenous Peoples (A/61/L.67), LUIS ENRIQUE CHAVEZ BASAGOITIA ([Peru](#)), noting that indigenous peoples were among the most vulnerable, noted that the process had begun in 1982. Thirteen years later, a preliminary text had been submitted to the former Human Rights Commission. In 1995, the draft had been put to a group of the Commission. For the first time, representatives of indigenous peoples had taken part in work on the text, giving legitimacy to the text. During recent months, many efforts had been made to meet the concerns expressed by various Member States on the draft, which had been approved by the Human Rights Council. As a result of such efforts, a revised version produced several changes to the text. Those changes had been duly communicated to Member States and representatives of indigenous peoples. The changes had not undermined the protection of indigenous peoples and should ensure the Declaration’s adoption.

With the conclusion of a 25-year process, he thanked the President for her efforts in bringing the parties together. The text would set the foundations for a new and sound relationship among indigenous peoples, States and societies, where and with whom they shared their lives.

ROBERT HILL ([Australia](#)), speaking in explanation of vote before the vote, said Australia had actively worked to ensure the adoption of a meaningful declaration. Australia had worked hard to ensure that any declaration could become a tangible and ongoing standard of achievement that would be universally accepted, observed and upheld. The text of the Declaration failed to reach that high standard and Australia continued to have many concerns with the text. Australia had repeatedly called for a chance to participate in negotiations on the current text and was deeply disappointed that none had been convened.

Regarding the nature of the Declaration, he said it was the clear intention of all States that it be an aspirational Declaration with political and moral force, but not legal force. The text contained recommendations regarding how States could promote the welfare of indigenous

peoples, but was not in itself legally binding nor reflective of international law. As the Declaration did not describe current State practice or actions that States considered themselves obliged to take as a matter of law, it could not be cited as evidence of the evolution of customary international law. The Declaration did not provide a proper basis for legal actions, complaints, or other claims in any international, domestic or other proceedings.

The Australian Government had long expressed its dissatisfaction with the references to self-determination in the Declaration, he said. Self-determination applied to situations of decolonization and the break-up of States into smaller states with clearly defined population groups. It also applied where a particular group with a defined territory was disenfranchised and was denied political or civil rights. The Government supported and encouraged the full engagement of indigenous peoples in the democratic decision-making process, but did not support a concept that could be construed as encouraging action that would impair, even in part, the territorial and political integrity of a State with a system of democratic representative Government.

On lands and resources, he said the Declaration's provisions could be read to require recognition of indigenous rights to lands without regard to other legal rights existing in land, both indigenous and non-indigenous. Any right to traditional lands must be subject to national laws, or the provisions would be both arbitrary and impossible to implement, with no recognition being given to the fact that ownership of land might lawfully vest in others. Australia would read the lands and resources provisions in line with its existing domestic laws, including the Native Title Act.

Australia had concerns that the Declaration expanded any right to free, prior and informed consent too far, as the scope of that proposed right was too broad. It could mean that States were obliged to consult with indigenous peoples about every aspect of law that might affect them. That would not only be unworkable, but would apply a standard for indigenous peoples that did not apply to others in the population. Australia could not accept a right that allowed a particular sub-group of the population to be able to veto legitimate decisions of a democratic and representative Government. Australia also did not support the inclusion of intellectual property rights for indigenous peoples.

On third party rights, he noted that, in seeking to give indigenous people exclusive rights over property, both intellectual, real and cultural, the Declaration did not acknowledge the rights of third parties, in particular the rights of third parties to access indigenous land, heritage and cultural objects where appropriate under national law. The Declaration also failed to consider the different types of ownership and use that could be accorded to indigenous people and failed to consider the rights of third parties to property. Australia was also concerned that the Declaration placed indigenous customary law in a superior position to national law. Customary law was not "law" in the sense that modern democracies used the term, but was based on culture and tradition. Australia would read the whole of the Declaration in accordance with domestic laws, as well as international human rights standards.

While the Declaration would not be binding on Australia and other States as a matter of international law, he was aware that its aspirational contents would be relied on in setting standards by which States would be judged in their relations with indigenous peoples. Accordingly, the Australian Government had been concerned throughout the negotiations to ensure that the Declaration was meaningful, was capable of implementation and enjoyed wide

support in the international community. The Declaration failed in all those respects and Australia could not support it.

JOHN MCNEE (Canada) said that his country had long-demonstrated its commitment to protecting and promoting indigenous rights at home and around the world. It had strongly supported the work of the Permanent Forum on Indigenous Issues and the relevant United Nations special rapporteurs. Canada also had a constructive and far-reaching international development programme targeted specifically at improving the situation of indigenous peoples in many parts of the world, and it also continued to make further progress at home within its constitutional guarantees for aboriginal and treaty rights, and with its negotiated self-government and land claims agreements with several Canadian aboriginal groups.

Canada had been an active participant in the development of the Declaration over the past 20 years, he continued. And while it had long been a proponent of a strong and effective text promoting indigenous peoples' fundamental freedoms without discrimination, and a text that promoted harmonious agreements between indigenous peoples and the States in which they lived, the text presented to the Human Rights Council last year did not meet those expectations. Canada's position had remained consistent and principled and the country had stated publicly that it had significant concerns with the wording of the current text, including provisions on lands and resources; free, prior and informed consent when used as a veto; intellectual property; military issues; and the need to achieve an appropriate balance between the rights and obligations on indigenous peoples, Member States and third parties.

For example, the recognition of indigenous rights to lands, territories and resources was important to Canada. He said that Canada was proud that land and treaty rights had been given strong recognition and protection in its Constitution. Canada was equally proud of the processes that had been put in place to deal with aboriginal claims respecting those rights and was working actively to improve those processes to address claims more effectively.

Unfortunately, the provisions in the Declaration on lands and territories were overly broad, unclear and capable of a wide variety of interpretations, discounting the need to recognize a range of rights over land and possibly putting into question matters that had been settled by treaty.

Similarly, some of the provisions dealing with the concept of free, prior and informed consent were unduly restrictive, he said. Provisions in the Declaration said that States could not act on any legislative or administrative matter that might affect indigenous peoples without obtaining their consent. While Canada had a strong consultative process, reinforced by the Courts as a matter of law, the establishment of complete veto power over legislative action for a particular group would be fundamentally incompatible with Canada's parliamentary system.

Overall, it was unfortunate that Canada, and a number of other States with large indigenous populations, could not support the adoption of the text as a "meaningful and effective" United Nations Declaration on the Rights of Indigenous Peoples. Regardless, Canada would continue to take effective action, at home and abroad, to promote the rights of indigenous people based on its existing human rights obligations and commitments. By voting against the text, Canada put on record its disappointment with both the substance and the process.

The Government understood that the Declaration was not legally binding and had no legal effect in Canada.

ROSEMARY BANKS (New Zealand), speaking in explanation of vote, noted that New Zealand was one of the few countries that from the start had supported the elaboration of a declaration that promoted and protected the rights of indigenous peoples. In New Zealand, indigenous rights were of profound importance, and were integral to its identity as a nation State and as a people. New Zealand was unique: a treaty concluded at Waitangi between the Crown and New Zealand's indigenous peoples in 1840 was a founding document of the country. Today, New Zealand had one of the largest and most dynamic indigenous minorities in the world, and the Treaty of Waitangi had acquired great significance in the country's constitutional arrangements, law and Government activity.

The place of Maori in society, their grievances and disparities affecting them were central and enduring features of domestic debate and Government action, she said. New Zealand also had an unparalleled system for redress, accepted by both indigenous and non-indigenous citizens alike. Nearly 40 per cent of the New Zealand fishing quota was owned by Maori, as a result. Claims to over half of New Zealand's land area had been settled. For that reason, New Zealand fully supported the principles and aspirations of the Declaration on the Rights of Indigenous Peoples. The country had been implementing most of the standards in the Declaration for many years. She shared the view that the Declaration was long overdue, and the concern that indigenous peoples in many parts of the world continued to be deprived of basic human rights.

New Zealand was proud of its role in improving the text over the past three years, turning the draft into one that States would be able to uphold and promote, she said. It was, therefore, a matter of deep regret that it was unable to support the text before the Assembly today. Unfortunately, New Zealand had difficulties with a number of provisions of the text. In particular, four provisions in the Declaration were fundamentally incompatible with New Zealand's constitutional and legal arrangements, the Treaty of Waitangi, and the principle of governing for the good of all its citizens, namely article 26 on lands and resources, article 28 on redress, articles 19 and 32 on a right of veto over the State.

The provision on lands and resources could not be implemented in New Zealand, she said. Article 26 stated that indigenous peoples had a right to own, use, develop or control lands and territories that they had traditionally owned, occupied or used. For New Zealand, the entire country was potentially caught within the scope of the article, which appeared to require recognition of rights to lands now lawfully owned by other citizens, both indigenous and non-indigenous, and did not take into account the customs, traditions and land tenure systems of the indigenous peoples concerned. The article, furthermore, implied that indigenous peoples had rights that others did not have. The entire country would also appear to fall within the scope of article 28 on redress and compensation. The text generally took no account of the fact that land might now be occupied or owned legitimately by others, or subject to numerous different or overlapping indigenous claims.

Finally, the Declaration implied that indigenous peoples had a right of veto over a democratic legislature and national resource management, she said. She strongly supported the full and active engagement of indigenous peoples in democratic decision-making processes. New Zealand also had some of the most extensive consultation mechanisms in the world. But the articles in the Declaration implied different classes of citizenship, where indigenous had a right to veto that other groups or individuals did not have.

While New Zealand took international human rights and its international human rights obligations seriously, it was unable to support a text that included provisions that were so fundamentally incompatible with its democratic processes, legislation and constitutional arrangements. The text was clearly unable to be implemented by many States, including most of those voting in favour. The Declaration was explained by its supporters as being an aspirational document, intended to inspire rather than to have legal effect. New Zealand did not, however, accept that a State could responsibly take such a stance towards a document that purported to declare on the contents of the rights of indigenous people. The history of the negotiations on the Declaration and the divided manner in which it had been adopted demonstrated that the text did not state propositions that were reflected in State practice, or which would be recognized as general principles of law.

ROBERT HAGEN (United States) said the United States had to vote against the Declaration's adoption. While the United States had worked for 11 years in Geneva for a consensus declaration, the document before the Assembly had been prepared and submitted after the negotiations had concluded. States had been given no opportunity to discuss it collectively. It was disappointing that the Human Rights Council had not responded to his country's calls, in partnership with Council members, for States to undertake further work to generate a consensus text. The Declaration had been adopted by the Council in a splintered vote. The process had been unfortunate and extraordinary for any multilateral negotiating exercise and set a poor precedent with respect to United Nations practice.

The Declaration, if it were to encourage harmonious and constructive relations, should have been written in terms that were transparent and capable of implementation, he said. Unfortunately, the text that had emerged from that failed process was confusing, and risked endless conflicting interpretations and debate about its application, as already evidenced by the numerous complex interpretive statements issued by States at its adoption at the Human Rights Council, and the United States could not lend its support to such a text.

He said the United States views with respect to the text's core provisions could be found in a separate document, which would be circulated as an official United Nations document. The document discussed the core provisions of the Declaration, including but not limited to self-determination, lands and resources, redress and the Declaration's nature. Because the flaws in the text ran through its most significant provisions, the text as a whole was rendered unacceptable.

While the United States was voting against the Declaration, his Government would continue its efforts to promote indigenous rights domestically, he said. Under United States domestic law, the Government recognized Indian tribes as political entities with inherent powers of self-government as first peoples. In its legal system, the federal Government had a government-to-government relationship with Indian tribes. In that domestic context, that meant promoting tribal self-government over a broad range of internal and local affairs, including determination of membership, culture, language, religion, education, information, social welfare, economic activities, and land and resources management. At the same time, the United States would continue its work to promote indigenous rights internationally. In its diplomatic efforts, it would continue its opposition to racial discrimination against indigenous individuals and communities and continued to press for full indigenous participation in democratic electoral processes throughout the world.

He said his delegation was deeply disappointed that, in seeking to make a practical difference in the lives of indigenous people around the globe, the international community had not been presented with a text that was clear, transparent or capable of implementation. Those fundamental shortcomings meant that the document could not enjoy universal support and become a true standard of achievement.

ILYA ROGACHEV (Russian Federation) said that his delegation had supported the rights of indigenous people and the development of international standards in that regard. Such an all-encompassing document should be balanced and its elements carefully weighed.

Unfortunately, the text being considered was not such a document. It was not a truly balanced document, in particular regarding land and natural resources or the procedures for compensation and redress.

Further, the Declaration did not enjoy consensus support and had not been duly approved by all interested parties, he continued. In addition, a non-transparent forum had been chosen to negotiate the text, which meant that, at a decisive stage in the process, some States with large numbers of indigenous people had been excluded from the talks. His Government hoped that the way in which the Declaration was being adopted would not create a negative precedent at the United Nations. The Russian Federation could not support the Declaration and would abstain in the vote. Nevertheless, as ever, the Russian Federation would foster cooperation in order to protect and promote the rights of indigenous peoples.

JEAN-MARIE EHOZOU (Benin) said his country was in favour of the text. During the procedure, countries had raised legitimate concerns, and his delegation supported the African position to allow the Assembly to take into account the misgivings expressed by the continent. Benin would vote in favour of the text, despite the flaws, which had been highlighted by some delegations. He hoped the Declaration would fall on fertile ground. While the text contained imperfections, it would be desirable if the text could be implemented for the time being and improvements introduced, in order for the text to receive approval by all delegations.

JAIRO MONTROYA (Colombia) said his country had incorporated a wide range of rights within its national system. Under the framework of the 1991 Constitution, Colombia stood out as one of the most advanced with regard to recognizing the collective rights of indigenous peoples. For the State, the recognition of traditional territories for the different communities was fundamental. Colombia had some 710 reservations occupying about 32 million hectares. By the end of 2007, the area should reach 29 per cent of the national territory. Those properties could not be seized or transferred. Reservations participated in the central government budget transfer system. All members of the various communities were covered by health services that were subsidized by the State.

Colombia had also been a leader internationally, he said, noting that dialogue with indigenous people was a priority for the State. In the long-term, the State was developing policy for indigenous communities, including in terms of human rights and self-government. His delegation had supported the initiative to postpone a decision, as it was important to find agreement that would allow for the adoption of a Declaration acceptable to all States. In spite of the fact that the Declaration was not legally binding for the State, some aspects of the Declaration were in direct contradiction with Colombia's internal legal system, including provisions of articles 30, 19 and 32, forcing Colombia to abstain on the text.

Colombia remained committed to the protection of the rights of indigenous people, he said. The decision to abstain from voting on the text, given its legal incompatibilities, did not affect Colombia's commitment to carry out the constitutional provisions and internal norms and assumed obligations aimed at preserving Colombia's multiethnic nature and diversity.

Before action on the text, the representative of Guatemala asked what delegation had asked for the vote.

The General Assembly President noted that Australia, New Zealand and the United States had requested a vote on the text.

The Assembly then adopted the Declaration by a recorded vote of 143 in favour to 4 against (Australia, United States, New Zealand and Canada) with 11 abstentions.

Speaking after action on the text, Mr. ARGUELLO (Argentina) noted that, at the time of the draft's adoption by the Human Rights Council, Argentina had regretted that it had had to abstain, despite its clear political will in support of the recognition of the rights of indigenous peoples. Argentina had also expressed its disappointment at not having more time to work on making the references to self-determination compatible with the principle of territorial integrity, with national unity and the other organizational structure of each State. Fortunately, the efforts undertaken to resolve the question without affecting the rights contained in the Declaration had been successful. Thanks to those efforts, Argentina was pleased to join the voting in favour of the Declaration.

TAKAHIRO SHINYO (Japan) said that his delegation had voted in favour of the Declaration. The revised version of article 46 correctly clarified that the right of self-determination did not give indigenous peoples the right to be separate and independent from their countries of residence, and that that right should not be invoked for the purpose of impairing the sovereignty of a State, its national and political unity, or territorial integrity. The Japanese Government shared the understanding on the right and welcomed the revision.

Japan believed that the rights contained in the Declaration should not harm the human rights of others. It was also aware that, regarding property rights, the contents of the rights of ownership or others relating to land and territory were firmly stipulated in the civil law and other laws of each State. Therefore, Japan thought that the rights relating to land and territory in the Declaration, as well as the way those rights were exercised, were limited by due reason, in light of harmonization with the protection of the third party interests and other public interests.

ARMIN ANDEREYA (Chile) said that his delegation had also voted in favour of the Declaration, supporting the important role indigenous peoples played in the development of all societies. The Declaration was a significant step. Chile reaffirmed its internal legal system, which aimed to develop, promote and protect the rights of indigenous peoples, and supported their efforts to build their own communities. The Declaration would serve to strengthen such national efforts.

KAREN PIERCE (United Kingdom) welcomed the Declaration as an important tool in helping to enhance the promotion and protection of the rights of indigenous peoples. The United Kingdom regretted that it had not been possible to reach wider consensus on the important text, and that some States with large indigenous populations had felt that they had

no recourse but to call a vote on it. Nevertheless, the United Kingdom recognized the efforts that had been made to reflect many concerns raised in negotiations. The United Kingdom was pleased to be able to support its adoption.

The United Kingdom fully supported the provisions in the Declaration which recognized that indigenous individuals were entitled to the full protection of their human rights and fundamental freedoms in international law, on an equal basis to all other individuals. Human rights were universal and equal to all. The United Kingdom did not accept that some groups in society should benefit from human rights that were not available to others. With the exception of the right to self-determination, the United Kingdom did not accept the concept of collective human rights in international law. That was without prejudice to the United Kingdom's recognition of the fact that the Governments of many States with indigenous populations had granted them various collective rights in their constitutions, national laws and agreements.

In that regard, the United Kingdom strongly endorsed preambular paragraph 22 in the Declaration, which it understood to distinguish between individual human rights in international law and other collective rights bestowed at the national level by governments to indigenous peoples. Her delegation read all the provisions in the Declaration in the light of the understanding of human rights and collective rights. The United Kingdom understood article 3 of the Declaration as promoting the development of a new and distinct right of self-determination, specific to indigenous peoples. She understood the "right" set out in article 3 of the Declaration to be separate and different from the existing right of all peoples to self-determination in international law. Subsequent articles of the Declaration sought to set out the content of that new "right" which was to be exercised, where it applied, within the territory of a State and was not intended to impact in any way on the political unity or territorial integrity of existing States.

Continuing, she said the United Kingdom understood the commitments of articles 12 and 13 on redress and repatriation as applying only in respect of such property or of such ceremonial objects and human remains that were in the ownership or possession of the State. She emphasized that the Declaration was non-legally binding and did not propose to have any retroactive application on historical episodes. National minority groups and other ethnic groups within the territory of the United Kingdom and its overseas territories did not fall within the scope of the indigenous peoples to which the Declaration applied. The United Kingdom had, however, long provided political and financial support to the socio-economic and political development of indigenous peoples around the world.

PATRICK RITTER (Liechtenstein) said his country had been a long-standing supporter of innovative approaches to the right of peoples to self-determination, in order to fully explore the potential of the concept for the promotion and protection of human rights. He was pleased, therefore, that the Declaration contained a number of provisions that marked an important new step in the way the United Nations was dealing with the concept of self-determination. The introduction to the right to autonomy or self-government in matters relating to internal and local affairs, including their financial aspect, offered a promising new approach which would help to genuinely address the aspirations and needs of many peoples to create an enabling environment for the full protection and promotion of human rights, without resorting to violence and strife.

It was his understanding, he added, that the reference to “political unity” in article 46 did not preclude a gradual granting of increasing levels of self-government to such peoples, which was based on a democratic process and the promotion and protection of minority rights. It also did not exclude any democratic decision on the State structure.

HEE-KWON PARK (Republic of Korea) said the Republic of Korea had voted in favour of the Declaration given its belief that it would become an important milestone for the promotion, protection, and further enhancement of indigenous people’s rights. Adopting the Declaration, which was the outcome of more than 20 years of work, constituted a solemn pledge and sent a clear message for the survival and well-being of indigenous peoples, especially in support of their dwindling culture, language and their rights to pursue their vision of economic, social and cultural development. His Government hoped that Declaration’s adoption would contribute to further strengthening the international human rights system as a whole, by achieving equality and non-discrimination for all.

JOHAN L. LOVALD (Norway) said that the Declaration set the standard of achievement to be pursued in a spirit of cooperation. Norway would work with the Sami people, recognized as indigenous by the Government. Several articles in the Declaration dealt with the exercise of self-determination and stipulated that such rights should be exercised in the framework of international law. The Norwegian Government had signed agreements with the Sami parliament setting out cooperation and legislative matters. The question of land was a crucial issue to cultural identity and, in that regard, Norway referred to the relevant language of the International Labour Organization (ILO) Convention 169.

ISHRAT JAHAN AHMED (Bangladesh) said that her delegation supported the rights of any group that was disadvantaged. Bangladesh adhered to all major international human rights instruments and supported the rights of indigenous peoples. However, the Declaration, in its present form, contained some ambiguities, particularly that “indigenous people” had not been identified or explicitly defined in any way. Further, the text did not enjoy consensus among Member States. Under such circumstances, Bangladesh had abstained in the vote.

SAMAR AL-ZIBDEH (Jordan) said that her delegation had voted in favour of the text, but would stress that the right of self-determination referred to therein should be exercised within the framework of the United Nations Charter and did not interfere with the territorial integrity and sovereignty of States.

Ms. ROVIROSA (Mexico) welcomed the adoption of the Declaration and reaffirmed her Government’s pride in its multiethnic population. With the anniversary of its independence, Mexico had enjoyed the recognition of its indigenous peoples, who supported the country’s national identity. She also welcomed the provisions of the Declaration in accordance with the provisions of Mexico’s Constitution. Article 2 of the Constitution recognized the rights of indigenous peoples to self-determination, granting them autonomy to determine their internal form and system of norms for conflict resolution. She understood, however, that the rights of indigenous people to self-determination, autonomy and self-government should be exercised in accordance with Mexico’s Constitution, so as to guarantee its national unity and territorial integrity.

ULLA STROM (Sweden) said that her Government was pleased that the Assembly had finally adopted the Declaration. Sweden had supported the Declaration throughout the negotiation process, had voted in favour of the text and hoped that its implementation

improved the situation of indigenous peoples. At the same time, the Declaration included several references to collective rights. While the Swedish Government had no difficulty in recognizing such rights outside the framework of international law, it was of the firm opinion that individual human rights prevailed over the collective rights mentioned in the Declaration.

She went on to say that the Sami people were recognized as indigenous by the Swedish Parliament, and the Government had based its relations with the Sami on dialogue, partnership and self-determination, with respect and responsibility for cultural identity. To that end, Sweden looked forward to discussing the implementation of the Declaration with Sami representatives. She stressed that the political discussion on self-determination could not be separated from the question of land rights. The Sami's relationship to the land was at the heart of the matter and the Swedish Government must maintain a balance between competing interests of different groups living in the same areas of the north of the country.

She said that some clarification of her country's interpretation of the Declaration was necessary. For instance, the text's reference to self-determination should not be construed as authorizing or encouraging any action which would impair the territorial integrity or political unity of sovereign and independent States. She noted that a large part of the realization of the right to self-determination could be ensured through article 19 of the Declaration, which dealt with the duty of States to consult and cooperate with indigenous peoples. In fact, that article could be implemented in different ways, including through a consultative process between institutions representing indigenous peoples and Governments, and through participation in democratic systems, such as the current Swedish system. It did not entail a collective right of veto, she added.

Among other examples, she said that her Government interpreted references in the Declaration to ownership and control of land to apply to the traditional rights of the Sami people. In Sweden, those rights were called reindeer herding rights and included the right to land and water for the maintenance of reindeer herds by Sami herding communities, as well as the right to build fences and slaughterhouses for the reindeer and the right to hunt and fish in reindeer herd areas. Article 28 did not give Sami people the right to redress for regular forestry by the forest owner.

Ms. PUNKRASIN (Thailand) said that her delegation had voted in favour of the text and was in agreement with its intent, despite the fact that a number of paragraphs raised some concerns. The draft just adopted was an improvement over the text that had been put before the Third Committee last year. Thailand understood that the articles on self-determination would be interpreted within the framework of the principle set out in the Vienna Declaration. Thailand also understood that the Declaration did not create any new rights and that any benefits that flowed from the Declaration would be based on the laws and Constitution of Thailand.

PIRAGIBE DOS SANTOS TARRAGO (Brazil) said that his delegation had voted in favour of the text. Brazil had believed that the text adopted by the Human Rights Council, the body most able to deal with such issues, should not have been reopened. Nevertheless, Brazil welcomed the text and appreciated the flexibility of delegations that had brought the Declaration before the Assembly today. He said that his country's indigenous peoples were crucial to the development of society at every level, including the development of spiritual and cultural life for all. Brazil would underscore that the exercise of the rights of indigenous peoples was consistent with the sovereignty and territorial integrity of the States in which they

resided. At the same time, States should always bear in mind their duty to protect the rights and identity of their indigenous peoples, he added.

GEORGE WILFRED TALBOT (Guyana) said he had voted in favour of the text. In supporting the Declaration's adoption, his delegation was motivated by the commitment to preserving the dignity and well being of all peoples and to safeguarding the rights of all individuals, including Guyana's original inhabitants. It was further motivated by the consideration that the Declaration represented a good-faith effort to address the genuine concerns and special needs of indigenous people everywhere. Today's adoption marked a historical milestone in recognition of the rights of indigenous peoples. It also took note of the fact that the Declaration was political in character as opposed to being a legally binding document, though not without potential legal implications.

Some of its provisions could give rise to expectations that could be out of consonance with its fundamental intent, he said. He hoped that the Declaration would not become an instrument of division within States or societies. At the national level, all citizens without distinction enjoyed equal status before the law. It was a pity that the Declaration had become the object of division. It was his hope that the international community would, in the future, be able to arrive at consensus and ensure respect for the rights of indigenous peoples.

Mr. MACDONALD (Suriname) placed great importance on the promotion and protection of all human rights, including those of indigenous peoples. Suriname had voted in favour of the text. The amendments had addressed some concerns in the original text. Indigenous people comprised a significant part of Suriname's population and the Government had a responsibility to all its constituents to prevent discrimination and marginalisation of any group in society. Granting special rights to one party might run contrary to the concept of equal treatment. The Declaration could not be understood to initiate any activity that would jeopardize a State's territorial integrity and political unity.

He said his Government accepted the fact that the State's should seek prior consultation to prevent a disregard for human rights. The level of such consultations depended on the specific circumstances. Consultation should not be viewed as an end in itself, but should serve the purpose of respecting the interest of those who used the land. The nation had the inalienable right to take complete possession of its national resources to the country's benefit. He hoped all groups would be inspired by the Declaration and that the Declaration would be placed in its politically correct context.

BAGHAEI-HAMANEH (Iran) said his delegation had voted in favour of the resolution. The protection of the rights of indigenous people around the world was a matter of principle for Iran, although Iran did not have any indigenous peoples, as such. He hoped that the Declaration's adoption by an overwhelming majority would further contribute to the protection of indigenous peoples' rights, who had long been subjected to discrimination due to colonization. The rights of indigenous peoples should be protected and enhanced within the context of national and international law, including the purposes of the Charter, namely respect for territorial integrity and political sovereignty.

AJAI MALHOTRA (India) said his country had consistently favoured the promotion and protection of indigenous peoples' rights. The fact that the working group had been unable to reach consensus was only reflective of the extreme complexity of the issues involved. While the Declaration did not define what constituted indigenous peoples, the issue of indigenous

rights pertained to peoples in independent countries who were regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region which the country belonged, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retained some or all of their socio-economic, cultural and political institutions.

Regarding references to the right to self-determination, it was his understanding that the right to self-determination applied only to peoples under foreign domination and that the concept did not apply to sovereign independent States or to a section of people or a nation, which was the essence of national integrity. The Declaration clarified that the right to self-determination would be exercised by indigenous peoples in terms of their right to autonomy or self-government in matters relating to their internal and local affairs, as well as means and ways for financing their autonomous functions. In addition, article 46 stated clearly that nothing in the Declaration might be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter. It was on that basis that India had voted in favour of the adoption of the Declaration.

AYE THIDAR MYO (Myanmar) said that her Government was pleased to see that the Declaration included reference to self-determination and understood that such rights referred to activities which did not impair the territorial integrity or political unity of States. Her delegation had voted in favour of the Declaration and would seek to implement it with flexibility.

KAIRE MBUENDE (Namibia) said that his delegation had made clear from the outset of the negotiations that Namibia was not opposed to the idea of a Declaration on indigenous rights. “We, as historical victims of deprivation of rights could not do anything that would be construed to deny other people human rights,” he said, adding that having experienced first-hand the pain of being treated as second class citizens in their own land, Namibians had traditionally been friends of human rights instruments.

Namibia understood that nothing in the Declaration could be interpreted in any way to mean that measures adopted by States for securing equal enjoyment of human rights and fundamental freedoms of indigenous peoples and individuals created, as a consequence, any new, separate rights. He said that Namibia also understood that the word “law” in article 46 (2) of the Declaration referred to the national laws of States. Accordingly, Namibia understood that the exercise of the rights set out in the Declaration was subject to the constitutional frameworks and other national laws of States.

MADHU RAMAN ACHARYA (Nepal) said that his delegation had voted in favour of the long-negotiated text, as its Government had always protected and promoted the rights of indigenous people. Indeed, the country’s interim-Constitution reflected the new Government’s commitment to supporting Nepal’s indigenous peoples. Nepal understood that the Declaration represented the good intentions of the international community to protect and promote the rights of indigenous peoples, and did not create any new rights.

MUHAMMAD ANSHOR (Indonesia) noted that several aspects of the Declaration remained unresolved, in particular what constituted indigenous peoples. The absence of that definition prevented a clear understanding of the peoples to whom the Declaration applied. In that context, the Declaration used the definition contained in the International Labour Organization Convention, according to which indigenous people were distinct from tribal

people. Given the fact that Indonesia's entire population at the time of colonization remained unchanged, the rights in the Declaration accorded exclusively to indigenous people and did not apply in the context of Indonesia. Indonesia would continue to promote the collective rights of indigenous peoples.

BILAL HAYEE (Pakistan) said his country had voted in favour of the Declaration both in the Human Rights Council and in the Assembly. Although the Declaration did not define indigenous peoples, he hoped that its adoption would fulfil the aims of the International Decade for the rights of indigenous peoples and enable them to maintain their cultural identity, with full respect for their values and traditions.

JUAN ALFREDO BUFFA (Paraguay) said that his delegation had participated in the negotiations in a constructive spirit and had voted in favour of the text. Paraguay understood that the Declaration's reference to self-determination referred to acts and rights that would not interfere with the sovereignty or political unity of States.

DUSAN MATULAY (Slovakia) said that his delegation welcomed in principle the Declaration as a tool to protect and promote the rights of indigenous peoples at the national and international levels. At the same time, Slovakia did not support the Declaration's distinction between collective and individual human rights.

SERHAT ASKEN (Turkey) said that his delegation was pleased to see that the amendments in the text had been instrumental in achieving broader support. With that in mind, Turkey had voted in favour of the text. It was non-legally binding, but could serve as an important tool. Turkey did not have any people in its territory that could be interpreted as indigenous peoples in the Declaration and believed that the Declaration referred to the exercise of self-determination in line with the Charter obligations regarding non-interference in the sovereignty, integrity and political unity of States.

Mr. INSIGNE (Philippines) said his delegation had consistently upheld the promotion and protection of indigenous peoples' rights. In 1997, the Philippine Congress had passed the indigenous peoples rights act, which promoted the rights of indigenous cultural communities in the country. His delegation's expression of support was premised on the understanding that the right to self-determination shall not be construed as encouraging any action that would dismember or impair the territorial integrity or political unity of a sovereign or independent State. It was also based on the understanding that land ownership and natural resources was vested in the State.

Mr. AKINDELE (Nigeria) welcomed the broad areas of the Declaration, which were in tandem to Nigeria's Constitution and which were replete with provisions strengthening some of those areas. A number of concerns that were critical to his country's interests, however, had not been satisfactorily addressed, including the issue of self determination and the control of lands, territories and resources. His country's national institutions and laws all ensured national integration. Nigeria would continue to promote the issue of indigenous people's rights, culture and dignity. Those rights affected the rights of all Nigerians with its more than 300 ethnic groups speaking more than 300 languages. His delegation had abstained in the voting.

CLAUDIA PEREZ-ALVAREZ (Cuba) noted that ending the isolation and discrimination suffered by the peoples for more than five centuries had been the driving motive of many

stakeholders around the world. Noting important milestones in the process, she said the working group had been the first instance to address the question, opening the door for the ancestral claims of indigenous peoples. During the first decade, significant results had been made in the quest for solutions to the problems faced by indigenous communities, including the contributions from the special rapporteur on the situation of indigenous peoples and the establishment of the Permanent Forum on indigenous questions.

The Declaration and its future impact on the work of the United Nations would serve as a guide for future claims of the indigenous community. The Human Rights Council and its subordinate bodies should follow up for the full implementation of all indigenous people's human rights. The acts of the United Nations in the second decade should not be limited to defining indigenous people's rights. Cuba would continue to support the just claims of indigenous peoples.

NEBOJSA KALUDJEROVIC (Montenegro) said that, due to some technical problems, his delegation's vote had not been recorded. His delegation had voted in favour of the adoption of the Declaration.

SOHA GENDI (Egypt) said that her delegation had voted in favour of the text. Despite the fact that it was not perfect, Egypt understood that nothing in the Declaration as adopted changed the interpretation of the rights to self-determination, or the sovereignty and territorial integrity of States, as set out in the Charter.

DAVID CHOQUEHUAUCA, Minister of Foreign Affairs of Bolivia, said that the world's indigenous peoples, with their characteristic patience, had waited 25 years for the adoption of the historic Declaration. While the text was being negotiated and re-negotiated at many levels, Mother Earth had gone through innumerable changes, politically, socially and environmentally. Now, at the day of the adoption of the Declaration, the Planet was clearly wounded. Indigenous peoples had been and would continue to raise their voices to ensure the protection and preservation of Mother Earth. The Declaration was a step forward. It did not solve the problems of the Planet, nor ease the tensions between people. But, it was a step forward in allowing indigenous people to participate in global processes for the betterment of all societies, including their own traditional communities. By the Declaration, they were not trying to live better than anyone else. They were merely trying to "live like" everyone else. Indigenous people were trying to exercise the same rights -- in the same manner -- as all the people of the world.

JOAO SALGUEIRO (Portugal), speaking on behalf of the European Union and associated States, said the Union had supported the Human Rights Council resolution adopting the text of the Declaration in June 2006. The amended text before the Assembly today aimed at ensuring the widest possible support to the Declaration. The Union supported the new compromise text and was encouraged to see that it had the support of a broad range of indigenous representatives who had played a role during the process leading to the Declaration's adoption. Today's adoption would advance their rights and ensure the continued development of indigenous peoples around the world.

JOSE ALBERTO BRIZ GUTIERREZ (Guatemala) said the 20-year struggle had ended today with the adoption of a text -- acceptable to the majority of Member States -- that would strengthen the dignity of people around the world. The Declaration was a balanced, useful instrument that would serve as a genuine guide for improving the living conditions of

indigenous peoples. Great care had been taken to ensure that the Declaration was consistent with the principles of international law. While he had been sure that the text would have been adopted by consensus, that hope had proven idealistic. The reality had been different, with the text undergoing various changes before its adoption today. While he would rather have not seen it amended, he was satisfied that Member States' concerns had been considered.

The Declaration, he continued, did not create new rights, but reaffirmed the rights of indigenous peoples, recognizing the collective right to live in freedom, peace and security. Guatemala reaffirmed its conviction that the full realization of human rights was a prerequisite for attaining peaceful and harmonious existence. While it could not make up for the past, it could prevent discrimination and intolerance. The Declaration was the expression of the international community's political will to respect the rights of indigenous people. As the first instrument for the promotion and protection of indigenous people's human rights, the Declaration would open the door for a better future for indigenous peoples worldwide.

Ms. NUORGAM (Finland) said the first International Decade had had two major goals, namely the finalization of a United Nations Declaration on the rights of indigenous peoples and the establishment of permanent forum for indigenous issues. While she regretted the delays in approving the Declaration, she was pleased that after years of intense negotiations, the Declaration had been finalized. Today's action honoured the work of hundreds of representatives of Governments and indigenous peoples from around the world by bringing the process, which started over two decades ago, to a meaningful end.

The issue of indigenous peoples' rights affected the lives not only of indigenous peoples, but also populations as a whole, she said. The Declaration was an important tool in underscoring the full participation of indigenous peoples in decision-making processes. Its adoption would strengthen the rights of indigenous peoples worldwide and serve as a comprehensive framework for cooperation in implementing new minimal international standards for indigenous people's rights.

RODRIGO RIOFRIO (Ecuador) said that his country was known for its ethnic and cultural diversity and the Government strongly supported the adoption of the Declaration as a tool that would protect and promote the rights of indigenous people worldwide. He thanked all delegations that had steered the negotiations and the various indigenous civil society groups that devoted so much time and energy to the issue as the day had drawn near. Flexibility in the negotiations had led to a consensus among a majority of States that the Declaration would improve the situation of indigenous people worldwide. He congratulated the Assembly for adopting the text and hoped that it would fulfil the wish of the world's indigenous people, who had hoped for years that their respective Governments would give due attention to their legitimate rights.

RANDALL GONZALEZ (Costa Rica) said that today marked the end of a long process towards the recognition of the fundamental rights of indigenous people. Still, it was only the beginning of efforts to remedy so many years of injustice. The debt to indigenous brothers and sisters must be settled, not only through implementation of the Declaration, but with assistance in such areas as poverty alleviation, improved education and wider access to decision-making processes.

FABIEN FIESCHI (France) believed that the Declaration was an essential step forward in the promotion and protection of human rights for all. France had supported all multinational

initiatives for indigenous peoples. France believed that the Declaration referred to many of the rights that had been elaborated in the French Constitution.

Assembly Vice-President, AMINU BASHIR WALI (Nigeria), making a statement on behalf of General Assembly President Sheikha Haya Rashed Al Khalifa, said the Assembly had come a long way on the issue, having first opened its doors to indigenous peoples at a ceremony to launch the International Year of the World's Indigenous Peoples in December 1992. In 1995, the United Nations marked the first International Decade of the World's Indigenous Peoples and, last year, the beginning of the Second International Decade. That partnership and cooperation demonstrated the Assembly's continuing commitment to the world's indigenous peoples.

Even with that progress, however, indigenous peoples still faced marginalization, extreme poverty and other human rights violations, she said. They were often dragged into conflicts and land disputes that threatened their way of life and very survival. They also suffered from a lack of access to health care and education. Indigenous peoples should not be cast as victims, however, but as critical assets to the diversity of global humanity. By adopting the Declaration, the Assembly was marking further progress to improve the situation of indigenous peoples around the world.

The Assembly had also realized another important mandate that Heads of State and Government had agreed at the 2005 World Summit, she continued. "I am acutely aware that the Declaration is the product of over two decades of negotiations," she said, noting that the document's importance for indigenous peoples and, more broadly, for the human rights agenda, could not be underestimated. By adopting the Declaration, the Assembly was also taking another major step forward towards the promotion and protection of human rights and fundamental freedoms for all. It was also actively demonstrating the General Assembly's important role in setting international standards.

ANNEX

Vote on Indigenous Rights Declaration

The Declaration on the Rights of Indigenous Peoples (document A/61/L.67) was adopted by a recorded vote of 143 in favour to 4 against, with 11 abstentions, as follows:

In favour: Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Bahamas, Bahrain, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Cape Verde, Central African Republic, Chile, China, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nepal, Netherlands, Nicaragua, Niger, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Saint Lucia, Saint Vincent and the

Grenadines, San Marino, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syria, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Australia, Canada, New Zealand, United States.

Abstain: Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa, Ukraine.

Absent: Chad, Côte d'Ivoire, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gambia, Grenada, Guinea-Bissau, Israel, Kiribati, Kyrgyzstan, Marshall Islands, Mauritania, Montenegro, Morocco, Nauru, Palau, Papua New Guinea, Romania, Rwanda, Saint Kitts and Nevis, Sao Tome and Principe, Seychelles, Solomon Islands, Somalia, Tajikistan, Togo, Tonga, Turkmenistan, Tuvalu, Uganda, Uzbekistan, Vanuatu.

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