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COMPARITIVE TABLE OF THE OAS DRAFT DECLARATION AND UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

(October 24, 2007)

Draft American Declaration on the Rights of Indigenous Peoples ¹	UN Declaration on the Rights of Indigenous Peoples ²
	PP1 <i>Guided</i> by the purposes and principles of the Charter of the United Nations, and good faith in the fulfillment of the obligations assumed by States in accordance with the Charter,
	PP2 <i>Affirming</i> that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,
	PP3 <i>Affirming</i> also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,
	PP4 <i>Affirming</i> further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,
	PP5 <i>Reaffirming</i> that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,
	PP6 <i>Concerned</i> that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to

¹ Source: OAS, Working Group, *Record of the Current Status of the Draft American Declaration on the Rights of Indigenous Peoples*, GT/DADIN/doc.301/07, April 27, 2007.

² Source: UN, General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, Resolution 61/295, October 2, 2007.

development in accordance with their own needs and interests,

PP7 *Recognizing* the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

PP8 *Recognizing* also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

PP9 *Welcoming* the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

PP10 *Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

PP11 *Recognizing* that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

PP12 *Emphasizing* the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

PP13 *Recognizing in particular* the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

PP14 *Considering* that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

PP15 *Considering* also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

PP16 *Acknowledging* that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action,³ affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

PP17 *Bearing in mind* that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

PP18 *Convinced* that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

PP19 *Encouraging* States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

PP20 *Emphasizing* that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

PP21 *Believing* that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

PP22 *Recognizing and reaffirming* that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

PP23 *Recognizing* that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

PP 24 *Solemnly proclaims* the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article I.

1. The American Declaration on the Rights of Indigenous Peoples applies to the indigenous peoples of the Americas. (Approved on March 25, 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)
 2. Self-identification as indigenous peoples will be a fundamental criteria for determining to whom this Declaration applies. The States shall respect the right to such self-identification as indigenous, individually or collectively, in keeping with the practices and institutions of each indigenous people. (Approved on March 25, 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)
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Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
 2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.
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Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article II.

No equivalent.

The States recognize and respect the multiethnic and multicultural [and multilingual] character of their societies."^{3/}

Article III.**Article 3**

[Within the States, the right to self-determination of the indigenous peoples is recognized, pursuant to which they can define their forms of organization and promote their economic, social, and cultural development.]^{4/}

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

Article IV.**Article 46**

[Nothing in this Declaration shall be construed so as to authorize or foster any action aimed at breaking up or diminishing, fully or in part, the territorial integrity, sovereignty, and political independence of the States, or other principles contained in the Charter of the Organization of American States.]

1. Nothing in this Declaration may 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 of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

Article V. Full effect and observance of human rights**Article 1**

Indigenous [peoples and persons] have the right to the full and effective Indigenous peoples have the right to the full enjoyment, as a collective or as

^{3.} During the Eighth Meeting of Negotiations, the majority of delegations, including the indigenous caucus, supported alternative text as follows: "The States recognize and respect the multicultural and multilingual character of the indigenous peoples, who are an integral part of their societies."

^{4.} During the Eighth Meeting of Negotiations, proposed language for this Article, including the indigenous caucus proposal, is included in the "New Compendium of Proposals for the Phase of Review of the Draft American Declaration on the Rights of Indigenous Peoples" (GT/DADIN/doc.276/06 rev. 4)

enjoyment of all the human rights and fundamental freedoms recognized in the Charter of the OAS, the American Declaration of the Rights and Duties of Man, and [, where applicable,] the American Convention on Human Rights, [the Convention 169 of the International Labour Organisation,] [as well as] and other international [and regional] [principles, standards, and] instruments of human rights. Nothing in this Declaration may be interpreted so as to limit, restrict, or deny in any way those rights, or so as to authorize any action that is not in keeping with the principles [, standards, and instruments] of international law, including international human rights law.^{5/}

individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

See also:

Article 46

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

Article VI. Collective rights

1. Indigenous peoples have collective rights that are indispensable for their existence, well-being, and integral development as peoples.

2. In this regard, the States recognize [and guarantee], inter alia, the right of the indigenous peoples to their collective action; to their social, political, and economic organization; [to their legal systems;] to their own cultures; to profess and practice their spiritual beliefs; [and] to use their languages [; and to administer and control their lands, territories, and natural resources].

No equivalent, but see:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

PP22 *Recognizing and reaffirming* that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Article VII. Gender equality

1. Indigenous women have the right to the recognition, protection, and enjoyment of all human rights and fundamental freedoms provided for in international law, free of all forms of discrimination.

2. States recognize that violence against indigenous peoples and persons, particularly women, hinders or nullifies the enjoyment of all human rights and fundamental freedoms.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

^{5.} During the Eighth Meeting of Negotiations, the following language for Article V had the support of a majority of delegates, including the indigenous caucus: "Indigenous peoples and persons have the right to the full enjoyment of all human rights and fundamental freedoms, [as] recognized in the Charter of the United Nations, the Charter of the Organization of American States and international human rights law."

3. States shall adopt the necessary measures, in conjunction with indigenous peoples, to prevent and eradicate all forms of violence and discrimination, particularly against indigenous women and children.

[Article VIII. Right to belong to the Indigenous peoples

Indigenous persons and communities have the right to belong to the indigenous peoples, in accordance with the identities, traditions, customs, and systems of those peoples.]

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

See also:

Article 33

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

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

Article 35

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

Article IX. Juridical personality

The States shall recognize fully the juridical personality of the indigenous peoples, respecting indigenous forms of organization and promoting the full exercise of the rights recognized in this Declaration.

No Equivalent.

Article X. Rejection of Assimilation

1. Indigenous peoples have the right to maintain, express, and freely develop their cultural identity in all respects, free from any external attempt at assimilation.

2. The States shall not carry out, adopt, support, or favor any policy to assimilate the indigenous peoples or to destroy their cultures.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(d) Any form of forced assimilation or integration;

(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article X. bis. Protection against genocide

Indigenous peoples have the right to not be subjected to any form of genocide or attempts to exterminate them.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

[Article XI. Special guarantees against racism, racial discrimination, xenophobia, and related forms of intolerance

1. Indigenous peoples have the right to protection from racism, racial discrimination, xenophobia, and related forms of intolerance. In this regard, the States shall adopt special measures, when necessary, for the full enjoyment of internationally and nationally recognized human rights, and shall adopt all necessary measures so that indigenous women, men, and children can enjoy their civil, political, economic, social, cultural, and spiritual rights.

2. Indigenous peoples have the right to participate in the determination of those special guarantees.]

Article 2

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

Article 15

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

[Article XII. Right to cultural identity

[1. Indigenous peoples have the right to their cultural integrity and to their historical and ancestral heritage, which are important for their collective continuity, and for their identity and that of their members and their States.]^{6/}

[2. Indigenous peoples have the right to restitution of the property that is part of

Article 11

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

^{6/} Informal consultations held at the ninth meeting resulted in the following text: [1. Indigenous peoples have the right to/rights pertaining to their own identity and cultural integrity and to their cultural heritage, both tangible and intangible, including historic and ancestral heritage; and to the protection, preservation, maintenance, and development of that cultural heritage for their collective continuity and that of their members and so as to pass on/and to transmit that heritage to future generations.]

that heritage of which they may be dispossessed, or, when restitution is not possible, to fair and equitable compensation.]^{7/}

3. Indigenous people have the right to the recognition and respect for all their ways of life, world views, spirituality, uses and customs, norms and traditions, forms of social, economic and political organization, forms of transmission of knowledge, institutions, practices, beliefs, values, dress and languages, recognizing their inter-relationship as elaborated in this Declaration. (Approved Jan. 26, 2007)

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 8

2. States shall provide effective mechanisms for prevention of, and redress for:

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

Article XIII. Systems of Knowledge, Language and Communication

1. Indigenous peoples have the right to preserve, use, develop, revitalize, and transmit to future generations their own histories, languages, oral traditions, philosophies, systems of knowledge, writing, and literature; and to designate and maintain their own names for their communities, individuals, and places.^{8/} (Approved Jan 24, 2007.)

The States [shall] [will] adopt adequate [and effective] measures to protect the exercise of this right [, in consultation with the peoples concerned].^{9/}

2. Indigenous peoples [, on an equal basis with the rest of society,] have the right to promote and develop all their systems and media of communication, including their own radio and television programs, and to access all other means of communication and information. The States shall take measures to promote the broadcast of radio and television programs in indigenous languages, particularly in areas with an indigenous presence. The States shall support and facilitate the creation of indigenous radio and television stations, as well as other means of information and communication.

3. The States, in conjunction with indigenous peoples, shall make efforts to ensure that those peoples can understand and be understood in their languages in administrative, political, and judicial proceedings, where necessary through the

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

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

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

^{7.} Informal consultations held at the ninth meeting resulted in the following text: [2. States shall provide [redress, reparation], including the right of [restitution, return], whenever possible, of any cultural heritage of which indigenous peoples have been dispossessed without their free, prior, and informed consent. Should return not be possible, indigenous peoples shall have the right to fair and equitable compensation. States, in conjunction with indigenous peoples, shall establish effective mechanisms for that purpose.]

^{8.} After participating in Working Group meetings regarding Section Three, the United States understands this section does not concern intellectual property rights, which are solely addressed under Article 28 of this Declaration.

^{9.} This text is under consultation and its placement is to be determined.

provision of interpretation or by other effective means. (Approved Jan. 26, 2007)^{10/}

Article XIV. Education

1. Indigenous peoples and individuals, particularly indigenous children, have the right to all levels and forms of education, without discrimination.^{11/}

2. States and indigenous peoples, in keeping with the principle of equality of opportunity, shall promote the reduction of disparities in education between indigenous and non-indigenous peoples. (Approved on April 27, 2007, at the Tenth Meeting of Negotiation in the Quest for Points of Consensus, La Paz, Bolivia)

3. Indigenous peoples have the right to their own educational systems and, by virtue of this right, they can define, prepare, apply and control their own programs, plans, curricula, methodologies, and teaching materials; and to educate, train and accredit their teachers and administrators [, in coordination with the State].

4. States shall, in conjunction with indigenous peoples, take [effective] measures to provide access for indigenous individuals, particularly children, living outside their communities to an education in their own languages and cultures.

5. States shall promote harmonious intercultural relations, ensuring in State educational systems curricula with contents that reflect the pluricultural and multilingual nature of their societies and that encourage respect for and knowledge of the different indigenous cultures. States shall, in conjunction with indigenous peoples, promote intercultural education that reflects the cosmovision, histories, languages, knowledge, values, cultures, practices, and ways of life of those peoples. (Approved on April 27, 2007, at the Tenth Meeting of Negotiation in the Quest for Points of Consensus, La Paz, Bolivia)

6. States shall adopt necessary and effective measures to ensure the exercise and observance of these rights.^{12/}

Article XV. Indigenous spirituality

1. Indigenous peoples have the right to freely exercise their own spirituality and

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their

^{10.} Approved ad referendum of the indigenous caucus.

^{11.} Approved ad referendum of Mexico.

^{12.} This text is under consultation and its placement is to be determined.

beliefs and, by virtue of that right, to practice, develop, transmit, and teach their traditions, customs, and ceremonies, and to carry them out in public and in private, individually and collectively. (Approved on April 24, 2007, at the Tenth Meeting of Negotiation in the Quest for Points of Consensus, La Paz, Bolivia)

2. No indigenous people or person shall be subject to pressures or impositions, or any other type of coercive measures that impair or limit their right to freely exercise their indigenous spirituality and beliefs. [States, in conjunction with indigenous peoples, shall take effective measures to prohibit actions by religious authorities or third parties that undermine indigenous spirituality and beliefs.]^{13/}

3. Indigenous peoples have the right to [recover, preserve, use, control, protect, and access^{14/}] their [existing and future] sacred sites and objects, including their burial grounds, human remains, and relics [located in their ancestral and other territories]. States, in conjunction with indigenous peoples, shall adopt the necessary measures to protect these rights.^{15/ 16/}

[States shall adopt effective measures, in conjunction with indigenous peoples, to preserve, respect, and protect their sacred sites and objects, including their burial grounds, human remains, and relics.]

4. States, in conjunction with indigenous peoples, shall adopt effective measures, both to promote the respect of society for indigenous spirituality and beliefs, and to protect the integrity of the symbols, practices, ceremonies, expressions, and spiritual protocols of indigenous peoples[, in accordance with international standards].

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

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Also see:

Article 11

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article XVI. Indigenous family

1. The family is a natural and fundamental group unit of society. Indigenous peoples have the right to preserve, maintain and promote their own family systems. States shall recognize, respect, and [protect] the various indigenous forms of family,¹⁷ in particular the extended family,^{18/} as well as the forms of

No equivalent, but see:

PP13 *Recognizing in particular* the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

^{13.} Approved at the meeting of the drafting group of April 26, 2007, subject to the concerns of the Caucus as set forth in the bracketed language being adequately addressed elsewhere in this article.

^{14.} The Drafting Group also considered the alternative phrase “the right to the recovery, preservation, use, control, protection, and access of...”

^{15.} This text is under consultation and its placement is to be determined.

^{16.} Proposal of Brazil for Art. XV (3): Indigenous peoples have the right to preserve, protect, and access their sacred sites, including their burial grounds; to use and control their sacred objects and relics; and to recover their human remains.

^{17.} The phrase “various indigenous forms” approved ad referendum of Argentina.

matrimonial union, filiations, descent, and family name. In all cases, gender and generational equity shall be recognized and respected.

2. In determining the best interests of the child in matters related to the adoption of indigenous children, severance of family ties, and other similar circumstances, the courts and other relevant institutions shall take into account, primarily, the [applicable] indigenous law of the peoples concerned and shall consider their points of view, rights, and interests, including the positions of individuals, the family, and the community. The indigenous institutions, and indigenous courts where they exist, shall [may] have jurisdiction in determining the custody and other related matters concerning indigenous children.

Article XVII. Health

1. Indigenous peoples have the collective and individual right to the enjoyment [of the highest possible level] of physical, mental, and spiritual health, in accordance with [national and] international standards.

[2. Indigenous peoples have the right to the use and protection of the plants, animals, and minerals for medicinal use in their ancestral lands and territories, as necessary for the practice of indigenous medicine.]

3. States shall take measures to prevent and prohibit indigenous peoples and individuals from being subject to research programs, biological or medical experimentation, as well as sterilization without their prior, free, and informed consent. Likewise, indigenous peoples and persons have the right, as appropriate, to access to their data, medical records, and documentation of research conducted by individuals and public and private institutions. (Approved on April 25, 2007, at the Tenth Meeting of Negotiation in the Quest for Points of Consensus, La Paz, Bolivia)

4. Indigenous peoples have the right to use, without any discrimination whatsoever, all the health and medical care institutions and services accessible to the general population. States, in consultation and coordination with indigenous peoples, shall promote intercultural systems or practices in the medical and health services provided in indigenous communities, including training of indigenous technical and professional health care personnel. (Approved on April 26, 2007, at the Tenth Meeting of Negotiation in the Quest for Points of Consensus, La Paz, Bolivia)

[5. States shall provide the necessary means for the indigenous peoples to improve the health conditions in their communities insofar as they fall short of the standards accepted for the general population.]

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

¹⁸. The phrase "in particular the extended family" approved ad referendum of Mexico.

Article XVIII. [Right to] protection of a healthy environment

1. [Indigenous peoples have the right to live in harmony with nature and to a healthy and safe environment, which are essential conditions for enjoyment of the right to life, to their spirituality, and to collective well-being.]

2. Indigenous peoples have the right to conserve, restore, recover, manage, use, and protect the environment, and to the sustainable management of their lands [, territories,] [and resources].^{19/}

3. Indigenous peoples have a right to [prior information and consultation on] [their free, prior and informed consent on] measures and actions which may [significantly] affect the environment in indigenous lands [and territories].^{20/}

4. Indigenous peoples have the right to participate fully and effectively in the formulation, planning, organization and implementation of measures, programs, laws, policies, and any other public [or private] activity that could affect the environment, for the conservation, use and management of their [the] lands [, territories] [and resources].^{21/}

5. Indigenous peoples have the right to technical and financial assistance from their States and from International Organizations for the purpose of protecting the environment [, in keeping with the procedures established in the national legislations].

[6. States shall prohibit and punish, with the full and effective participation of indigenous peoples [and their consent], the introduction, abandonment, dispersion, transit, use, or deposit of any harmful substance, including persistent organic contaminants; nuclear, radioactive, chemical, and biological materials, and [genetically modified organisms] that can directly or indirectly affect indigenous communities, lands [, territories] and resources.]

7. Indigenous Peoples have the right to create their own protected areas or areas of conservation on their lands [and territories] that shall be recognized, respected and protected by the State. States shall not create protected areas or areas of

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

¹⁹. Since there is no consensus on this paragraph, the Chair has recorded proposals made by Member States and by the Indigenous Caucus. Various delegations of Member States have requested the insertion of brackets around the words "territories" and "resources". In addition, a part of this paragraph will be considered when reviewing the chapter on General Provisions.

²⁰. Since there is no consensus on this paragraph, the Chair has recorded proposals made by Member States and by the Indigenous Caucus. The terms "significantly" and "prior, free and informed consent" were the object of special consideration by the Working Group. This paragraph will be considered when reviewing the chapter on General Provisions.

²¹. This paragraph will be considered when reviewing article XX (2) and the indigenous caucus' proposal with respect to article XXII.

conservation of any sort on lands [or territories] that Indigenous Peoples have historically or traditionally used, possessed or occupied or have otherwise acquired, without the free, prior and informed consent of the Indigenous Peoples affected. In the creation of said areas, States shall not [under any circumstances / except under the circumstances set out in Article 25 of this Declaration] require the forced transfer or relocation of indigenous peoples' communities, impose restrictions or inhibit the traditional uses of the land, their way of life or their means of subsistence.

Article XIX. [Rights of association, assembly, and freedom of expression and thought]

1. [Indigenous peoples have rights of association, assembly, organization and expression, without interference and in accordance with their worldview, *inter alia*, values, usages, customs, ancestral traditions, beliefs, spirituality, and other cultural practices.]^{22/}

2. Indigenous peoples have the right to assemble on their sacred and ceremonial sites and areas, and for this purpose, they shall have free [reasonable] access, use [and administration] of these sites and areas.

3. Indigenous peoples, in particular those who are divided by borders, have the right to [move freely and] maintain full contact and common activities with their members [and other peoples] [with whom they have ethnic, religious or linguistic ties] who inhabit the territory of neighboring States, without discrimination. [The States shall adopt measures, including the adoption of international instruments, to facilitate the exercise of these rights.]

4. [The States shall adopt measures aimed at facilitating the exercise of the rights recognized in this article, mindful of the rights of third persons.]^{23/}

Article XX. Right to [autonomy] or [and] self-government.

1. Indigenous peoples, [as one of the ways to exercise their] [in the exercise of] the right to self-determination [within the States], have the right to autonomy or [and] self-government with respect to, *inter alia*, culture, language, spirituality, education, [information, means of communication,] health, housing, employment, social well-being, maintenance [of community security], [of jurisdictional functions in matters of territory,] family relations, economic activities, administration of land and resources, environment and [entry of non-members]; [and to determine with

Article 12

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

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct

^{22.} This item had the support of most of delegations, but a consensus was not reached.

^{23.} This item will be reviewed when considering section six general provisions - the Secretariat duly records the proposals of the indigenous caucus.

States the ways and means of financing {the exercise of these rights} these autonomous functions].^{24/}

2. Indigenous peoples have the right to maintain and develop their own decision-making institutions. They also have the right to participate fully and effectively without discrimination in decision-making at all levels in relation to matters that may [directly] affect their rights, [lives and destiny]. They may do so directly or through their representatives, and accordance with their own norms, procedures, and traditions. They also have the right [to equal opportunities] to access and to participate [fully and effectively as peoples] in all national institutions and fora, [including deliberative bodies.]

political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 32

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

Article 33

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

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article XXI. Indigenous law and jurisdiction

1. The States shall recognize the [competence] of the authorities of indigenous peoples to exercise [jurisdictional functions] in their territory in accordance with

No equivalent, but see:

Article 13

²⁴. This item will be considered together with Articles III and IV of the Draft Declaration.

their own standards, institutions and procedures. Indigenous peoples have the right to maintain [control] and strengthen their legal systems to address the internal matters that affect their rights and interests, and to apply them in accordance with their own rules and procedures.^{25/}

2. The indigenous law and legal systems shall be recognized and respected by the national [and international] legal systems.^{26/}

3. The matters referring to indigenous persons or to their rights or interests in the jurisdiction of each State shall be conducted so as to provide for the right of the indigenous people to full representation with dignity and equality before the law. Consequently, they are entitled, without discrimination, to equal protection and benefit of the law, including the use of linguistic and cultural interpreters.

4. The States shall take effective measures in consultation with the indigenous peoples to ensure implementation of this article,^{27/} [for which they shall determine the coordination of the indigenous jurisdictional systems with the national legal systems].

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

Article 5

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

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and

²⁵. This item had the support of most of delegations, but a consensus was not reached. It was suggested that this paragraph be revised with article XXXIII.

²⁶. This item had the support of most of delegations, but a consensus was not reached. It was suggested that this paragraph be revised with article XXXIII.

²⁷. The first part of this paragraph will be considered when reviewing the chapter on General Provisions.

collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article XXII. Contributions of the indigenous legal and organizational systems

No equivalent, but see:

1. The States shall facilitate the inclusion, within their national and regional organizational structures, as appropriate, of the traditional institutions and practices of the indigenous peoples, in consultation with and with the consent^{28/} of said peoples.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

2. The Indigenous peoples, in matters that may directly affect their rights, have the right to participate fully and effectively [without discrimination] in the design of institutions that serve them, in the development, [adoption] and implementation of plans, public policies, and programs and activities, including those that the State agrees [with {financial} multilateral institutions], as well as in the process of development of legislative, administrative and judicial measures. [All of the above, with the purpose of strengthening and promoting the identity, culture, traditions, organization and values of these peoples.]

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

[3. States shall obtain free, prior and informed consent of the indigenous peoples concerned before adopting and implementing such policies and measures.]^{29/}

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article XXIII. Treaties, agreements, and constructive arrangements

Article 37

[Indigenous peoples have the right to the recognition, observance, and application of the treaties, conventions, and other arrangements that the States or their successors may have concluded, in keeping with their spirit and intent, and to have the same be respected and observed by the States.]^{30/}

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

²⁸. The term "with the consent" will need further reflection.

²⁹. Most delegations felt there was a need to analyze the scope of this paragraph in the future.

³⁰. The Chair has collected all the proposals but Delegations need further time to analyze them.

Article XXIV. Traditional forms of property and cultural survival. Right to land, territory, and resources

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual, cultural, and material relationship to their lands, territories, and resources and the [duty] to assume their responsibilities to preserve them for themselves and for future generations.^{31/}

[1. Indigenous peoples have the right to the recognition of their property rights and ownership rights with respect to the lands and territories that they historically occupy, as well as the use of the lands to which they have traditionally had access for carrying out their traditional activities and for sustenance, respecting the principles of the legal system of each State. These rights also include the waters, coastal seas, flora, fauna, and all other resources of that habitat, as well as their environment, preserving these for themselves and future generations.

2. Indigenous peoples have the right to legal recognition of the various and particular modalities and forms of property, possession, and ownership of their lands and territories, in accordance with the principles of the legal system of each State. The States shall establish the special regimes appropriate for such recognition, and for their effective demarcation or titling.

3. The rights of the indigenous peoples to their lands and territories they occupy or use historically are permanent, exclusive, inalienable, imprescriptible, and indefeasible.

4. The titles may only be modified by mutual agreement between the State and the respective indigenous peoples, with full knowledge and understanding by their members with respect to the nature and attributes of that property and of the proposed modification. The agreement by the indigenous people concerned shall be given following its practices, usages and customs.

5. Indigenous peoples have the right to attribute ownership within the community in accordance with the values, usages, and customs of each peoples.

6. The States shall take adequate measures to avert, prevent, and punish any intrusion or use of such lands, territories, or resources by persons from outside to claim for themselves the property, possession, or right to use the same.

7. In case the property rights over the minerals or resources of the subsoil belong to the State, or it has rights over other resources existing in the lands and territories of the indigenous peoples, the States shall establish or maintain

Article 25

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

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and

^{31.} Following instructions it received from Santiago after consideration of this paragraph by the Meeting, the Delegation of Chile reserves the right to review the term "territories" used in this clause.

procedures for the participation of the peoples concerned for determining whether the interests of those peoples would be prejudiced and to what extent, before undertaking or authorizing any program involving prospecting, planning, or exploitation of the resources existing on their lands and territories. The peoples concerned shall participate in the benefits of such activities, and receive fair compensation for any harm they might suffer as a result of such activities.

8. The States shall provide, within their legal systems, a legal framework and effective legal remedies to protect the rights of the indigenous peoples referred to in this article.]

legal status or of monetary compensation or other appropriate redress.

See also:

Article 32

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

Article 8

2. States shall provide effective mechanisms for prevention of, and redress for:

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

Article XXV. On transfers and relocations

1. Indigenous peoples shall not be transferred or relocated without their free, prior, and informed consent, except in cases of natural disaster, [national emergency, or exceptional grounds duly justified,] through procedures jointly established with the indigenous peoples. In the event of a transfer or relocation, the States shall ensure the replacement, [wherever possible,] by adequate lands of equal size, quality, and legal status, [guaranteeing] in all cases the right to return if the causes that gave rise to the displacement cease to exist.

2. Just and equitable compensation shall be paid to the indigenous peoples and to their members who are transferred or relocated for [any] loss or harm they may have suffered as a result of their displacement.^{32/}

Article 10

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

Article 8

2. States shall provide effective mechanisms for prevention of, and redress for:

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

Article XXVI. Indigenous peoples in voluntary isolation or initial contact

No equivalent.

1. Indigenous peoples in voluntary isolation or initial contact have the right to

^{32.} The delegation of the United States reserves its position on Article XXV (2).

^{33.} The delegation of Argentina enters a reservation with respect to the terms "lands and territories" until the scope of their meaning throughout the text of the declaration is reviewed.

^{34.} The delegation of Mexico joins in the consensus reached on this article. However, Mexico reserves the right to request reconsideration of the final part of paragraph 2 of this article which reads: "These policies shall include the necessary measures to prevent, prohibit, and punish any unauthorized intrusion in their lands and

remain in that condition and to live freely and in accordance with their cultures.

2. The States shall adopt adequate policies and measures with the knowledge and participation of indigenous peoples and organizations to recognize, respect, and protect the lands, territories, environment, and cultures of these peoples as well as their life, and individual and collective integrity. ^{33/ 34/}

Article XXVII. Labor Rights

1. Indigenous peoples and persons have the rights and guarantees recognized in national and [applicable] international labor law. States shall take all special measures to prevent, sanction and remedy the discrimination to which indigenous peoples and persons are subjected.

2. States, in conjunction with indigenous peoples, shall adopt immediate and effective measures to eliminate exploitative labor practices with regard to indigenous peoples, in particular, indigenous children, women and elders.

3. In case indigenous peoples are not effectively protected by the laws applicable to workers in general, States, in conjunction with indigenous peoples, shall take all measures that may be necessary in order to:

a. protect indigenous workers and employees in relation to contracting under fair and equal conditions of employment in both formal and informal labor arrangements;

b. establish, apply, or improve labor inspection and the enforcement of rules with particular attention to, *inter alia*, regions, companies, and labor activities in which indigenous workers or employees participate;

c. establish, apply or enforce laws so that both female and male indigenous workers:

i. enjoy equal opportunities and treatment in all terms, conditions, and privileges of employment under national and [applicable] international law;

ii. enjoy the right of association, the right to form trade unions, and join trade union activities, and the right to bargain collectively with employers through representatives of their own choosing or workers' organizations, including traditional authorities;

iii. are not subject to discrimination or harassment on the basis of, *inter alia*, race, sex, indigenous origin or identity;

iv. are not subject to coercive hiring systems, including debt servitude or any other

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, *inter alia*, employment or salary.

territories" if it is not reflected elsewhere in the Declaration.

form of forced or compulsory labor regardless of whether the labor arrangement arises from law, custom, or an individual or collective arrangement, in which case the labor arrangement shall be deemed absolutely null and void;

v. are not forced to work in conditions that endanger their health and personal safety; and are protected from work that does not comport with occupational health and safety standards; and

vi. receive full and effective legal protection, without discrimination, when they provide their services as seasonal, occasional, or migrant workers, as well as when they are contracted by employers such that they receive the benefits of the national legislation and practices, which shall be in accordance with the [applicable] international human rights laws and standards for this category of workers;

d. ensure that the indigenous workers and their employers are informed of the rights of indigenous workers under national law and [applicable] international and indigenous standards, and of the remedies and actions available to them to protect those rights.

4. [States should take measures to promote employment of indigenous individuals.]

[5. In all cases, applicable indigenous labor laws, norms, and policies shall take precedence within the jurisdiction of the indigenous peoples concerned.]

[Article XXVIII. Protection of Cultural Heritage and Intellectual Property

1. Indigenous peoples have the right to the full recognition and respect for their property, ownership, possession, control, development, and protection of their tangible and intangible cultural heritage and intellectual property, including its collective nature, transmitted through millennia, from generation to generation.

2. The intellectual property of indigenous peoples includes, *inter alia*, traditional knowledge, ancestral designs and procedures, cultural, artistic, spiritual, technological, and scientific, expressions, genetic resources including human genetic resources, tangible and intangible cultural heritage, as well as the knowledge and developments of their own related to biodiversity and the utility and qualities of seeds and medicinal plants, flora and fauna.

3. States, in conjunction with indigenous peoples, shall adopt measures necessary to guarantee that national and international agreements and regimes provide adequate recognition and protection for indigenous peoples' cultural heritage and intellectual property. These measures shall be adopted with the free, prior, and informed consent of indigenous peoples.]

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

[Article XXIX. Right to development

1. Indigenous peoples have the right to freely^{35/} determine their political, economic, social and cultural development in conformity with their own world view. They also have the right to be guaranteed the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. This right includes the development of policies, plans, programs, and strategies in the exercise of their right to development and to administer them through their own institutions.

3. Indigenous peoples have the right to obtain adequate means for their own development from the State, as well as those from international cooperation.

4. Indigenous peoples have the right to full and effective participation in the formulation, implementation and evaluation of State development plans and programs which may affect them.

5. The States shall take the necessary measures to ensure that the decisions referring to any plan, program, or project that affect the rights or living conditions of indigenous peoples are made with the free, prior and informed consent or agreement of the indigenous peoples affected, on the basis of the measures proposed.

6. Indigenous peoples have the right to effective measures to mitigate adverse ecological, economic, social, cultural, or spiritual impacts of development projects. Indigenous peoples who have been deprived of their own means of subsistence and development have the right to restitution and, where this is not possible, to fair and equitable compensation. This includes the right to compensation for any damage caused to them by the implementation of State, international financial institutions or private business plans, programs, or projects.]

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

³⁵. This item will be considered together with Articles III, IV, and XX of the Draft Declaration.

[Article XXX. Right to peace, security and protection in the event of armed conflicts

1. Indigenous peoples have the right to peace and security.
2. Indigenous peoples have the rights to recognition and respect for their institutions for the maintenance of peace and security.
3. Indigenous peoples have the right to protection and security in situations or periods of internal or international armed conflict, political turmoil or social disorder.
4. States shall respect international standards, in particular the international humanitarian law such as the Fourth Geneva Convention of 1949 relative to the protection of civilian persons in time of war, and the Protocol II of 1977 relating to the protection of victims of non-international armed conflicts. In the event of armed conflicts, the States shall take adequate measures, with the agreement of the indigenous peoples concerned, to protect the human rights, institutions, lands, territories, and resources of the indigenous peoples, *inter alia*:
 - a. Shall not permit the recruitment of indigenous individuals against their will to serve in the armed forces and private security forces and, in particular, for use against their own peoples or other indigenous peoples.
 - b. Shall not recruit indigenous children into the armed forces under any circumstances;
 - c. Shall not force indigenous communities or individuals to abandon their lands, territories or means of subsistence, nor relocate them for military purposes;
 - d. Shall not force indigenous individuals to work for military purposes.
 - e. Shall respect the right to conscientious objection particularly taking into account their cultural or spiritual practices.
 - f. Shall take measures of integral reparation and provide adequate resources for reconstruction, with the free, prior and informed consent of the indigenous peoples affected, by the damages incurred.
 - g. Shall take special and effective measures to guarantee that women and children live free from all forms of violence.
5. Nothing in this article shall be used as a pretext to militarize, directly or indirectly, the lands and territories of indigenous peoples, by the armed forces of the State, armed groups supported or condoned by the State, or private security groups; or to take any actions that limit or deny their right to peace and security.]

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article XXXI

1. The States shall ensure the full enjoyment of the civil, political, economic, social, cultural, and [spiritual] rights, and of all [fundamental human] rights of the indigenous peoples contained in this Declaration.

2. The States shall promote, with the full and effective participation of the indigenous peoples, the adoption of the legislative and other measures that may be necessary to give effect to the rights included in this Declaration.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article XXXII

All the rights and freedoms recognized in the present Declaration are guaranteed equally to indigenous women and men.^{36/}

Article 44

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

Article XXXIII

Indigenous peoples and persons have the right to effective and appropriate remedies, including prompt judicial remedies, for the reparation of all violations of their collective and individual rights. The States, with full and effective participation of indigenous peoples, shall provide the necessary mechanisms for the exercise of this right.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article XXXIV

In case of conflicts and disputes with indigenous peoples, States shall provide, with the full and effective participation of those peoples, just, equitable and effective mechanisms and procedures for their prompt resolution. For this purposes, [due consideration / recognition] shall be given to the customs, traditions, norms and [legal systems] of the indigenous peoples concerned.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article XXXIV bis

Nothing in this Declaration may be interpreted so as to limit, restrict, or deny human rights in any way, or so as to authorize any action that is not in keeping

No equivalent.

³⁶. During the Seventh Meeting of Negotiations, held in Brasilia, Brazil, the Working Group approved the three paragraphs proposed by the Indigenous Peoples' Caucus and which the Chair suggested should currently appear in Article VII, "Gender Equality." The paragraph that had already been approved by consensus at another meeting of negotiations and which appeared as the first paragraph in Article VII has been transferred as a general provision and now appears as Article XXXII in this Section.

with international human rights law. (Approved on December 8, 2006 – Eighth Meeting of Negotiations in the Quest for Points of Consensus)

Article XXXV

The Organization of American States, its organs, agencies, and entities, shall take all necessary measures to [promote and ensure] the full application, respect and protection of the rights of indigenous peoples contained in this Declaration.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article XXXVI

The nature and scope of the measures that shall be taken to implement this Declaration shall be determined in accordance with the spirit and purpose of said Declaration.

No equivalent.

Article XXXVII

Any interpretation and application of the present Declaration [shall take into account the constitutional principles of each State and] shall be consistent with the international principles of justice, democracy, respect for human rights, nondiscrimination, [good governance,] and good faith.

Article 46

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

Article XXXVIII

Nothing in this declaration shall be construed as diminishing or extinguishing rights that indigenous peoples now have or may acquire in the future.

Article 45

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

Article XXXIX

The rights recognized in this Declaration constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the Americas.

Article 43

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

No Equivalent.

Article 6

Every indigenous individual has the right to a nationality.
