

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

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Working Group to Prepare the
Draft American Declaration on the
Rights of Indigenous Peoples

**FIFTEENTH MEETING OF NEGOTIATIONS IN
THE QUEST FOR POINTS OF CONSENSUS**

(Washington, D.C. – February 9 -11, 2015)

RECORD OF THE CURRENT STATUS OF THE DRAFT AMERICAN
DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

(Outcomes of the Fifteen Meetings of Negotiations in the Quest for Points
of Consensus, held by the Working Group)

[Updated upon the conclusion of the Fifteenth Meeting of Negotiations]

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PREAMBLE

The member states of the Organization of American States (hereafter, the states),

RECOGNIZING that the rights of indigenous peoples are a vital aspect that holds great historical significance for the hemisphere's present and future,

RECOGNIZING further how important it is for mankind that indigenous cultures of the Americas be preserved;

1. Indigenous peoples and nation-building

Recognizing that indigenous peoples are native societies that are an integral part of the Americas, and that their values and cultures are inextricably linked to the identity of their countries of residence and the region as a whole,

Mindful that the indigenous peoples of the Americas play a special role in strengthening state institutions and in attaining national unity based on democratic principles,

Recalling that some democratic concepts and institutions enshrined in the constitutions of the states of the Americas were born out of institutions created by indigenous peoples, and that many of their current participatory decision-making and governance systems contribute to the enhancement of democracies in the Americas,

Taking into account the rich cultural diversity of indigenous peoples of the Americas, the variety of national situations and the different levels of indigenous presence in the states,

Recalling the need to develop and strengthen national legal and political frameworks to respect cultural diversity in our societies,

2. Poverty eradication

Recognizing that the eradication of poverty is a universal and shared responsibility of the states, and concerned at the severe impoverishment and vulnerability of indigenous peoples in various regions of the hemisphere,

Reiterating that the Charter of the Organization of American States establishes as one of its essential purposes the eradication of critical poverty, noting that it is an obstacle to full democratic development for the peoples of the hemisphere,

Mindful of the importance that the Inter-American Democratic Charter places on the interrelationship of democracy, integral development, and combating poverty,

Recalling the commitments undertaken by the Heads of State and Government at the Third Summit of the Americas with regard to indigenous peoples and the need for special measures to be adopted for them to realize their full potential, and recalling the importance of their inclusion in order to strengthen our democracies and economies,

Reaffirming indigenous peoples' right to develop themselves according to their own traditions, needs, and interests,

3. Indigenous culture and ecology

Recognizing indigenous peoples' respect for the environment and ecology,

Recognizing as well the value of indigenous peoples' cultures, knowledge, and practices to sustainable development and to living in harmony with nature,

4. Land, territories and resources

Recognizing the special relationship between indigenous peoples and their land, territories, and resources,

Recognizing that indigenous peoples view their traditional collective forms of ownership and use of land, territories, resources, water, and coastal zones as vital to their survival, community organization, development, spirituality, and individual and collective well-being,

5. Coexistence, respect and non-discrimination

Considering the importance of eliminating the various forms of *de facto* and *de jure* discrimination affecting indigenous peoples,

Taking into account the responsibility of states to combat racial and ethnic discrimination, xenophobia, and other related forms of intolerance,

6. Human rights instruments and other juridical successes

Reiterating the universality, inseparability, and interdependence of human rights and internationally-recognized fundamental freedoms,

Bearing in mind the international achievements in recognizing the rights of indigenous peoples and, in particular, the International Labor Organization's Convention concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169).

Recalling the importance ascribed by the Inter-American Democratic Charter to human rights promotion and protection for indigenous peoples and to respect for ethnic and cultural diversity in the Americas,

Considering the achievements by nations of the Americas in their respective constitutions, legislation and jurisprudence to guarantee, promote, and protect the rights and institutions of indigenous peoples, as well as the political will on the part of states to continue moving forward in recognizing the rights of indigenous peoples of the Americas.

SECTION ONE: Indigenous Peoples. Scope of Application

Article I.

1. The American Declaration on the Rights of Indigenous Peoples applies to the indigenous peoples of the Americas. (Agreed upon by consensus 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. (Agreed upon by consensus on March 25, 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

Article II.

The states recognize and respect the multicultural and multilingual character of the indigenous peoples, who are an integral part of their societies. (Adopted on April 16, 2008 – Eleventh Meeting of Negotiations in the Quest for Points of Consensus).

Article III.

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. [**Approved** on Feb. 10.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus -*Pending consultations by the Delegation of Argentina*]

Article IV.

Nothing included 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, or political unity, sovereignty, and independence of the States, or other principles contained in the Charter of the Organization of American States. [**Approved** on Feb. 10.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus -*Pending consultations by the delegation of Argentina*]^{1/}

1. During Fifteenth Meeting of Negotiations in the Quest for Points of Consensus, it was agreed that the location of the paragraph will be discussed once the entire text has been reviewed

SECTION TWO: Human Rights and Collective Rights

Article V. Full effect and observance of human rights

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. (**Approved** on April 16, 2008 – Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

Article VI. Collective rights

1. Indigenous peoples have collective rights that are indispensable for their existence, well-being, and integral development as peoples. (**Approved** on December 2, 2009 – Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

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].

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. (**Agreed upon by consensus** in March, 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

2. States recognize that violence against indigenous peoples and persons, particularly women, hinders or nullifies the enjoyment of all human rights and fundamental freedoms. (**Agreed upon by consensus** in March, 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Agreed upon by consensus** in March, 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

Article VIII. Right to belong to the indigenous peoples

Indigenous persons and communities have the right to belong to one or more indigenous peoples, in accordance with the identity, traditions, customs, and systems of belonging of each people. No discrimination of any kind may arise from the exercise of such a right. (**Approved** on November 30, 2009 – Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Agreed upon by consensus** on December 7, 2006 – Eighth Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Agreed upon by consensus** on November 11, 2003 – First Meeting of Negotiations in the Quest for Points of Consensus)

2. The States shall not carry out, adopt, support, or favor any policy to assimilate the indigenous peoples or to destroy their cultures. (**Agreed upon by consensus** on November 11, 2003 – First Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Agreed upon by consensus** on November 11, 2003 – First Meeting of Negotiations in the Quest for Points of Consensus)

Article XI. Guarantees against racism, racial discrimination, xenophobia, and other related forms of intolerance

Indigenous peoples have the right not to be subject to racism, racial discrimination, xenophobia, and other related forms of intolerance. The states shall adopt the preventive and corrective measures necessary for the full and effective protection of this right. (**Approved** on April 18, 2008 – Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

[SECTION THREE: Cultural identity]

Article XII. Right to cultural identity and integrity

1. Indigenous peoples have the right to their own cultural identity and 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 transmit that heritage to future generations. (**Approved** on January 20, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

[2. Indigenous peoples have the right to reparations, including the right of restitution, of any cultural heritage of which they have been dispossessed without their free, prior, and informed consent. Should restitution not be possible, indigenous peoples shall have the right to fair and equitable compensation.]

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. (**Agreed upon by consensus** on January 26, 2007 – Ninth Meeting of Negotiations in the Quest for Points of Consensus)

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.^{2/} (**Agreed upon by consensus** on January 24, 2007 – Ninth Meeting of Negotiations in the Quest for Points of Consensus)

The states shall adopt adequate and effective measures to protect the exercise of this right with the full and effective participation of indigenous peoples. (**Approved** on November 30, 2009 – Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

2. Indigenous peoples have the right to promote and develop all their systems and media of communication, including their own radio and television programs, and to have equal access to 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. (**Approved** on November 30, 2009 – Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

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 provision of interpretation or by other effective means. (**Agreed upon by consensus** on January 26, 2007 – Ninth Meeting of Negotiations in the Quest for Points of Consensus)

Article XIV. Education

1. Indigenous peoples and individuals, particularly indigenous children, have the right to all levels and forms of education, without discrimination. (**Approved** on November 30, 2009 – Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

2. After participating in the Working Group meetings on Section Three at the Ninth Meeting of Negotiations, the United States understands that this section does not concern intellectual property rights, which are solely addressed under Article 28 of this Declaration.

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 – Tenth Meeting of Negotiations in the Quest for Points of Consensus, La Paz, Bolivia)

3. 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. (**Approved** on December 1, 2009 - Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

4. In conjunction with indigenous peoples, the states shall take effective measures to ensure that indigenous persons living outside their communities, particularly children, may have access to education in their own languages and cultures. (**Approved** on December 1, 2009 - Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

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

6. States, in conjunction with indigenous peoples, shall adopt necessary and effective measures to ensure the exercise and observance of these rights. (**Approved** on December 1, 2009 - Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

Article XV. Indigenous spirituality

1. Indigenous peoples have the right to freely exercise their own spirituality and 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 – Tenth Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Approved** on April 18, 2012 – Fourteenth Meeting of Negotiations in the Quest for Points of Consensus)

3. Indigenous peoples have the right to [recover, preserve, use, control, protect, and access^{3/}] 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.^{4/ 5/}

3. At the Tenth Meeting of Negotiations the Drafting Group also considered the alternative phrase “the right to the recovery, preservation, use, control, protection, and access of...”

4. At the Tenth Meeting of Negotiations this text was submitted for consultation and its placement is to be determined.

[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].

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, in particular the extended family, as well as the forms of matrimonial union, filiations, descent, and family name. In all cases, gender and generational equity shall be recognized and respected. (**Approved** on November 30, 2009 - Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

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 [**AR:** State] 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 custody and other related matters concerning indigenous children. [**BR/EC:** In accordance with the national [**VE:** legislation] and international [**VE:** standards] of human rights [**VE:** law]. [**AR:** In accordance with internal legislation of each State.]

Alternate proposal presented by the Delegation of Bolivia for paragraph 2 (Feb.11.15):

All matters related to indigenous children shall consider their best interest, indigenous rights, and international human rights.

[**Pending.** February.11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

Article XVII. Health

1. Indigenous peoples have the collective and individual right to the enjoyment of the highest attainable standard of physical, mental, and spiritual health. (**Approved** on April 18, 2008 – Eleventh Meeting of Negotiations in the Quest for Points of Consensus).

2. Indigenous peoples have the right to their own health systems and practices, as well as to the use and protection of the plants, animals, minerals of vital interests, and other natural resources for medicinal use in their ancestral lands and territories. (**Approved** on January 19, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

5. During the Tenth Meeting of Negotiation the delegation of Brazil presented the following proposal for Article 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.

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 – Tenth Meeting of Negotiations in the Quest for Points of Consensus)

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 – Tenth Meeting of Negotiations in the Quest for Points of Consensus*)

5. States shall guarantee the effective exercise of the rights contained in this article. (**Approved** on January 18, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

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, safe, and sustainable environment, essential conditions for the full enjoyment of the right to life, to their spirituality, worldview and to collective well-being. (**Approved** on April 16, 2008 – Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

2. Indigenous peoples have the right to conserve, restore, recover, [**PE: manage, use,**] and protect the environment, and to the sustainable management of their lands [, territories,] [and resources].^{6/}

Alternate proposal presented by the Delegation of Venezuela (Feb.11.15): Indigenous peoples have the right to conserve, restore, recover, and protect the environment and to the sustainable management of their land and habitat, as well as to participate in the management of environment and use of existing natural resources in these.

[**Pending.** February.11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

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].^{7/}

* This was the last paragraph analyzed at the Tenth Meeting of Negotiations in the Quest for Points of Consensus.

6. Since there was no consensus on this paragraph at the Eleventh Meeting of Negotiations, the Chair has recorded proposals made by member states and by the Indigenous Caucus. Various delegations of member states have requested bracketing the words “territories” and “resources”. In addition, a part of this paragraph will be considered when reviewing the chapter on General Provisions.

7. Since there was no consensus on this paragraph at the Eleventh Meeting of Negotiations, the Chair has recorded proposals made by member states and by the Indigenous Caucus. The terms “significantly” and

3. (Caucus) Indigenous peoples have the right to their free, prior and informed consent, with respect to measures and actions that may affect the environment in indigenous lands and territories.

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].^{8/}

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 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.

SECTION FOUR: Organizational and Political Rights

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

1. Indigenous peoples have the rights of association, assembly, organization and expression, and to exercise them without interference and in accordance with their worldview, *inter alia*, values, usages, customs, ancestral traditions, beliefs, spirituality, and other cultural practices. (Approved on January 18, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

“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.

8. At the Eleventh Meeting of Negotiations it was decided that this paragraph would be considered when reviewing Article XX (2) and the Indigenous Caucus' proposal with respect to Article XXII.

2. Indigenous peoples have the right to assemble on their sacred and ceremonial sites and areas. For this purpose they shall have free access and use to these sites and areas. (**Approved** on January 18, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

3. Indigenous peoples, in particular those who are divided by international borders, shall have the right to travel and to maintain and develop contacts, relations, and direct cooperation, including activities for spiritual, cultural, political, economic, and social purposes, with their members and other peoples. (**Approved** on January 20, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

4. These states shall adopt, in consultation and cooperation with the indigenous peoples, effective measures to ensure the exercise and application of these rights. (**Approved** on January 18, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

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

1. [**BR:** Indigenous peoples, in exercising their right to self-determination, [**CO:** have the right to autonomy or self-government on matters related to their internal and local affairs] within the states have the right to autonomy or self-government in internal and local affairs related 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 in coordination with states the ways and means of financing the exercise of these right.^{9/} [**Pending.** February.11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

2. Indigenous peoples have the right to maintain and develop their own decision-making institutions. They also have the right to participate in the decision making in matters which would affect their rights. 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. [**Approved.** February.11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

Article XXI. Indigenous law and jurisdiction

1. [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.]

2. The indigenous law and legal systems shall be recognized and respected by the national, regional and international-legal systems. (**Approved** on January 18, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

9. At the Fourth Meeting of Negotiations it was decided that this paragraph would be considered together with Articles III and IV of the Draft Declaration.

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. (**Agreed upon by consensus** on November, 2004 – Fourth Meeting of Negotiations in the Quest for Points of Consensus)

4. The States shall take effective measures in conjunction with indigenous peoples to ensure the implementation of this article. (**Approved** on January 18, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

Article XXII. Contributions of the indigenous legal and organizational systems

[1. The indigenous peoples, in the matters that directly affect them or may affect them, shall have the right to full and effective participation in the design of institutions that have to do with the development, [adoption] and execution of plans, public policy, programs and actions related to indigenous peoples, including those that the state agrees to with other states and multilateral institutions, as well as in the process of development of legislative, administrative and judicial measures.]

[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, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.]

[3. As appropriate, the states shall facilitate the inclusion, within their national and regional organizational structures, of the traditional institutions and practices of the indigenous peoples, in consultation with and with the consent of said peoples.] (*ad referendum Colombia*)

Article XXIII. Treaties, agreements, and other constructive arrangements

1. Indigenous peoples have the right to the recognition, observance, and enforcement of the treaties, agreements and other constructive arrangements concluded with states and their successors, in accordance with their true spirit and intent in good faith and to have the same be respected and honored by the States. States shall give due consideration to the understanding of the indigenous peoples as regards to treaties, agreements and other constructive arrangements. (**Approved** on April 20, 2012 – Fourteenth Meeting of Negotiations in the Quest for Points of Consensus)

2. When disputes cannot be resolved between the parties in relation to such treaties, agreements and other constructive arrangements, these shall be submitted to competent bodies, including regional and international bodies, by the States or indigenous peoples concerned. (**Approved** on January 19, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

3. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements. (Approved on January 19, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

SECTION FIVE: Social, Economic, and Property Rights

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 to assume their responsibilities to preserve them for themselves and for future generations. (Approved on April 19, 2012 – Fourteenth Meeting of Negotiations in the Quest for Points of Consensus)

[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.

Alternative proposal by the Indigenous Peoples Caucus

*Indigenous Peoples have the rights ~~to the recognition of their~~ **of property, rights and ownership, rights possession, use, development and control** ~~with respect of the lands, and territories and resources that they have historically and traditionally used, occupied, or possessed and those that they have otherwise acquired.~~ ~~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 rights to the total environment, the air, waters, coastal seas, sea ice, flora and fauna, and all other surface and subsurface 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.

Alternative proposal by the Indigenous Peoples Caucus

*Indigenous Peoples have the right to **full legal recognition and protection** ~~the various and particular modalities and forms of property, possession, and ownership~~ **of their lands, and territories and resources including the surface and subsurface resources.** **The States shall provide this recognition and protection** ~~in accordance with the principles of the legal system of each State.~~ **the norms, systems of land tenure and judicial systems of the Indigenous***

Peoples. The States shall establish the special regimes appropriate for such recognition, and for their effective demarcation or titling.

Indigenous Peoples have the right, inter alia, to effective delimitation, demarcation, titling of their lands, territories and the corresponding ratifications in accordance with their norms, customs, traditions and legal systems.

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

Alternative proposal by the Indigenous Peoples Caucus

*The rights of the Indigenous Peoples to their lands, ~~and~~ territories and **resources that they have possessed, they occupied** or used historically **and traditionally** are permanent, exclusive, inalienable, imprescriptible, and inalienable. **States shall not expropriate the lands, territories and resources of Indigenous Peoples under any circumstances.***

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.

Alternative proposal by the Indigenous Peoples Caucus

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 people.

Alternative proposal by the Indigenous Peoples Caucus

*Indigenous Peoples have the right to determine the collective and individual use and enjoyment of **their lands, territories and resources** in accordance with their values **and norms usages, and customs** of each people.*

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.

Alternative proposal by the Indigenous Peoples Caucus

*The States, **in conjunction with Indigenous Peoples**, shall take adequate **and effective** measures to avert, prevent, and punish all intrusion or use of such lands, territories, or resources, including attempts by other groups, persons or institutions **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 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.

Alternative proposal by the Indigenous Peoples Caucus

Indigenous Peoples have the right to restitution, including recovery, of the lands, territories and resources which they have historically and traditionally possessed or occupied or used, or which they otherwise acquired, and of which they have been dispossessed, or have been confiscated, occupied, used or damaged without their free, prior and informed consent. Where this is not possible, they have the right to just and fair compensation. Unless otherwise freely agreed upon by the indigenous peoples, compensation shall take the form of lands, territories and resources equal in quality, size and legal status.

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.]

Alternative proposal by the Indigenous Peoples Caucus

The States shall provide, in conjunction with indigenous peoples, mechanisms, ~~within their legal systems, a legal framework and~~ for just, equitable, and effective legal procedures and judicial remedies ~~to protect~~ for the protection of and compliance with the rights of the Indigenous Peoples referred to in this article.

Article XXV. On transfers and relocations

1. Indigenous peoples shall not be transferred or relocated without their free, prior, and informed consent,¹⁰ 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.¹¹

10. This phrase was approved by the plenary at the Twelfth Meeting of Negotiations.

11. At the Sixth Meeting of Negotiations the delegation of the United States reserved its position on Article XXV (2).

Article XXVI. Indigenous peoples in voluntary isolation or initial contact

1. Indigenous peoples in voluntary isolation or initial contact have the right to remain in that condition and to live freely and in accordance with their cultures. (**Agreed upon by consensus** in October, 2005 – Sixth Meeting of Negotiations in the Quest for Points of Consensus)

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.^{12/ 13/} (**Agreed upon by consensus** in October, 2005 – Sixth Meeting of Negotiations in the Quest for Points of Consensus)

Article XXVII. Labor Rights

1. Indigenous peoples and persons have the rights and guarantees recognized in national and international labor law. States shall take all special measures to prevent, punish and remedy the discrimination to which indigenous peoples and persons are subjected. (**Approved** on January 20, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Agreed upon by consensus** in October 2005 – Sixth Meeting of Negotiations in the Quest for Points of Consensus)

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 in both formal and informal employment;
- 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:

12. At the Sixth Meeting of Negotiations the delegation of Argentina entered a reservation with respect to the terms “lands and territories” until the scope of their meaning throughout the text of the declaration is reviewed.

13. The delegation of Mexico joined in the consensus reached on this article at the Sixth Meeting of Negotiations. 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 territories” if it is not reflected elsewhere in the Declaration.

- i. enjoy equal opportunities and treatment in all terms, conditions, and benefits of employment, including training and capacity-building, under national and 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 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 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 international and indigenous standards, and of the remedies and actions available to them to protect those rights.

(**Approved** on January 19, 2011 – Thirteenth Meeting of Negotiations in the Quest for Consensus)

4. States shall take measures to promote employment of indigenous individuals.
(**Approved** on January 19, 2011 in the Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

[5. When labor disputes arise, in the case of coexisting norms, indigenous labor laws, norms, and policies shall take precedence when they exist, and in accordance with the domestic and international legal order.]

[**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. (**Approved** on April 20, 2012 – Fourteenth Meeting of Negotiations in the Quest for Points of Consensus – *Ad referendum* of the Delegations of Brazil, Costa Rica and Peru)

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, with the full and effective participation of indigenous peoples, shall adopt measures necessary to ensure that national and international agreements and regimes provide recognition and adequate protection for the cultural heritage of indigenous peoples and intellectual property associated with that heritage. In adopting these measures, consultations shall be effective intended to obtain the free, prior, and informed consent of indigenous peoples. (**Approved** on April 20, 2012 – Fourteenth Meeting of Negotiations in the Quest for Points of Consensus)

[**Article XXIX.** Right to development

1. Indigenous peoples have the right to maintain and determine their own priorities with respect to 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 economic activities [**Approved**. February.10.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus -*Pending consultations by the Delegations of Argentina and Venezuela*]

2. This right includes the development of policies, plans, programs, and strategies in the exercise of their right to development and to implement them in accordance with their political and social organization, norms and procedures, their own world views and institutions. [**Approved**. February.10.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

3. Indigenous peoples have the right to obtain adequate means for their own development from the state, and where appropriate, as well as those from international cooperation [**EC:** in accordance with national legislation]

Alternate proposal by the Caucus of Indigenous Peoples to paragraph 3:

Indigenous peoples have the right to obtain the technical financial resources for their own development from the state [**Chair:** and where appropriate from] international cooperation

Article 39 of the United Nations Declaration on the Rights of Indigenous Peoples to replace Article 3:

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.

Alternate proposal by the Delegation of Mexico based on Article 39 the United Nations Declaration on the Rights of Indigenous Peoples:

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 [~~ME: Declaration~~ article].

[**Pending.** February.11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus – *Pending consultations by the Delegation of Ecuador*] [**Draft Working Group coordinated by:** Ecuador]

4. Indigenous peoples have the right to be actively involved in developing and determining development programmes affecting them and, as far as possible, to administer such programmes through their own institutions [**Approved.** February.11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

5. 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. [**Approved.** February.10.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus –*pending consultations by the Delegation of Colombia*]

6. Indigenous peoples have the right to effective measures to mitigate adverse ecological, economic, social, cultural, or spiritual impacts [~~for the implementation~~] of development projects [**CO:** that directly affect them]. 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. [**Pending.** February.10.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus –*pending consultations by the Delegation of Colombia*]

[**Article XXX.** Right to peace, security and protection [**BO:** in case of armed conflict] [**Pending.** February.10.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

[* Entire Article XXX – **pending** consultations by the delegations of Brazil (Feb.10.15), Chile (Feb.11.15), and Colombia (Feb.11.15).]

1. Indigenous peoples have the right to peace and security. [**Pending.** February.10.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

2. Indigenous peoples have the right to recognition and respect for their institutions for the maintenance of peace and security. [PE:, in accordance with International Human Rights Law].

Alternate proposal presented by the Delegation of Colombia for paragraph 2:
Indigenous peoples have the right to recognition and respect for their own institutions to promote peace and security within their communities.

[**Pending.**February.10 and 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus *pending consultations by the Delegations of Brazil, Colombia, and Chile*][**Draft Working Group coordinated by Colombia**]

3. Indigenous peoples have the right to protection and security in situations or periods of internal or international armed conflict. [**Pending.**February.10 and 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus – *pending consultations by the Delegations of Brazil, Colombia, and Chile*]^{14/}

4. States shall respect international agreements to which they are party, in particular international humanitarian law and international human rights law, including the Fourth Geneva Convention of 1949 relative to the protection of civilian persons in time of war, and 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*: [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]

- 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 [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]
- b. Shall not recruit indigenous children into the armed forces under any circumstances; [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]
- c. Shall not force indigenous communities or individuals to abandon their lands, territories or means of subsistence, nor relocate them for military purposes; [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]

14. New paragraph to be presented by the Indigenous Caucus on the concepts of “political turmoil or social disorder”.

- d. Shall not force indigenous individuals to work for military purposes. [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]
- e. Shall respect the right to conscientious objection particularly taking into account their cultural or spiritual practices. [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]
- f. Shall take measures of integral reparation and provide adequate resources for reconstruction, [~~PE/CO: with the free, prior, and informed consent of~~ consultation with] the indigenous peoples affected, for the damages incurred. [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]
- g. Shall take special and effective measures in collaboration with indigenous peoples] to guarantee that indigenous women and children live free from all forms of violence. [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]

5. 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. [**Pending.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus - *consultations by the Delegations of Brazil, Colombia, and Chile*]

SECTION SIX: General provisions

Article XXXI.

1. The states shall ensure the full enjoyment of the civil, political, economic, social, and cultural rights of indigenous peoples, as well as their right to maintain their cultural identity, spiritual and religious traditions, worldview, values and the protection of their religious and cultural sites, and human rights contained in this Declaration. [**Approved.** February. 11.15 - Fifteenth Meeting of Negotiations in the Quest for Points of Consensus]

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. (**Agreed upon by consensus** in April 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

Article XXXII.

All the rights and freedoms recognized in the present Declaration are guaranteed equally to indigenous women and men.^{15/} (**Agreed upon by consensus** in November 2003 – First Meeting of Negotiations in the Quest for Points of Consensus. Relocated to this section in March 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Approved** on April 16, 2008 – Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

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 purpose, due consideration and recognition shall be given to the customs, traditions, norms or legal systems of the indigenous peoples concerned. (**Approved** on January 19, 2011 – Thirteenth Meeting of Negotiations in the Quest for Points of Consensus)

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

Article XXXIV ter

[Nothing in this declaration may be interpreted as being incompatible with the domestic and international legal order.]

Article XXXIV quat

[The provisions of this declaration shall be interpreted and applied in keeping with the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, and inter-American jurisprudence on matters of human rights.]

15. 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.

Article XXXIV quint

[Culture should be considered a set of distinctive spiritual, material, intellectual, and affective characteristics that belong to a particular society or social group and that, furthermore, include arts and literature, ways of life, forms of coexistence, systems of values, traditions, and beliefs.]

Article XXXV

The Organization of American States, its organs, agencies, and entities, shall take all necessary measures to promote the full respect, protection, and application of the rights of indigenous peoples contained in this Declaration and shall endeavor to ensure their efficacy. (**Approved** on December 1, 2009 - Twelfth Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Approved** on April 16, 2008 – Eleventh Meeting of Negotiations in the Quest for Points of Consensus)^{16/}

Article XXXVII^{17/}

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 XXXVIII

Nothing in this declaration shall be construed as diminishing or extinguishing rights that indigenous peoples now have or may acquire in the future. (**Agreed upon by consensus** in March 2006 – Seventh Meeting of Negotiations in the Quest for Points of Consensus)

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. (**Approved** on April 16, 2008 – Eleventh Meeting of Negotiations in the Quest for Points of Consensus)

16. At the Eleventh Meeting of Negotiations the delegation of Argentina stated that the article raises doubts regarding the scope of the measures referred to, bearing in mind that this is a Declaration, not a Plan of Action. It therefore reserves its right to formulate comments and proposals in the future.

17. At the Twelfth Meeting of Negotiations, at the request of the plenary it was decided that this article would be analyzed at the conclusion of the round of negotiations.

APPENDIX

**STATEMENTS MADE BY THE DELEGATIONS AT THE BEGINNING OF THE
FIFTEENTH MEETING OF NEGOTIATIONS**

STATEMENT BY THE DELEGATION OF THE UNITED STATES AT THE
FIFTEENTH MEETING OF NEGOTIATIONS IN THE QUEST FOR POINTS OF
CONSENSUS ON THE DRAFT AMERICAN DECLARATION ON THE RIGHTS OF
INDIGENOUS PEOPLES

(Washington, D.C., February 9, 2015)

Mr. Chair:

- The United States continues to believe the OAS can be mobilized to make a practical difference in the lives of indigenous peoples. We reiterate our belief that there are ways to focus the OAS to make practical differences in the lives of indigenous peoples, rather than continuing to focus exclusively on negotiating a declaration.
- We note that negotiations on this text have gone on for nearly 20 years, and that the working group remains deadlocked on key issues.
- The United States remains committed to addressing the urgent issues of indigenous peoples in the hemisphere, including combating societal discrimination against indigenous peoples, increasing indigenous participation in national political processes, addressing lack of infrastructure and poor living conditions in indigenous areas, and collaborating on issues of land rights and self governance.
- The delegation of the United States reiterates the general reservation we noted at the beginning of the Tenth Meeting of Negotiations in the Quest for Points of Consensus, as set forth in informational document GT/DADIN/INF. 31/07, and requests that that document and this statement be included in the official written record of this session.
- Thank you, Mr. Chair.

(REFERENCE: GT/DADIN/INF. 31/07)

TENTH MEETING OF NEGOTIATIONS IN THE QUEST FOR POINTS OF CONSENSUS

STATEMENT OF THE UNITED STATES

"The United States Government noted at the beginning of this session that it took a general reservation to all of the text under discussion during the 10th Meeting of the Working Group, and that it would not join in any text that might be approved or otherwise appear in the Record of the Current Status of the Draft American Declaration on the Rights of Indigenous Peoples arising from the Tenth Meeting of the Working Group and in the Report of the Chair."