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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

DRAFT AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES –
WORKING DOCUMENT COMPARING THE ORIGINAL DRAFT OF THE INTER-AMERICAN
COMMISSION ON HUMAN RIGHTS, PROPOSALS BY THE STATES AND BY THE
INDIGENOUS REPRESENTATIVES, AS WELL AS THE PROPOSED DRAFT BY
THE CHAIR OF THE WORKING GROUP TO PREPARE THE DRAFT
AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

(Document submitted by the Chair of the Working Group)

Draft American Declaration on the Rights of Indigenous Peoples – Working Document Comparing the Original Draft of the Inter-American Commission on Human Rights, Proposals by the States and by the Indigenous Representatives, as well as the Proposed Draft by the Chair of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples ♦

♦ Document prepared in collaboration with the Executive Secretariat of the Inter-American Commission on Human Rights and the Department of International Law of the Secretariat for Legal Affairs, at the request of the Chair of the Working Group. December 2001.

INTRODUCTION

This document has been drawn up by the Chair for consideration by the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples. The text has been organized in three columns: the first contains the original proposal of the Inter-American Commission on Human Rights, which will continue to be considered as the base document for future deliberations; the second includes proposals and contributions of government and indigenous representatives to date; and the third presents the proposal of the Chair of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples.

The proposal by the Chair has not been negotiated and was created with the sole objective of ordering the material and facilitating future deliberations that will lead to the adoption of the American Declaration on the Rights of Indigenous Peoples by the OAS member states, as outlined in resolution AG/RES. 1780 (XXXI-O/01).

Washington, D.C. December 28, 2001

ORIGINAL IACHR DRAFT	PROPOSALS MADE BY THE REPRESENTATIVES OF STATES, INDIGENOUS REPRESENTATIVES AND THE INTER-AMERICAN JURIDICAL COMMITTEE (CJI)	PROPOSAL BY THE CHAIR OF THE WORKING GROUP
<p align="center">PROPOSED AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES</p> <p>(Approved by the Inter-American Commission on Human Rights on February 26, 1997, at its 1333rd session, 95th regular session)</p>	<p align="center">PROPOSED AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES</p> <p>The member states of the Organization of American States (hereafter the states),</p>	<p align="center">PROPOSED AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES</p> <p>The member states of the Organization of American States (hereafter the states),</p>
<p>PREAMBLE</p> <p>1. <u>Indigenous institutions and the strengthening of nations</u></p> <p>The member states of the Organization of American States (hereafter the states),</p> <p>Aware that the indigenous peoples of the Americas constitute an organized, distinctive and integral segment of the population, are entitled to be part of the national identities of the countries, and have a special role to play in strengthening state institutions and in establishing national unity based on democratic principles;</p>	<p>PREAMBLE</p> <p><u>REPRESENTATIVES OF STATES:</u></p> <p>[RECOGNIZING that the rights of indigenous peoples constitute a fundamental and profoundly significant issue in the present and future history of the Americas];</p> <p>1. <u>Indigenous institutions and the strengthening of nations</u></p> <p>[Recognizing that indigenous peoples form an integral part of the population of the Americas and that their values and cultures are inextricably linked to the identity both of the countries they live in and of the region as a whole] [Recalling that throughout the Americas the indigenous peoples constitute a distinctive element within society, and have a special role to play in defining the national identity, strengthening the institutions of the state and achieving national unity based on democratic principles]</p> <p>[Recognizing the immense contribution of indigenous peoples to the development and multicultural composition of our societies and reiterating our commitment to their economic and social well-being, as well as to the obligation to respect their rights and cultural identity];</p> <p>[Recalling that the indigenous peoples of the Americas are equal in dignity and rights to all other citizens;]</p> <p>[Asserting that indigenous peoples are equal in dignity and rights to all other peoples, while recognizing their right to be different, to be considered different, and to be respected as such];</p> <p>Further recalling that the presence of indigenous societies enriches the cultural heritage and national identities of the American states and contributes to the intellectual, artistic, social, and economic vitality of the Americas;]</p>	<p>PREAMBLE</p> <p>RECOGNIZING that the rights of indigenous peoples constitute a fundamental and historically significant issue in the present and future of the Americas;</p> <p>1. <u>Indigenous institutions and the strengthening of nations</u></p> <p>Recognizing that indigenous peoples are foundational societies that form an integral part of the population of the Americas and that their values and cultures are inextricably linked to the identity both of the countries they live in and of the region as a whole. Recalling that the indigenous peoples of the Americas constitute a segment of society and play a special role in defining the national identity, strengthening the institutions of the state, and achieving national unity based on democratic principles.</p>

	<p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>[Recalling that indigenous peoples of the Americas are a part of preexisting, different, and integral societies and have the right to be a part of the national identity of the countries in which they live;]</p>	
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<p>Further recalling that some of the democratic institutions and concepts embodied in the constitutions of the American states stem from institutions of the indigenous peoples, and many of their present participatory systems for decision-making and for authority contribute to improving democracies in the Americas; and</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Further recalling that some of the democratic institutions and concepts embodied in the constitutions of the American states stem from institutions of the indigenous peoples, and many of their present participatory systems for decision-making and for authority contribute to improving democracies in the Americas;</p> <p>[Recalling the important contributions indigenous [societies] [peoples] have made to the development of many of the political concepts and democratic principles embraced by American states;]</p> <p>[Recognizing that indigenous [societies] [peoples] have a vital and continuing role to play in strengthening the institutions of American states and achieving national unity in accordance with democratic principles;]</p>	<p>Further recalling that some of the democratic institutions and concepts embodied in the constitutions of the American states stem from institutions of the indigenous peoples, and that many of their present participatory systems for decision-making and for authority contribute to improving democracies in the Americas.</p>
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<p>Mindful of the need to develop their national juridical systems in order to strengthen the pluricultural nature of our societies.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>[Mindful of the need to [develop] [strengthen] national juridical systems [and policies] in order to consolidate the multiplicity of cultures [, ethnic groups, and languages] in our societies;</p>	<p>Mindful of the need to develop and strengthen national juridical systems and policies in order to consolidate the multicultural nature of our societies.</p>
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<p>2. <u>The Eradication of poverty and the right to development</u></p> <p>Concerned over the frequency with which indigenous peoples are stripped of their human rights and fundamental freedoms, both within and outside their communities, as well as despoiled of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own traditions, needs and interests;</p> <p>Recognizing the severe impoverishment afflicting indigenous peoples in several regions of the Hemisphere and the deplorable worsening of their living conditions in many instances; and</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>The Eradication of poverty and the right to development</u> (It has been proposed that this section be moved to the operative part.)</p> <p>Concerned over the frequency with which indigenous peoples are stripped of their human rights and fundamental freedoms, both within and outside their communities, as well as despoiled of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own traditions, needs and interests;</p> <p>Recognizing the severe impoverishment afflicting indigenous peoples in</p>	<p>2. <u>The Eradication of poverty and the right to development</u></p> <p>Concerned over the frequency with which indigenous peoples are stripped of their human rights and fundamental freedoms both within and outside their communities, and over how their peoples and communities are despoiled of their lands, territories, and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own traditions, needs, and interests.</p> <p>Recognizing the severe impoverishment afflicting indigenous peoples in several regions of the Hemisphere and the deplorable worsening of their living conditions in many instances;</p>
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<p>Recalling that in the Declaration of Principles issued by the Summit of the Americas in December 1994, the heads of state and governments noted that in observance of the International Decade of the World's Indigenous People, they will focus their efforts on improving the exercise of democratic rights and providing indigenous peoples and their communities with access to social services;</p>	<p>several regions of the Hemisphere and the deplorable worsening of their living conditions in many instances; and</p> <p>Recalling that in the Declaration of Principles issued by the Summit of the Americas in December 1994, the heads of state and governments noted that in observance of the International Decade of the World's Indigenous People, they will focus their efforts on improving the exercise of democratic rights and providing indigenous peoples and their communities with access to social services;</p>	<p>And recalling the avowed commitment of the heads of state and government at all the Summits of the Americas to focusing their efforts on improving the exercise of democratic rights and the access to social services enjoyed by indigenous peoples and their communities.</p>
<p>3. <u>Indigenous cultures and ecology</u></p> <p>Recognizing the respect for the environment accorded by the cultures of indigenous peoples of the Americas, and considering the special relationship between those peoples and the environment, the lands, the resources, and the territories in which they live;</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>Indigenous culture and ecology</u> *(It has been proposed that this section be moved to the operative part.) Recognizing the respect for the environment accorded by the cultures of indigenous peoples of the Americas, and considering the special relationship between those peoples and the environment, the lands, the resources, and the territories in which they live;</p>	<p>3. <u>Indigenous culture and ecology</u></p> <p>Recognizing the respect for the environment accorded by the cultures of the indigenous peoples of the Americas, and considering their special relationship with the environment, the lands, the resources, and the territories in which they live.</p>
<p>4. <u>Harmonious relations, respect, and the absence of discrimination</u></p> <p>Reaffirming the responsibility of the states and peoples of the Americas to end racism and racial discrimination, with a view to establishing harmonious relations and respect among all peoples;</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>4. <u>Harmonious relations, respect, and the absence of discrimination</u></p> <p>Reiterating the responsibility incumbent upon all states to combat racism and all forms of racial discrimination with a view to eliminating them [AGREED ad referendum];</p>	<p>4. <u>Harmonious relations, respect, and the absence of discrimination</u></p> <p>Reiterating the responsibility incumbent upon all states to combat racism, racial and ethnic discrimination, xenophobia, and other related contemporary forms of intolerance.</p>
<p>5. <u>Territories and indigenous survival</u></p> <p>Recognizing that in many indigenous cultures, traditional collective systems for the control and use of land, territories, resources, bodies of water and coastal areas are a necessary condition for their survival, social organization, development and their individual and collective well-being; and that the forms of such control and ownership vary and differ, and do not necessarily coincide with the systems protected by the common laws of the states in which they reside.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>5. <u>[Territory] [cultural territory] [habitat] and indigenous survival</u> *(It has been proposed that this section be moved to the operative part. **(It has been proposed that the subtitle be deleted or that the word "territory" be deleted or replaced.)</p> <p>Recognizing that for many indigenous peoples, their various traditional systems for the use and control of their lands and other resources are necessary conditions for their development and individual and collective well-being. [AGREED ad referendum];</p> <p>Recognizing that for many indigenous cultures their traditional collective systems for the use and control of land, territories, resources, waters, and coastal areas are necessary conditions for their survival, social organization, development, and individual and collective well-being [differ</p>	<p>5. <u>Land and territory</u></p> <p>Recognizing that for many indigenous peoples, their various traditional systems for the use and control of their lands and other resources are necessary conditions for their development and individual and collective well-being.</p> <p>Recognizing that for many indigenous cultures, their traditional collective systems for the use and control of land, territories, resources, waters, and coastal areas are necessary conditions for their survival, social organization, development, and individual and collective well-being;</p> <p>Further recognizing the importance for humankind of preserving indigenous American cultures, which may include traditional collective forms of land ownership, social organization, and religious practices different from those followed by other members of the population;</p>

	<p>from those followed by other members of the population] [and that those systems of control [and dominion] [may be] [are] varied, specific to them, and not necessarily consistent with systems protected by ordinary law in the states in which they reside];</p> <p>Further recognizing the importance for all humankind of preserving indigenous American cultures, which may include traditional collective forms of land ownership, social organization, and religious practices different from those followed by other members of the population;</p>	
<p>6. <u>Security and indigenous areas</u></p> <p>Reaffirming that the armed forces in indigenous areas shall confine their action to the performance of their functions, and shall not be the cause of abuses or violations of the rights of indigenous peoples;</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Eliminated</p>	<p>Eliminated</p>
<p>7. <u>Human rights instruments and other advances in international law</u></p> <p>Recognizing the paramountcy of the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and other human rights instruments of inter-American and international law; and the applicability thereof to the states and peoples of the Americas;</p> <p>Recognizing that indigenous peoples are addressed by international law, and mindful of the progress achieved by the states and indigenous peoples, especially in the sphere of the United Nations and the International Labor Organization, in various international instruments, particularly in ILO Convention 169, and</p> <p>Affirming the principle of espousing universal and indivisible nature of human rights, and the application of internationally recognized human rights to all individuals;</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>6. <u>Human rights instruments and other advances in international law</u></p> <p>Recognizing the paramountcy of the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and other human rights instruments of inter-American and international law; and</p> <p>[Recognizing the [applicability/relevance] throughout the Americas of the American Declaration of the Rights and Duties of Man, and, where [duly ratified/appropriate], other international human rights instruments, including the American Convention on Human Rights;</p> <p>Reiterating the universal, indivisible, and interdependent nature of the human rights and fundamental freedoms recognized by the international community. [AGREED ad referendum];</p>	<p>6. <u>Human rights instruments and other advances in international law</u></p> <p>Reiterating the universal, indivisible, and interdependent nature of the human rights and fundamental freedoms recognized by the international community; and,</p> <p>Noting the progress made at the international level in recognizing the rights of indigenous peoples.</p>
<p>8. <u>The enjoyment of collective rights</u></p> <p>Recalling the international recognition of rights that can be enjoyed when exercised collectively; and</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Eliminated</p>	<p>Eliminated</p>

<p>9. <u>Advances in the content of national instruments</u></p> <p>Noting the constitutional, legislative and jurisprudential advances progress in the Americas in guaranteeing the rights and institutions of indigenous peoples,</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>7. <u>Advances in the provisions of national instruments and different national situations</u></p> <p>[Bearing in mind the diversity of circumstances in different countries and the varying degrees of impact of indigenous communities in the different states, as well as the constitutional, legislative, and jurisprudential progress made in the Americas in securing the rights and institutions of indigenous peoples, in order to consolidate the multiplicity of cultures, ethnic groups, and languages in our societies [APPROVED ad referendum];</p>	<p>7. <u>Advances in the provisions of national instruments and different national situations</u></p> <p>Bearing in mind the diversity of national circumstances and the varying degrees of indigenous presence in the states, as well as the constitutional, legislative, and jurisprudential progress made in the Americas in securing the rights and institutions of indigenous peoples.</p>
	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>8. <u>The situation of indigenous peoples and specific circumstances in each country</u></p> <p>Bearing in mind the foregoing paragraph, this Declaration should be interpreted and applied in harmony and in keeping with current legal systems in the member states and their international commitments;</p> <p>Bearing in mind that this Declaration must be consistent with legal systems in force in member states and with their international commitments;</p>	
	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>8. <u>The situation of indigenous peoples and specific circumstances in each country</u></p> <p>Bearing in mind the foregoing paragraph, this Declaration should be interpreted and applied in harmony and in keeping with current legal systems in the member states and their international commitments;</p> <p>Bearing in mind that this Declaration must be consistent with legal systems in force in member states and with their international commitments;</p> <p>*Note: The following proposals do not belong under subheading No. 8</p> <p>Recognizing that indigenous peoples and their societies have a vital role in [sustainable development and that their know-how and traditional practices must be respected];</p>	

	<p>Encouraging states to recognize the identity, culture, and interests of indigenous [peoples/populations] and their communities and make possible their effective participation in the achievement of sustainable development [AGREED ad referendum];</p> <p>Recalling the commitment undertaken by the Heads of State and Government in the Declaration of Principles of the First Summit of the Americas, held in December 1994 in Miami, and at the Summit of the Americas on Sustainable Development, held in Santa Cruz de la Sierra in December 1996, and reaffirmed in the Plan of Action of the Second Summit of the Americas, held in April 1998 in Santiago, Chile;</p> <p>Desiring to promote and strengthen international cooperation with respect to the economic, cultural, and social development of indigenous peoples; [AGREED ad referendum]</p> <p>Recognizing the severe poverty in which many indigenous people live in many parts of the Americas and the commitment made by the Heads of State and Government at the 1994 Summit of the Americas to focus their energies on improving the exercise of democratic rights and the access to social services by indigenous people and their societies;</p>	
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<p>DECLARE:</p> <p>SECTION ONE. INDIGENOUS PEOPLES</p> <p>Article I. <u>Scope and definitions</u></p> <p>1. This Declaration applies to indigenous peoples as well as to peoples whose social, cultural and economic conditions distinguish them from other sectors of the national community, and whose status is regulated wholly or in part by their own customs or traditions or by special laws or regulations.</p> <p>2. Self-identification as indigenous shall be regarded as a fundamental criterion for determining the peoples to which the provisions of this Declaration apply.</p> <p>3. Use of the term "peoples" in this Declaration shall not be construed as having any implication concerning other rights that might be associated with that term in international law.</p>	<p>DECLARE:</p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>SECTION ONE: DEFINITIONS</p> <p>For the purposes of this Declaration, it shall be understood that:</p> <p>Article I. <u>Proposal by the Chair, November 1999.</u> "Indigenous peoples" are understood to be a group of individuals who, within the national state, retain basic distinctive traits from a culture that existed prior to European colonization, such as language; regulatory systems; practices and customs; and social, economic, cultural, and political institutions; and whose members consider themselves to be part of that indigenous culture. (Supported by Guatemala).</p> <p><u>Proposal by Argentina, April 2001.</u> "The word "peoples" in this Declaration should not be construed in any way that has implications regarding the rights that may be associated with the term under international law.</p>	<p>DECLARE:</p> <p>SECTION ONE. INDIGENOUS PEOPLES</p> <p>1. This Declaration applies to indigenous peoples as well as to peoples whose social, cultural, and economic conditions distinguish them from other sectors of the national community, and whose legal status is regulated wholly or in part by their own customs or traditions or by special laws or regulations.</p> <p>2. Self-identification as indigenous shall be regarded as a fundamental criterion for determining the peoples to which the provisions of this Declaration apply.</p> <p>3. Use of the term "peoples" in this Declaration shall not be construed as having any implication concerning other rights that might be associated with that term in international law.</p> <p>4. Definitions. For the purposes of this Declaration, the following terms shall be taken as having the meanings indicated:</p> <p>a) Indigenous peoples: Those groups that, within the nation state, are descended from a foundational culture predating European colonization and still retain basic distinctive traits, such as language, regulatory systems,</p>
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	<p>The rights associated with the term “indigenous peoples” have a specific meaning in a particular context, which is duly defined in multilateral negotiations of the texts of the Declarations that refer explicitly to these rights.”</p> <p><u>Proposal by Colombia, April 2001.</u> “For the purposes of this Declaration and without prejudice to any State’s adopting a more comprehensive set of criteria in support of it, an “indigenous people” is understood to be a group of individuals who, within the national state, retain basic distinctive traits from a culture that existed prior to European colonization, such as language; regulatory systems; practices and customs; art, beliefs, and social, economic, cultural, and political institutions; and whose members consider themselves to be part of that indigenous culture. In any event, the use of the word “people” in this Declaration should not be construed in any way that has implications regarding the rights that may be associated with the term under international law. (Law 21 of 1991, Part 1, Article 1, subparagraph 3).</p> <p><u>Indigenous Community:</u> The group or set of families of Amerindian descent that are aware of their identity and share the values, traits, practices, or customs of their culture, as well as their own forms of government, administration, social control or regulatory systems distinguishing them from other communities and form part of the structure of the states signing this Declaration, whose members feel they belong to an indigenous culture (Amends concepts contained in Article 2 of Decree 2124 of 1995, implementing Law 160 of 1994 – the Agrarian Reform Law).</p> <p><u>Self-recognition:</u> The prerogative whereby a person may freely identify himself or herself as a member of an indigenous people, practice its culture, retaining its basic, distinctive traits, such as the language, beliefs, practices, and customs of the indigenous people he or she claims to belong to and to prefer to other kinds of culture (Definition that takes into account the considerations and proposed declarations of jurists.)</p> <p><u>Indigenous person:</u> One who descends directly from an indigenous culture that existed prior to European colonization, truly participates in that culture, considers himself or herself freely to be an indigenous person, and is considered as such by the other persons belonging to the same indigenous people.”</p> <p><u>Proposal by Venezuela, April 2001</u> “<u>Indigenous peoples:</u> The original inhabitants of countries who retain their specific cultural identities, languages, habitat, and their social, economic, and political institutions and organizations, which distinguish</p>	<p>practices and customs, art, beliefs, and social, economic, cultural, and political institutions, and whose members consider themselves a part of that indigenous culture and are recognized as such. Indigenous peoples give national societies a multiethnic, multicultural, and multilingual character.</p> <p>b) Lands: Those physical and geographical areas traditionally inhabited and shared since ancestral times by one or more indigenous peoples.</p> <p>c) Territories. Territories are understood to be those areas which indigenous peoples do not own and do not have exclusive use of, but where they may conduct their traditional lifestyles.</p> <p>NB: The Chair has not at this time offered a definition of self-determination [free determination], believing that it would be beneficial to hear further comments on the matter from all the parties.</p>
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them from other segments of the national community and give such national societies a multiethnic, pluricultural, and multilingual character. They form part of the sovereign and indivisible oneness of States and are duty-bound to safeguard national integrity and sovereignty.

The word “people” in this Declaration may not be construed to mean the same as it does in international law.

Indigenous communities: Human settlements in which most of the inhabitants belong to one or more indigenous peoples and consequently have their own ways of life, organization, and cultural manifestations.

Indigenous persons: Persons who see themselves, and are regarded, as original inhabitants belonging to a community with its own linguistic, social, cultural, and economic characteristics, and which is located in a specific region.”

Proposal by Mexico, November 1999. “Indigenous peoples” are understood to be those social and cultural groups which, within national states, retain basic distinctive traits from a culture that existed prior to the establishment and constitution of the nation-state, such as language; regulatory systems; or social, economic, cultural, and political institutions or a part thereof; and who self-identify and are recognized as members of that indigenous culture.”

Proposal by Brazil, November 1999. “The use of the term “peoples” in this Declaration shall not be construed as having any implication concerning other rights that might be associated with the term under international law.”

Article II.

a) Proposal by the Chair, November 1999: Self-determination” is understood to mean the ability of indigenous peoples to exercise their forms of political, economic, social, and cultural organization within a framework of autonomy and self-government compatible with the national unity of the state.

a) Proposal by Argentina, April 2001.

“Free determination” refers to the ability of indigenous peoples to freely develop and exercise their forms of political, economic, social, and cultural organization and to guarantee access to State jurisdiction, in a framework of autonomy and self rule compatible with the national unity, territorial integrity, and organizational structure of each State.”

a) Proposal by Colombia, April 2001.
 “Free determination: The power of indigenous peoples within their communities to exercise their forms of political, social, economic, and cultural organization based on their own cosmovision, within a framework of autonomy or self rule compatible with the national unity of the State of which they form a part.
 For the purposes of this Declaration, the term “free determination” should not be construed in a way that has any implications with respect to the rights that may be associated with said term under international law.”

a) Proposal by Brazil, 1999: “Self-determination” is understood to mean the ability of indigenous peoples to develop and freely exercise their forms of political, economic, social, and cultural organization within a framework of autonomy and self-government compatible with the organizational structure of each state.”

a) Proposal by Mexico, 1999: “Self-determination” is understood to mean the ability of indigenous peoples to freely develop and exercise their forms of political, economic, social, and cultural organization; and to guarantee their access to the state jurisdiction, within a framework of autonomy and self-government compatible with the national unity and juridical organization of the states.”

b) Proposal by the Chair, November 1999. This framework of autonomy or self-government finds legal expression in areas and at levels where indigenous peoples, in accordance with national law, exercise their forms of political, economic, social, and cultural organization.

Article III.

Proposal by the Chair, November 1999. “Territory” is understood to mean the entire habitat, including the lands on which indigenous peoples are settled or which they enjoy in some fashion, in the manner established under national law.

Proposal by Venezuela, April 2001.
 “Indigenous lands: Specific physical and geographical areas traditionally inhabited and shared since ancient times by one or more indigenous communities.”

Indigenous habitat: The area inhabited and used by indigenous peoples and communities, in which they exercise their physical, cultural, spiritual, social, economic, and political ways of life. It includes areas for cultivation, hunting, river and maritime fishing, gathering, grazing, settlement, traditional paths, waterways, and river routes,

	<p>sacred and historic places, and other spaces needed to safeguard and develop their specific ways of life.”</p> <p><u>Proposal by Peru and Argentina, 1999</u>: “Lands” is understood to mean the entire habitat in which indigenous peoples are settled or which they enjoy in some fashion, in the manner established under national law.”</p> <p><u>Proposal by Canada, 1999</u> “Lands” are understood to mean those areas of land which indigenous peoples may own or have exclusive use of.</p> <p>“Territories” are understood to be those areas which indigenous peoples do not own and do not have exclusive use of, but where they may conduct their traditional lifestyles, in accordance with domestic law or agreement.</p> <p>Article IV</p> <p><u>Proposal by the Chair, November 1999</u>. None of these definitions shall be interpreted to have the meaning that might be attributed to them in general international law.</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p><u>National Congress of American Indians, 1999</u>. “Indigenous people have the collective and individual right to maintain and develop their identities and specific characteristics, including the right to identify themselves as indigenous and to be recognized as such.”</p> <p><u>Note</u>: Several representatives of indigenous populations indicated that it would not be appropriate for states to define the concept of “indigenous populations,” this being the sole province of the communities involved. Self-identification, as an essential criterion for the recognition of an indigenous people, is not subject to any obligation. No term could encompass the multiplicity and variety of such communities existing in the Hemisphere. They indicated that they were neither ethnic minorities nor racial minorities nor populations (the latter term referring to communities not necessarily invested with historical continuity). They defined themselves as peoples, or collective, autonomous entities, with age-old languages, whose organization, shaped by lands, waters, forests, and other natural resources, afforded them a special cosmovision and a unique social structure ensuring their continuity.</p> <p>The representatives of indigenous populations indicated that the progress made, both at the level of national law and in the efforts of multilateral organizations, show that discussions have focused on the</p>	
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content of the rights of indigenous communities rather than on attempts to arrive at some sort of definition. They said it was important here to preserve references to their collective rights, since their individual rights were already enshrined in numerous instruments of international law. They concluded that the term "people" should remain in the draft Declaration, and that, should it not, examining the subsequent articles would be meaningless.

Article II.

a) National Congress of American Indians, 1999. "Indigenous peoples have the right to self-determination. They may freely determine their political status and pursue their economic, social, and cultural development by virtue of this right."

Note: The representatives of indigenous populations indicated that the terms "people" and "self-determination" could not be separated, and that the latter accorded political status, as well as economic, social, and cultural rights, which the indigenous communities could not relinquish, since these constituted a historical right that had been wrested from them. They also stated that "self-determination" could not be defined by those outside the community in question, this being the exclusive province of that community. Self-determination was a right of indigenous peoples, while sovereignty pertained to the state. In no way was self-determination meant to infringe upon the territorial integrity of the state. The intent was, rather, to enhance national unity, to secure recognition of the existence of such communities, invested with a distinct and special world vision, within the context of existing states. The right to secede was not the aim. Genuine autonomy must be built upon a pluralist foundation, with due recognition of the indigenous communities' own institutions. Such autonomy was one way to exercise self-determination within a state.

Article III.

Note: On the concept of "territory," the representatives of indigenous populations said this was deeply connected with their spirituality, their culture, their language, their way of life, and their relationship with the environment, and thus it was important that the term remain in the draft Declaration. Land, in Western culture, was something to be worked, a source of wealth subjugated to commerce. For the indigenous peoples, it was an element of their very lives, a factor in their existence as a group or community within an integrated cosmivision that included their traditional approaches to political representation. The concept of territory was vital to defining all the rights of indigenous peoples. Moreover, the term "lands" could not sufficiently express that reality. However, since the populations had developed such a diverse range of

	<p>approaches to territorial relations, any attempt to define the word "territory" would impose limitations on the traditional rights of indigenous communities.</p> <p>Article IV.</p> <p><u>Note:</u> The representatives of indigenous populations also called upon governments to include in their domestic legislation the three concepts discussed in this section, that is, "peoples," "territory," and "self-determination," recognizing thereby the diversity of these communities.</p>	
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<p>SECTION TWO. HUMAN RIGHTS</p> <p>Article II. <u>Full observance of human rights</u></p>	<p>SECTION TWO. HUMAN RIGHTS</p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article II. <u>Full observance of human rights</u></p> <p><u>Proposal made by Mexico:</u> "Fundamental human rights of indigenous peoples."</p> <p><u>Proposal made by Peru:</u> "Full observance of "individual and collective" human rights."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p><u>Proposal made by Mirna Cunningham, indigenous representative of Nicaragua, and Victoria Wright, National Congress of American Indian:</u> "Fundamental human rights of indigenous peoples."</p>	<p>SECTION TWO. HUMAN RIGHTS</p> <p>Article II. <u>Full observance of human rights</u></p>
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<p>1. Indigenous peoples are entitled to the full and effective enjoyment of the human rights and fundamental freedoms recognized in the OAS Charter, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and other international human rights instruments; and nothing in this Declaration shall be construed as in any way limiting, restricting, or denying those rights or authorizing any action not in accordance with the principles of international law including that of human rights.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>Text from the Session held April 2001:</u> Indigenous peoples are entitled to the full and effective enjoyment of the human rights and fundamental freedoms recognized in the OAS Charter [, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights,] and other international human rights instruments; and nothing in this Declaration shall be construed as in any way limiting, restricting, or denying those rights or authorizing any action not in accordance with the principles of international law, including that which pertains to human rights. (Chile and Ecuador agree that this text should be left as is; Mexico is in favor of a reference to the ILO's Convention No. 169)</p>	<p>1. Indigenous peoples and individuals are entitled to the full and effective enjoyment of the human rights and fundamental freedoms recognized in the OAS Charter, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, when applicable, and other international human rights instruments. Nothing in this Declaration shall be construed as in any way limiting, restricting, or denying those rights or authorizing any action not in accordance with the principles of international law, including that which pertains to human rights.</p>
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	<p>1. <u>Proposal made by United States</u>: “Indigenous individuals are entitled to the full and effective enjoyment of human rights and fundamental freedoms recognized in the OAS Charter, the American Declaration of the Rights and Duties of Man, and, where duly ratified, other international human rights instruments, including the American Convention on Human Rights; nothing in this Declaration shall be construed as in any way limiting, restricting, or denying those rights or authorizing any action not in accordance with the relevant instruments of international law, including human rights law.”</p> <p>1. <u>Proposal made by Panama</u>: “Indigenous peoples are entitled to the full and effective enjoyment of the human rights and fundamental freedoms recognized in the OAS Charter, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and other international instruments, <u>as well as essential indigenous rights</u>; and nothing in this Declaration shall be construed as in any way limiting, restricting, or denying those rights or authorizing any action not in accordance with the principles of international law, including that which pertains to human rights.”</p> <p><u>INDIGENOUS REPRESENTATIVES</u>:</p> <p>Proposal made by Mirna Cunningham, indigenous representative of Nicaragua, and Victoria Wright, National Congress of American Indians: Indigenous individuals are entitled to the full and effective enjoyment of human rights and fundamental freedoms, <u>and the opportunity to exercise them effectively</u>, recognized in the OAS Charter, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, <u>the Convention on Biological Diversity, the U.N.’s Agenda 21, the Declaration of Rio de Janeiro</u>, and other international human rights instruments; and nothing in this Declaration shall be construed as in any way limiting, restricting, or denying those rights or authorizing any action not in accordance with principles of international law, including human rights law.</p>	
<p>2. Indigenous peoples have the collective rights that are indispensable for full enjoyment of the individual human rights of their members. Accordingly, the states recognize <i>inter alia</i> the right of indigenous peoples to collective action, to their cultures, to profess and practice their spiritual beliefs, and to use their languages.</p>	<p><u>REPRESENTATIVES OF THE STATES</u>:</p> <p>2. <u>Text from the Session held April 2001</u>: Indigenous peoples have the collective rights that are indispensable for full enjoyment of the individual human rights of their members. Accordingly, the states recognize the right of indigenous peoples, <i>inter alia</i>, to collective action; (to their social, political, and economic organization;) (to recognition of their regulatory systems;) to their own cultures; to profess and practice their spiritual beliefs, and to use their languages.</p>	<p>2. Indigenous peoples have the collective rights that are indispensable for full enjoyment of the individual human rights of their members. Accordingly, the states recognize the right of indigenous peoples, <i>inter alia</i>, to collective action; to their social, political, and economic organization; to their own cultures; to profess and practice their spiritual beliefs, and to use their languages.</p>

	<p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Proposal made by Mirna Cunningham, indigenous representative of Nicaragua, and Victoria Wright, National Congress of American Indian:</u> Indigenous peoples have the collective rights that are indispensable for their continued existence, well-being, and development as peoples, and for the enjoyment of the individual rights of their members. Accordingly, the states will recognize, respect, and protect the fundamental, civil, political, economic, social, spiritual, and cultural rights of indigenous peoples and, <i>inter alia</i>, their collective right to lands, territories, and resources, and the right of indigenous peoples to self-determination.”</p>	
<p>3. The states shall ensure all indigenous peoples the full exercise of their rights, and shall adopt—in accordance with their constitutional processes—such legislative or other measures as may be necessary to give effect to the rights recognized in this Declaration.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>Text from the Session held April 2001:</u> The states shall guarantee all indigenous peoples the full exercise of their rights, and shall adopt—in accordance with their constitutional provisions—such legislative or other measures as may be necessary to give effect to the rights recognized in this Declaration (, in accordance with their practices and customs). (Ecuador, Colombia, Chile, Mexico, and Venezuela prefer to keep the reference to constitutional provisions; Canada, and the United States prefer not to include it.)</p> <p>3. <u>Proposal made by Panama:</u> “The states shall guarantee all indigenous peoples the full exercise of their rights, and shall adopt—in accordance with <u>their domestic systems</u>—such legislative or <u>other</u> measures as may be necessary to give effect to the rights recognized in this Declaration (, in accordance with their practices and customs).”</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>3. <u>Proposal made by Marcelo Calfuquir, indigenous representative of Chile, Willie Littlechild, International Organization of Indigenous Resource Development:</u> “States shall therefore recognize the basic social, economic, political, and cultural [<u>and spiritual</u>] rights of indigenous peoples, and, in particular, the collective right to lands, territories, and resources, and the right of indigenous peoples to self-determination.”</p> <p>3. <u>Proposal made by Héctor Huertas, indigenous representative of Panama:</u> The states shall guarantee all indigenous peoples the full exercise of their rights, and shall adopt—in accordance with their constitutional provisions—such legislative or other measures as may be necessary to give effect to the rights recognized in this Declaration.</p>	<p>3. The states shall guarantee all indigenous peoples the full exercise of their rights, and shall adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this Declaration. The participation of the indigenous peoples in question in the adoption of those measures shall be guaranteed.</p>

	<p>3. <u>Proposal made by Mirna Cunningham, indigenous representative of Nicaragua, and Victoria Wright, National Congress of American Indian:</u> “The states shall guarantee indigenous peoples the full exercise of all their rights and shall adopt—with the participation and informed consent of indigenous peoples and in accordance with their constitutional procedures—such legislative or other measures as may be necessary to give effect to the rights recognized in this Declaration.”</p>	
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	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>4. <u>New paragraph from the Session held April 2001:</u> Definition of the term “self-determination”</p> <p>4. <u>Proposal made by Guatemala:</u> “Indigenous peoples, like all peoples, have the right of self-determination, and are therefore entitled to freely determine their political status and pursue their economic, social, and cultural development.</p> <p>This right exists within the states, and in this connection agreement should be reached on levels of decentralization and autonomy that will ensure their political, economic, social, and cultural development as peoples.</p> <p>To enable the right of self-determination of peoples to be exercised, states should have a political and legal system that provides for the establishment, by agreement, of levels of decentralization and autonomy.</p> <p>When necessary, constitutional, legal, and administrative reform should be promoted within the states to ensure the effective exercise of the right of self-determination of peoples.”</p> <p>Proposal made by United States: “Indigenous peoples have the internal right to self-determination. By virtue of that right, they may negotiate their political status within the framework of the existing nation-state and are free to pursue their economic, social, and cultural development. Indigenous peoples, in exercising their right of internal self-determination, have the internal right to autonomy or self-government in matters relating to their local affairs, including determination of membership, culture, language, religion, education, information, media, health, housing, employment, social welfare, maintenance of community safety, family relations, economic activities, lands and resources management, environment, and entry by nonmembers, as well as ways and means of financing these autonomous functions.”</p>	
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	<p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>4. <u>New paragraph from the Session held April 2001:</u> Definition of the term “self-determination”</p> <p>4. <u>Proposal made by Mirna Cunningham, indigenous representative of Nicaragua, and Victoria Wright, National Congress of American Indian:</u> “Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such. 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, spiritual, and cultural development.”</p>	
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<p>Article III. <u>Right to belong to indigenous peoples</u></p> <p>Indigenous persons and communities have the right to belong to indigenous peoples, in accordance with the traditions and customs of the peoples or nation concerned.</p>	<p>Article III. <u>Right to belong to indigenous peoples</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article III. <u>Right to belong to indigenous peoples</u></p> <p><u>Text from the Session held April 2001:</u> Indigenous persons and communities have the right to belong to indigenous peoples, in accordance with the traditions and customs of the peoples concerned.</p> <p><u>Proposal made by United States:</u> “Indigenous persons and communities have the right to belong to indigenous peoples, in accordance with the traditions and customs of the peoples concerned. <u>States should recognize the authority of indigenous people to exercise autonomy in determining membership, consistent with international human rights.</u>”</p> <p><u>Proposal made by Colombia:</u> “Indigenous persons and communities have the right to belong to pre-Columbian indigenous peoples from which they are descended, in accordance with traditions and customs.”</p> <p><u>Proposal made by Peru:</u> “States should ensure respect for the individual or collective right to identify oneself as indigenous, according to the institutions of each indigenous people.”</p> <p><u>Proposal made by Ecuador:</u> “Indigenous persons and communities who define themselves as nationalities with ancestral roots have the right to belong to indigenous peoples, in accordance with the traditions and customs of the peoples concerned.”</p> <p><u>Proposal made by Panama:</u> “Indigenous peoples, in accordance with their rules of law and indigenous customs, have the right and authority to determine their own membership and, accordingly, shall define the</p>	<p>Article III. <u>Right to belong to indigenous peoples</u></p> <p>Indigenous persons and communities have the right to belong to indigenous peoples, in accordance with the traditions and customs of the peoples concerned. States shall ensure respect for the individual or collective right to identify oneself as indigenous, according to the institutions of each indigenous people.</p>
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	<p>membership of individuals and communities.”</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p><u>Proposal made by Mima Cunningham, indigenous representative of Nicaragua:</u> “Indigenous peoples, in accordance with their rules of law, customs, and traditions, have the right and authority to determine their own membership.”</p> <p><u>Proposal made by Willie Littlechild, International Organization of Indigenous Resource Development:</u> “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 disadvantage of any kind may arise from the exercise of such a right.”</p>	
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<p>Article IV. <u>Legal status</u></p> <p>Indigenous peoples have the right to have their legal status fully recognized by the states within their systems.</p>	<p>Article IV. <u>Legal status</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p><u>Text from the Session held April 2001:</u> Indigenous peoples have the right to have their legal status fully recognized by the states within the legal systems of the states.</p> <p><u>Proposal made by Panama seconded by Guatemala:</u> “States shall recognize the legal status of indigenous peoples, respecting their forms of organization, decision-making institutions, traditional authorities, and forms of self-government, in accordance with the administration of justice in the framework of indigenous law.”</p> <p><u>Proposal made by Venezuela:</u> “States shall recognize the existence of indigenous peoples and communities, their social, political, and economic organization, and their cultures, practices, customs, languages, and religions, in accordance with the particular law of each state.”</p> <p><u>Proposal made by United States:</u> “States should provide the necessary mechanisms to recognize the legal status of indigenous peoples, enabling such societies to operate corporately, or in other comparably effective manners, under state law.”</p> <p><u>Chile and Argentina endorsed a 1999 proposal made by Brazil, Chile, and Argentina:</u> “Subject to the specific provisions of each country’s law, states shall ensure that legal status is granted to indigenous peoples, communities, and organizations.”</p>	<p>Article IV. <u>Legal status</u></p> <p>States shall provide the necessary mechanisms to recognize the legal status of indigenous peoples, enabling such societies to operate corporately, or in other comparably effective manners, under state law.</p>
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<p>Article V. <u>Rejection of forced assimilation</u></p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p><u>Proposal made by Mexico, Chile, U.S., Colombia, and Ecuador:</u> Rejection of forced or involuntary assimilation.</p>	<p>Article V. <u>Rejection of assimilation</u></p>
<p>1. Indigenous peoples shall have the right to freely preserve, express and develop all aspects of their cultural identity, untrammelled by any attempt at assimilation.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>Text from the Session held April 2001:</u> "Indigenous peoples have the right to freely maintain, express, and develop all aspects of their cultural identity, untrammelled by any attempt at assimilation.</p> <p>1. <u>Proposal made by Chile, seconded by Colombia:</u> "Indigenous peoples have the right to freely maintain, express, and develop all aspects of their cultural identity."</p> <p><u>Proposal made by United States:</u> "Indigenous peoples have the right to freely maintain, express, and develop all aspects of their cultural identity."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>1. <u>Proposal made by Willie Littlechild, International Organization of Indigenous Resource Development:</u> "The states shall not take any action which forces indigenous peoples to assimilate and shall not endorse any theory, or engage in any practice, that imports discrimination, destruction of a culture or the possibility of the extermination or limits the membership of peoples concerned."</p> <p>1. <u>Proposal made by Mirna Cunningham, indigenous representative of Nicaragua:</u> "Indigenous peoples have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognized as such."</p>	<p>1. Indigenous peoples have the right to freely maintain, express, and develop all aspects of their cultural identity, untrammelled by any external attempt at assimilation.</p>
<p>2. The states shall not undertake, support or favor any policy of artificial or forced assimilation of indigenous peoples, destruction of a culture or possibly of the extermination of an indigenous people.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>Text from the Session held April 2001:</u> The states (shall not undertake, support, or favor) (should not adopt, support, or favor) any policy involving the artificial or forced assimilation of an indigenous people, the destruction of (its) (a) culture, or any possibility of the extermination of an indigenous people (and its heritage).</p> <p>2. <u>Proposal made by Canada:</u> "The states shall not undertake,</p>	<p>2. The states shall not adopt any policy for the assimilation of indigenous peoples or the destruction of their cultures.</p>

support, or favor any policy with the intended effect of [artificial or enforced assimilation of indigenous peoples [, destruction of a culture, or the possibility of the extermination of any indigenous peoples.] (Canada). The delegation of Canada proposes that a separate article be incorporated in the text to deal with the issue of genocide. The following language is proposed: "Indigenous peoples have the right not to be subjected to any section of genocide as defined at international law."

2. Proposal made by United States: "The states shall not support or pursue any policy of involuntary assimilation of indigenous peoples, destruction of their cultures, or their eradication as distinct entities."

2. Proposal made by Panama: "States shall not adopt, support, or favor any policy of assimilation that could lead to the destruction of an indigenous people."

2. Proposal made by Brazil: "States shall refrain from adopting any measure that would result in the forced assimilation of indigenous peoples and from supporting theories or taking actions that entail discrimination, destruction of a culture, or the possibility of genocide."

2. Colombia and Chile endorsed a 1999 proposal made by Paraguay: "States repudiate any attempt at artificial or forced assimilation or the destruction of an indigenous culture, and shall guarantee the effective exercise of this right."

2. Proposal made by Venezuela: "States, together with all of society, will deal with any outside attempt that could possibly lead to involuntary assimilation or to the extermination of indigenous cultures."

INDIGENOUS REPRESENTATIVES:

2. Proposal made by Mirna Cunningham, indigenous representative of Nicaragua: "Consequently, they have, *inter alia*, the collective and individual right not to be subjected to cultural ethnocide or genocide, including the prevention of and reparations for:

- a. Any act that has the effect or intended effect of taking from them their wholeness as distinctive peoples, their cultural values, or their ethnic identity;
- b. Any act that has the effect or intended effect of taking from them their lands, territories, or natural resources;
- c. Any form of displacement that has the effect or intended effect of violating any of their rights;
- d. Any form of assimilation or integration into other cultures or ways of life imposed upon them by legislative, administrative, or other measures;
- e. Any form of propaganda directed against them".

		3. Indigenous peoples have the right not to be subjected to any form of genocide or attempted extermination.
<p>Article VI. <u>Special guarantees against discrimination</u></p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article VI. <u>Special guarantees against discrimination</u></p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p><u>Proposal made by Mirna Cunnigham, indigenous representative of Nicaragua:</u> "Special measures against discrimination."</p> <p><u>Proposal made by Serafin Thaayrohyadi Bermúdez, indigenous representative of Mexico:</u> "Special guarantees against discrimination, xenophobia, and racism."</p>	<p>Article VI. <u>Special guarantees against discrimination, xenophobia, and racism</u></p>
<p>1. Indigenous peoples have the right to such special guarantees against discrimination as may be required for full enjoyment of internationally and nationally recognized human rights, and as to any measures necessary to enable indigenous women, men and children to exercise their, civil, political, economic, social, cultural and spiritual rights without any discrimination. The states recognize that violence used against persons because of their gender and age obstructs and nullifies the exercise of those rights.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>Text from the Session held April 2001:</u> Indigenous peoples have the right to such (special guarantees) (avail themselves of the guarantees provided under domestic law) against discrimination as may be required for full enjoyment of internationally and nationally recognized human rights, and any measures necessary to enable indigenous women, men, and children to exercise their civil, political, economic, social, cultural, and (religious) (spiritual) rights (and their world views) (without discrimination). The states recognize that violence against persons because of their (race, creed) gender or age (or political or religious affiliation) obstructs and nullifies the exercise of those rights.</p> <p>1. <u>Proposal made by United States:</u> "Where circumstances warrant, States should take measures to enable indigenous individuals to exercise fully and effectively all their human rights and fundamental freedoms without any discrimination. States are encouraged to take "special measures" aimed at the immediate, effective, and continuing improvement of indigenous economic and social conditions."</p> <p>1. <u>Proposal made by Canada:</u> "Indigenous peoples have the right to protection from discrimination. States are encouraged to take special measures against discrimination as may be required for full enjoyment of internationally and nationally recognized human rights and to take any measures necessary to enable indigenous women, men, and children to exercise their civil, political, economic, social, cultural, and spiritual rights."</p>	<p>1. Indigenous peoples have the right to protection from discrimination. Accordingly, states shall adopt such special measures against discrimination as may be required for full enjoyment of internationally and nationally recognized human rights and all measures necessary to enable indigenous women, men, and children to exercise their civil, political, economic, social, cultural, and spiritual rights.</p>

<p>Indigenous peoples have the right to full participation in the prescription of such guarantees.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>Text from the Session held April 2001:</u> Indigenous peoples have the right to full participation in the prescription (and exercise) of such guarantees.</p> <p>2. <u>Proposal made by United States:</u> "All rights and freedoms herein are equally guaranteed to indigenous women and men. States recognize that gender-based violence impedes and undermines the exercise of those rights."</p> <p>2. <u>Proposal made by Canada:</u> "Indigenous peoples shall be consulted in the prescription of such protection."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Proposal made by Mirna Cunningham, indigenous representative of Nicaragua:</u> "States shall take measures, including the imposition of civil and criminal penalties, to ensure that indigenous peoples are not subjected to acts of discrimination.</p> <p>"Indigenous peoples, so that they may fully enjoy their nationally and internationally recognized human rights, have the right to special measures that may have to be taken against discrimination.</p> <p>Special attention will be paid to discrimination against indigenous women and girls.</p> <p>Indigenous peoples have the right to participate fully in, and give their consent for, the design and implementation of such special measures."</p>	<p>2. Indigenous peoples have the right to participate in the prescription of such guarantees.</p>
		<p>3. All rights and freedoms herein are equally guaranteed to indigenous women and men. States recognize that violence based on gender or age impedes and undermines the exercise of those rights.</p>

<p>SECTION THREE. CULTURAL DEVELOPMENT</p> <p>Article VII. <u>Right to cultural integrity</u></p> <p>1. Indigenous peoples have the right to their cultural integrity and their historical and archeological heritage, which are important both for their survival and for the identity of their members.</p>	<p>SECTION THREE. CULTURAL DEVELOPMENT</p> <p>Article VII. <u>Right to Cultural integrity</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the April 2001 meeting.</u> Indigenous peoples have the right to their cultural integrity[and the integrity of their historical and archeological heritage], which is important both to their (continuity as a society) (survival) and to the identity of their members.</p> <p>1. <u>Proposal by Canada.</u> “Indigenous peoples have the right to pursue their cultural development and the right to enjoy their culture, which are important both for their survival and for the identity of their members.”</p> <p>1. <u>Proposal by Chile:</u> “Indigenous peoples have the right to preserve their culture and their historic, archaeological, and <u>architectural</u> heritage, which are important for their survival, for the identity of their members, and for the enrichment of their own states.”</p> <p>1. <u>Proposal by Panama:</u> “Indigenous peoples have the right to their cultural identity, which is intimately linked to their world view, ancestral wisdom, and spiritual relationship with nature, for survival and future continuity.”</p> <p>1. <u>Proposal by Colombia:</u> “Indigenous peoples have the right to maintain or develop their cultural integrity, which is important to their survival and the identity of their members.”</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Proposal by Tarcila Rivera, indigenous representative of Peru:</u> “Indigenous peoples have the right to their cultural integrity, their living heritage, and their ceremonial centers, which are important to their continuity and the identity and dignity of their members.”</p> <p>1. <u>Proposal by Paulo Celso Oliveira indigenous representative of Brazil:</u> “Indigenous peoples have the right to their cultural identity and their historic and archaeological heritage.”</p> <p><u>Note:</u> The proposals made by Paulo Celso Oliveira were presented by a group of organization made up of: the National Congress of American Indians, Indian Law Resource Center, the Amerindian Peoples Association, the Carib Council of Dominica, the International Organization of Indigenous Resources Development, the Metis Nation (Canada) represented by Metis National Council, and Brooklyn Rivera,</p>	<p>SECTION THREE. CULTURAL DEVELOPMENT</p> <p>Article VII. <u>Right to cultural integrity</u></p> <p>1. Indigenous peoples have the right to their cultural integrity and their historical and archeological heritage, which are important both for their continuity as a society and for the identity of their members and of the states to which they belong.</p>
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	Principal Leader of YATAMA. See Working Group document GT/DADIN/doc.23/01 add. 2.	
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<p>2. Indigenous peoples are entitled to the restitution of property of which they have been dispossessed, and when that is not possible, to compensation on a basis no less favorable than the standard recognized by international law.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the April 2001 meeting:</u> Indigenous peoples are entitled to the restitution of property that is a part of that heritage and of which they have been dispossessed [or, when that is not possible, to compensation on a basis no less favorable than the standard recognized by international law.]</p> <p>2. <u>Proposal by Venezuela.</u> Venezuela prefers that it remain as is.</p> <p>2. <u>Proposal by Canada</u> “States shall make best efforts to facilitate, in accordance with international and domestic law, the return to indigenous peoples of any of their cultural property of which historically they have been wrongfully dispossessed. [Where this is not possible, indigenous peoples are entitled to compensation on a basis no less favorable than the standard recognized by international law.] Indigenous peoples have the right of access to legal procedures for the return of their cultural property which is taken from them in violation of the law.”</p> <p>2. <u>Proposal by Brazil, seconded by Argentina:</u> “Indigenous peoples are entitled to the restitution of property that is a part of that heritage and of which they have been dispossessed, or, when that is not possible, to compensation.”</p> <p>2. <u>Proposal by Colombia:</u> Colombia proposes that subparagraph 2 be deleted.</p> <p>2. <u>Proposal by Panama:</u> “The states recognize and respect indigenous lifestyles, economic and political structures, customs, traditions, forms of social organization, institutions, practices, beliefs, values, world views, art, dance, music, and languages.”</p> <p>2. <u>Proposal by Mexico:</u> “Indigenous peoples have the right to own their heritage and to restitution if they have been dispossessed of it, in keeping with the domestic law of the states.”</p> <p>2. <u>Proposal by the US:</u> “States should provide an effective legal framework for the protection of indigenous culture, including, where appropriate, mechanisms for the repatriation of cultural property.”</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p>	<p>2. Indigenous peoples are entitled to the restitution of property that is a part of that heritage and of which they have been dispossessed, or, when that is not possible, to fair compensation.</p>
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	<p>2. <u>Proposal by Paulo Celso Oliveira indigenous representative of Brazil</u>: "Indigenous peoples have the right to restitution of property of which they have been dispossessed."</p>	
<p>3. The states shall recognize and respect indigenous lifestyles, customs, traditions, forms of social, economic and political organization, institutions, practices, beliefs, values, clothing, and languages.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>From the April 2001 meeting</u>: The states [will recognize] and [respect] indigenous ways of life, world views, customs, usages, traditions, forms of social, economic, and political organization, institutions, practices, beliefs, values, clothing, art, dance, music, and languages. (Chile, Panama, Ecuador, Peru, Guatemala, and Colombia) *Canada requests that "will recognize" be placed in square brackets.</p> <p>States should take the necessary measures to prevent discrimination based on indigenous ways of life, customs, traditions, forms of social organization, dress, languages, and other cultural practices. (1999 United States proposal, amended, corresponding to the second part of this paragraph 3).</p>	<p>3. The states shall respect and guarantee respect and nondiscrimination toward indigenous ways of life, world views, customs and usages, traditions, forms of social organization, institutions, practices, beliefs, values, clothing, and languages.</p>
<p>Article VIII. <u>Concepts and language</u></p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article VIII. <u>(Outlook and language) (Linguistic rights)</u></p>	<p>Article VIII. <u>Outlook and language</u></p>
<p>Indigenous peoples have the right to their own languages, philosophy, and concepts as a component of national and universal culture, and as such, shall respect them and facilitate their dissemination thereof in consultation with the peoples involved.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>Text from the November 1999 meeting</u>: Indigenous peoples have the right to their own languages, philosophy, and (cosmovision) [logical conceptions] as a component of national and universal culture, and as such, the states shall recognize, respect, and promote them, (in consultation with the peoples involved.)</p> <p>1. <u>Proposal by the US, 1999</u>: "States recognize that indigenous languages, philosophy, and outlook are a component of national and universal culture, and, as such, states should respect them and, where appropriate, facilitate their dissemination."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p>	<p>1. Indigenous peoples have the right to use, develop, revive, and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems, and literature, and to designate and retain their own names for communities, places, and persons. The states shall take appropriate measures to protect the exercise of this right, in consultation with the peoples involved.</p>

	<p>1. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u>^{1/} "Indigenous peoples have the right to revitalize, use, develop, and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems, and literature, and to designate and retain their own names for communities, places, and persons. The states shall take appropriate measures to protect the exercise of this right."</p> <p>1. <u>Proposal by the Indian Law Resource Center, 1999:</u> Indigenous peoples and individuals have the right to preserve and practice their indigenous language, philosophy, and outlook as a necessary expression of their distinct culture. The states shall take appropriate measures to protect the exercise of this right.</p> <p>1. <u>Proposal by National Congress of American Indians, 1999:</u> Indigenous peoples have the right to revitalize, use, develop, and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems, and literature, and to designate and retain their own names for communities, places, and persons.</p>	
<p>The states shall take measures to promote and ensure that radio and television programs are broadcast in the indigenous languages in areas having a strong indigenous presence, and to support the creation of indigenous radio stations and other means of indigenous communications.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the November 1999 meeting:</u> The states shall take measures to promote [and ensure] the broadcast of radio and television programs in the indigenous languages in areas having a strong indigenous presence, and to support the creation of indigenous radio stations and other means of indigenous communications.</p> <p>2. <u>Proposal by the US, 1999:</u> "To encourage diversity of voices and viewpoints, states should take appropriate measures under their national systems wherever possible to facilitate radio and television broadcasts in indigenous languages in regions having large indigenous populations, and to encourage the development of indigenous radio stations and other media."</p> <p><u>Proposal by Mexico, 1999:</u> "The states shall take measures to promote and ensure the use of indigenous languages by radio and television stations in areas having a strong indigenous presence, and to support the creation of indigenous means of communication."</p>	<p>2. The states shall take measures to promote the broadcasting of radio and television programs in the indigenous languages in areas having a strong indigenous presence. The state shall also support the creation of indigenous radio stations and other media.</p>

1. The proposals made by Paulo Celso Oliveira were presented by a group of organization made up of: the National Congress of American Indians, Indian Law Resource Center, the Amerindian Peoples Association, the Carib Council of Dominica, the International Organization of Indigenous Resources Development, the Metis Nation (Canada) represented by Metis National Council, and Brooklyn Rivera, Principal Leader of YATAMA. See Working Group document GT/DADIN/doc.23/01 add. 2.

	<p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u> "Where there is a strong indigenous presence, the states shall take measures to ensure that broadcast radio and television programs are broadcast in the appropriate indigenous languages. The state shall also support the establishment of indigenous radio stations and other media."</p> <p><u>Proposal by the Indian Law Resource Center, 1999:</u> "Where there is a strong indigenous presence, the states shall take measures to ensure that broadcast radio and television programs are broadcast in the appropriate indigenous languages. The state shall also support the creation of indigenous radio stations and other media."</p>	
<p>3. The states shall take effective measures to enable indigenous peoples to understand administrative, legal and political rules and procedures, and to be understood in relation to these matters. In areas where indigenous languages predominate, states shall expend the necessary efforts to have them established as official languages and to grant them the same status that is accorded to non-indigenous official languages.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>From the November 1999 meeting:</u> The states shall take effective measures to enable indigenous peoples to understand administrative, legal, and political rules and procedures, and to be understood in relation to these matters. In areas where indigenous languages predominate, states shall expend the necessary efforts to have them established as official languages [and to grant them the same status that is accorded to non-indigenous official languages].</p> <p>3. <u>Proposal by the US, 1999:</u> "States should take measures to enable indigenous peoples to understand and to be understood when dealing with laws and administrative, legal, and political procedures."</p> <p>3. <u>Proposal by Mexico, 1999:</u> "The states shall take effective measures to enable indigenous peoples to have full access to state jurisdiction in their own languages."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>3. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u> For greater coherence and adequate coverage of the state's responsibilities, the words "shall endeavor" in the second sentence of paragraph 3 should be replaced by "should take measures." Since state action is required only where the indigenous peoples are "predominant," the stronger wording does not result in an unjust burden being placed on the state.</p>	<p>3. The states shall take effective measures to enable the members of indigenous peoples to understand administrative, legal, and political rules and procedures and to be understood in relation to these matters. In areas where indigenous languages predominate, states shall expend the necessary efforts to have them established as official languages.</p>

<p>4. Indigenous peoples have the right to use their indigenous names, and to have the states recognize them as such.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>4. <u>From the November 1999 meeting:</u> Indigenous peoples have the right to use their indigenous names, and to have the states recognize them as such..</p>	<p>Indigenous peoples have the right to use their indigenous names, and to have the states recognize them as such.</p>
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<p>Article IX. <u>Education</u></p> <p>1. Indigenous peoples shall be entitled: a) to establish and set in motion their own educational programs, institutions and facilities; b) to prepare and implement their own educational plans, programs, curricula and teaching materials; and c) to train, educate and accredit their teachers and administrators. The states shall take steps to ensure that such systems guarantee equal educational and teaching opportunities for the general population as well as complementarity with the national educational systems.</p>	<p>Article IX. <u>Education</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the November 1999 meeting:</u> (Taking into consideration the minimum standards set by the competent state authority (in countries in which national curricula are in force) for the national education system,) Indigenous peoples shall be entitled: (a) to establish and set in motion their own educational programs, institutions and facilities; (b) to prepare and implement their own educational plans, programs, curricula, and teaching materials; and (c) to train, educate, and accredit their teachers and administrators, (in consultation with the competent state authorities and in accordance with applicable education laws and standards). [The states shall take steps to ensure that such systems guarantee equal educational and teaching opportunities for the general population as well as complementarity with the national educational systems.]</p> <p>1. <u>Proposal by the US:</u> "States should recognize the authority of indigenous peoples to (a) establish and operate their own educational programs, institutions, and facilities; (b) to prepare and apply their own educational plans, programs, curricula, and materials; and (c) to train and accredit their own teachers and administrators, provided that indigenous educational programs meet generally applicable minimum state requirements in the field of education."</p>	<p>Article IX. <u>Education</u></p> <p>1. Indigenous peoples shall be entitled: (a) to establish and set in motion their own educational programs, institutions, and facilities; (b) to prepare and apply their own educational plans, programs, curricula, and materials; and (c) to train, educate, and accredit their own teachers and administrators, in consultation with the competent authorities. The states shall take steps to ensure that such systems guarantee equal educational and teaching opportunities for the general population, complementarity among different levels of education, and respect for minimum education standards.</p>
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<p>2. When indigenous peoples so desire, educational systems shall be conducted in the indigenous languages and shall incorporate indigenous content, and they shall also be given the necessary training and means for complete mastery of the official language or languages.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the November 1999 meeting:</u> When indigenous peoples so desire, educational systems shall be conducted (where practicable) in the indigenous languages and shall incorporate indigenous content, and they shall also be given the necessary training and means for complete mastery of the official language or languages.</p> <p>2. <u>Proposal by the US, 1999:</u> "Non-discriminatory access to public education is a right that should be enjoyed by indigenous individuals in common with other citizens of the State. State-funded education should respect indigenous cultures."</p>	<p>2. When indigenous peoples so desire, and when it is possible, educational systems shall be conducted in the indigenous languages and shall incorporate indigenous content, and they shall also be given the necessary training and means for complete mastery of the official language or languages.</p>
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<p>3. The states shall ensure that those educational systems are equal in quality, efficiency, accessibility and in all other respects to that provided to the general population.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>From the November 1999 meeting:</u> The states shall ensure that those educational systems are equal in quality, efficiency, accessibility, and all other respects to that provided to the general population.</p> <p>3. <u>Proposal by the US, 1999:</u> "States should take appropriate measures so that, wherever possible, indigenous individuals have adequate opportunities to learn their native indigenous language or to receive instruction in that language."</p> <p>3. <u>Proposal by Canada for a new paragraph, 1999:</u> "Indigenous children living outside their communities should, where practicable, have access to education in their own culture and language."</p>	<p>3. The states shall include, in their national education systems, content reflecting the pluricultural nature of their societies. Indigenous children living outside their communities should, where practicable, have access to education in their own culture and language.</p>
<p>4. The states shall include in national general educational systems content reflecting the pluricultural nature of their societies.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>4. <u>From the November 1999 meeting:</u> The states shall include in national general educational systems content reflecting the pluricultural nature of their societies.</p>	<p>4. The states shall ensure that those educational systems are equal in quality, efficiency, accessibility, and all other respects to that provided to the general population. The states shall take effective measures to provide appropriate resources for these purposes.</p>
<p>5. The states shall provide financial and any other type of assistance needed to implement the provisions of this article.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>[5. <u>From the November 1999 meeting:</u> The states shall provide financial and any other type of assistance needed to implement the provisions of this article (without prejudice to support for the rest of the population).]</p> <p>5. <u>Proposal by the US, 1999:</u> "States should take appropriate measures to provide resources for these purposes."</p> <p>5. <u>Proposal by Argentina, 1999:</u> Argentina proposes deleting paragraph 5.</p> <p>5. <u>Proposal by Canada, 1999:</u> Canada suggests merging paragraphs 3 and 5 into a single paragraph, which would then read as follows:</p> <p>"States [shall/should] take effective measures to provide appropriate resources for these purposes."</p>	

<p>Article X. <u>Spiritual and religious freedom</u></p> <p>1. Indigenous peoples have the right to freedom of conscience, freedom of religion and spiritual practice, and to exercise them both publicly and privately.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article X. <u>Spiritual and religious freedom</u></p> <p>1. <u>From the November 1999 meeting:</u> Indigenous peoples have (shall have) the right to freedom of conscience, freedom of religion and spiritual practice [and to exercise them both publicly and privately].</p> <p>1. <u>Proposal by the US, 1999:</u> "Indigenous individuals have the right to freedom of thought, conscience, and religion."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>1. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u> "Indigenous peoples have the right to freedom of thought, conscience, and religion; that right includes the freedom to change one's religion or belief, and the freedom to manifest, in public or in private, individually or collectively, their religion or belief in teaching, practice, worship, and observance."</p> <p>1. <u>Proposal by the Indian Law Resource Center, 1999:</u> "Indigenous peoples and individuals have the right to freedom of thought, conscience and religion; this right includes freedom to change one's religion or belief, and freedom in public or private, to manifest their religion or belief in teaching, practice, worship and observance."</p>	<p>1. Indigenous peoples and their members have the right to freedom of thought, conscience, religion, and spiritual practice; that right includes the freedom to change one's religion or belief, and the freedom to manifest, in public or in private, individually or collectively, one's religion or belief in teaching, practice, worship, and observance.</p>
<p>The states shall take the necessary measures to prohibit attempts to forcibly convert indigenous peoples or to impose on them beliefs against their will.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the November 1999 meeting:</u> The states shall take the necessary measures to prohibit attempts to forcibly convert indigenous peoples or to impose beliefs on them against their will.</p> <p>2. <u>Proposal by the US:</u> "This right shall include freedom to have or adopt a religion or belief of her or his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching."</p> <p>2. <u>Proposal by the CJI with amendment by Mexico, 1999:</u> "Indigenous peoples have the right to preserve and practice their religious or philosophical beliefs, the only condition being respect for public order and the full and effective enjoyment by the persons making up those peoples of their internationally recognized human rights. States must take the necessary measures to prohibit any attempt to forcibly convert an indigenous [people/population] or to impose beliefs or religious practices on it against its will."</p>	<p>2. The states shall take the necessary measures to prohibit attempts to convert or impose beliefs on indigenous peoples or their members without their free and informed consent.</p>

	<p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u> "The states shall take the necessary measures to prohibit attempts to convert indigenous peoples without their free and informed consent or to impose on them beliefs against their will."</p> <p>2. <u>Proposal by the Indian Law Resource Center, 1999:</u> "It also proposed that in paragraph 2 the words "forcibly convert" be replaced by the words "to convert indigenous peoples without their free and informed consent."</p>	
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<p>In collaboration with the indigenous peoples concerned, the states shall adopt effective measures to ensure that their sacred places, including burial sites, are preserved, respected and protected. When sacred graves and relics have been appropriated by state institutions, they shall be returned.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>From the November 1999 meeting:</u> In collaboration with the indigenous peoples concerned, the states shall (make best efforts to) adopt effective measures to ensure that their sacred places, including burial sites, are preserved, respected, and protected. [When sacred graves and relics have been appropriated by state institutions (or private entities), they shall be returned.]</p> <p>3. <u>Proposal by the US, 1999:</u> "States shall take appropriate measures, in consultation with the indigenous peoples concerned, to preserve and protect sites that are sacred to them, including burial sites. States should provide an effective legal framework for the return of sacred objects, relics, and human remains taken from graves or sacred sites."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>3. <u>From the November 1999 meeting:</u> In collaboration with the indigenous peoples concerned, the states shall (make best efforts to) adopt effective measures to ensure that their sacred places, including burial sites, are preserved, respected and protected. [When sacred graves and relics have been appropriated by state institutions (or private entities), they shall be returned.]</p> <p>3. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u> "Indigenous peoples have the right to maintain and protect their cultural and religious properties including sacred sites, relics, graves, and the human remains and artifacts found within the graves. This includes the right to restitution of religious and cultural property taken without their free and informed consent or in violation of their laws, traditions, and customs. In collaboration with the indigenous peoples concerned, the states shall adopt effective measures to ensure that such properties are preserved, respected,</p>	<p>3. The states shall take appropriate measures, in consultation with the indigenous peoples concerned, to preserve, respect, and protect sites that are sacred to them, including their burial sites, sacred objects, and relics.</p>
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	<p>and protected. Where such properties have been expropriated by the state, private institutions, or individuals, without the consent of the people concerned, they shall be returned.”</p> <p>3. <u>Proposal by the National Congress of American Indians, 1999:</u> Indigenous peoples and individuals have the right to maintain and protect their cultural and religious properties including sacred sites, relics, graves and the human remains and articles found within graves. This includes the right to restitution of religious and cultural property taken without their free and informed consent or in violation of their laws, traditions and customs. In collaboration with the indigenous peoples concerned, the states shall adopt effective measures to ensure that such properties are preserved, respected and protected. Where appropriated by state institutions, they shall be returned.”</p>	
<p>4. The states shall ensure respect from society as a whole for the integrity of indigenous spiritual symbols, practices, sacred ceremonies, expressions and protocols.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>4. <u>From the November 1999 meeting:</u> The states shall ensure respect from society as a whole (and from institutions) for the integrity of indigenous spiritual symbols, practices, sacred ceremonies, expressions, and protocols.</p> <p>4. <u>Proposal by Mexico, 1999:</u> Mexico proposes deleting this paragraph.</p> <p>4. <u>Proposal by the US, 1999:</u> “States are encouraged to respect the use of sacred and ceremonial areas and to provide for indigenous access to and use of such sites as may be under the management or control of a State.”</p>	<p>4. The states and their institutions shall ensure respect from society as a whole for the integrity of indigenous spiritual symbols, practices, sacred ceremonies, expressions, and protocols.</p>
<p>Article XI. <u>Family relations and family ties</u></p> <p>1. The family is the natural and basic unit of societies and must be respected and protected by the state. Consequently, the state shall recognize and respect the various forms of the indigenous family, marriage, family name and filiation.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the November 1999 meeting:</u> The family is the natural and basic unit of societies and must be respected and protected by the state. [Consequently, the state shall recognize and respect the various forms of the indigenous (family), (parental systems), marriage, (assignment of name) (family name) and filiation.]</p> <p>1. <u>Proposal by the US, 1999:</u> “The family in all its forms is the natural and fundamental group unit of society and is entitled to protection by society and the State.”</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>1. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u> We agree with the article proposed by the IACHR in 1997, as set out in document 9/01.</p>	<p>1. The family is the natural and basic unit of societies and must be respected and protected by the state. Consequently, the state shall recognize and respect the various forms of the indigenous family, marriage, family name, and filiation.</p>

<p>2. In determining the child's best interests in matters relating to the protection and adoption of children of members of indigenous peoples, and in the severance of ties and other similar circumstances, consideration shall be given by courts and other relevant institutions to the views of the peoples, including individual, family and community views.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the November 1999 meeting:</u> In determining the child's best interests in matters relating to the adoption of children of members of indigenous peoples, and in the severance of ties and other similar circumstances, consideration shall be given by courts and other relevant institutions to the views of the peoples, including individual, family, and community views.</p> <p>2. <u>Proposal by the US, 1999:</u> "Consistent with international human rights instruments, States should accord appropriate recognition to indigenous institutions, laws, and traditions concerning the family and the integrity of family relations."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Proposal by the Indian Law Resource Center, 1999:</u> "In all actions concerning children, the state has a duty to respect the responsibilities, rights, and duties of parents, or where applicable, the members of the extended family or community as provided for by local customs."</p>	<p>2. In determining the child's best interests in matters relating to the adoption of children of members of indigenous peoples, and in the severance of ties and other similar circumstances, consideration shall be given by courts and other relevant institutions to the views of the peoples, including individual, family, and community views.</p>
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<p>Article XII. <u>Health and well-being</u></p> <p>1. Indigenous peoples have the right to legal recognition and practice of their traditional medicine, treatment, pharmacology, health practices and promotion, including preventive measures and rehabilitative.</p>	<p>Article XII. <u>Health and well-being</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the November 1999 meeting:</u> Indigenous peoples have the right to [legal] [recognition and practice of their traditional medicine, treatment, pharmacology, and health practices and promotion], including preventive measures and rehabilitation], (subject to national laws).</p> <p>1. <u>Proposal by Mexico and Peru, 1999:</u> "Indigenous peoples have the right to practice their traditional medicine, treatment, pharmacology, and health concepts, practices, and promotion, within the framework of existing law and the general public health policies of the state."</p> <p>1. <u>Proposal by Venezuela, 1999:</u> "Indigenous peoples are entitled to state recognition of their traditional medical practices, treatment, pharmacology, practical notions, and health promotion."</p> <p>1. <u>Proposal by the US, 1999:</u> "States should take appropriate measures to protect the freedom of indigenous individuals to use, maintain, develop, and manage their own health services, provided such services meet the standards of generally applicable laws adopted in the interest of public health and welfare. In addition, indigenous individuals have the right to nondiscriminatory access to health services available to</p>	<p>Article XII. <u>Health and well-being</u></p>
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	<p>the general public.”</p> <p>1. <u>Proposal by the CJI, 1999:</u> “Indigenous peoples preserving traditional forms of social organization, communal governance, or traditional practices and customs with respect to family, health, education, property, commercial or productive activities, or the prevention and punishment of criminal activities have the right to preserve and freely exercise them, the only condition being respect for public order and the full and effective enjoyment by the persons making up those peoples of their internationally recognized human rights. The state must make every reasonable effort, in consultation with the parties concerned, to harmonize and reconcile the effect of these customs with the overall legal system.”</p> <p>1. <u>Proposal by Chile for an additional paragraph, 1999:</u> “States undertake to seek, in accordance their domestic law, ways to make traditional medicine compatible with scientific medicine.”</p>	
<p>2. Indigenous peoples have the right to protection of vital medicinal plants, animals, and minerals in their traditional territories.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the November 1999 meeting:</u> Indigenous peoples have the right to protection of (live organisms and) (medicinal plants, animals, and) minerals (used for medicinal purposes) that are vital for survival in their traditional territories.</p> <p>2. <u>Proposal by the US, 1999:</u> “States should take reasonable measures to protect from endangerment or extinction medicinal plants and animals that are vital to indigenous medicine.”</p> <p>2. <u>Proposal by Canada, 1999:</u> “States shall endeavor to protect medicinal plants, animals, and minerals of indigenous peoples in their traditional territories.”</p>	<p>2. The states shall adopt measures to protect plants, animals, and minerals used for medicinal purposes by indigenous peoples in their traditional territories and lands.</p>
<p>3. Indigenous peoples shall be entitled to use, maintain, develop and manage their own health services, and they shall also have access, on an equal footing, to all health institutions and services and medical care accessible to the general population.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>From the November 1999 meeting:</u> Indigenous peoples shall have the right to use, maintain, develop, and manage their own health services (in accordance with national standards and, under the same terms as other members of society, indigenous individuals shall also have access) (and should also have access,) without discrimination, to all health institutions and services and medical care (available to the general population).</p> <p>3. <u>Proposal by the US, 1999:</u> “Where circumstances so warrant, states, in consultation with indigenous peoples, should take measures to improve health conditions in indigenous societies and assist them in</p>	<p>3. Indigenous peoples shall have the right to use, maintain, develop, and manage their own health services in accordance with nationally and internationally accepted standards.</p>

	<p>maintaining health conditions in accordance with nationally and internationally accepted standards.”</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>3. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u> “In paragraph 3, we propose that the terms “shall be entitled” and “shall ... have access” be replaced by “are entitled.” This recognition of the right to health is consistent with Article 24 of the United Nations Draft Declaration, Article 25 of ILO Convention 169, and Article 5 of the International Convention on the Elimination of All Forms of Racism.”</p>	
<p>4. The states shall provide the necessary means for indigenous peoples to eliminate any health conditions in their communities which fall below the standards accepted for the general population.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>4. <u>From the November 1999 meeting:</u> The states shall (make best efforts to) provide the necessary means for indigenous peoples to (eliminate) (improve) any health conditions in their communities that fall below the standards accepted for the general population.</p> <p>4. <u>Proposal by Brazil for an additional paragraph, 1999:</u> “Indigenous peoples shall be entitled to fair and equitable distribution of the profits generated by commercial exploitation of their traditional know-how.”</p> <p>4. <u>New paragraph proposed by Bolivia, 1999:</u> “Indigenous peoples are entitled to participate in the use and exploitation of renewable natural resources present in their traditional territories.”</p>	<p>4. The states shall provide the necessary means for indigenous peoples to improve any health conditions existing in their communities that fall below the standards accepted for the general population.</p>
<p>Article XIII. <u>The right to environmental protection</u></p> <p>1. Indigenous peoples have the right to a safe and healthy environment, which is an essential condition for enjoyment of the right to life and collective well-being.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article XIII. <u>Right to environmental protection</u></p> <p>1. <u>From the November 1999 meeting:</u> (States shall make best efforts to provide indigenous peoples with) (Indigenous peoples are entitled to) a safe and healthy environment, which is an essential condition for enjoyment of the right to life and collective well-being, (and indigenous peoples shall also enjoy possession and use of resources that are not of strategic importance to the state).</p> <p>1. <u>Proposal by the US, 1999</u> “States should take reasonable measures to ensure that regions inhabited by indigenous peoples enjoy the same measure of protection under environmental legislation and through enforcement action as others within the national territory.”</p>	<p>Article XIII. <u>Right to environmental protection</u></p> <p>1. Indigenous peoples have the right to a safe and healthy environment, which is an essential condition for enjoyment of the right to life and collective well-being.</p>
<p>2. Indigenous peoples have the right to be informed of</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p>	<p>2. Indigenous peoples have the right to be informed of and consulted regarding</p>

<p>measures which could affect their environment, including information ensuring their effective participation in acts and policies which might affect it.</p>	<p>2. <u>From the November 1999 meeting</u>: Indigenous peoples have the right to be informed of (and consulted regarding) measures that could affect their environment, including information ensuring their effective participation in acts and policies that might affect it.</p> <p>2. <u>Proposal by the US, 1999</u>: "Indigenous individuals are entitled to nondiscriminatory access to information on environmental hazards and participation in the development of public policy with respect to the environment."</p>	<p>measures that could affect their environment, and to participate in actions and decisions that might affect it.</p>
<p>3. Indigenous peoples shall have the right to conserve, restore and protect their environment and the productive capacity of their lands, territories and resources.</p>	<p><u>REPRESENTATIVES OF THE STATES</u>:</p> <p>3. <u>From the November 1999 meeting</u>: Indigenous peoples are entitled to conserve, restore, (exploit,) and protect their environment and the productive capacity of their [lands,] [territories,] and resources.</p> <p>3. <u>Proposal by the US, 1999</u>: "As part of the management of their own lands, indigenous peoples may regulate environmental conditions consistent with applicable state standards and may participate in the formulation and implementation of governmental conservation programs undertaken with respect to those [lands]."</p>	<p>3. Indigenous peoples are entitled to conserve, restore, exploit, and protect their environment and the productive capacity of their lands, territories, and resources.</p>
<p>4. Indigenous peoples have the right to full participation in formulating, planning, managing and applying governmental programs for the conservation of their lands, territories, and resources.</p>	<p><u>REPRESENTATIVES OF THE STATES</u>:</p> <p>4. <u>From the November 1999 meeting</u>: Indigenous peoples have the right of full participation in formulating, planning, managing, and applying governmental programs (and policies) for the conservation (and exploitation) of their [lands,] [territories,] and resources.</p> <p>4. <u>Proposal by the US, 1999</u>: "States are encouraged to take measures to help indigenous peoples preserve the environment and should provide them with nondiscriminatory access to generally available programs for purposes of environmental protection."</p> <p>4. <u>Proposal by Canada, 1999</u>: "States shall make best efforts to eliminate health conditions in indigenous communities that fall below internationally accepted minimum standards."</p>	<p>4. Indigenous peoples have the right of full participation in formulating, planning, managing, and applying governmental programs and policies for the conservation and exploitation of their lands, territories, and resources.</p>

<p>5. Indigenous peoples shall have the right to assistance from their states for purposes of environmental protection, and shall be allowed to receive assistance from international organizations.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>5. <u>From the November 1999 meeting:</u> Indigenous peoples shall be entitled to assistance from their states for purposes of environmental protection, and shall be allowed to receive assistance from international organizations (, in accordance with procedures established under national law).</p>	<p>5. Indigenous peoples shall have the right to assistance from their states for purposes of environmental protection, and shall be allowed to receive assistance from international organizations, in accordance with procedures established under national law.</p>
<p>6. The states shall prohibit and punish, and in conjunction with the indigenous peoples, shall impede the introduction, abandonment, or deposit of radioactive materials or residues, toxic substances and waste material in contravention of legal provisions; as well as the production, introduction, transportation, possession or use of chemical, biological and nuclear weapons in indigenous areas.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>6. <u>From the November 1999 meeting:</u> The states shall prohibit and punish and, in conjunction with indigenous authorities, shall impede the introduction, abandonment, or deposit of radioactive materials or residues and toxic substances or wastes in contravention of legal provisions; as well as the production, introduction, transport, possession, or use of chemical, biological, and nuclear weapons in indigenous areas. (The Chair proposes including a reference to drug trafficking and to the transit or possession of or trafficking in chemical precursors).</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>6. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil:</u> The text which reads: "in contravention of legal provisions" should be replaced by "unless the free and informed consent of the affected peoples has been obtained."</p> <p>6. <u>Proposal by the National Congress of American Indians, 1999:</u> amend Article 13, paragraph 6 of the proposed declaration by replacing the phrase "in contravention of legal provisions" with "unless the free and informed consent of the affected peoples has been obtained."</p>	<p>6. The states shall prohibit and punish and, in conjunction with indigenous authorities, shall impede the introduction, abandonment, or deposit of radioactive materials or residues and toxic substances or wastes in contravention of legal provisions in force; as well as the production, introduction, transport, possession, or use of chemical, biological, and nuclear weapons in indigenous territories and lands.</p>
<p>7. When a State declares an indigenous territory to be a protected area, and in the case of any lands, territories and resources under potential or actual claim by indigenous peoples, as well as locales used as natural biopreserves, conservation areas shall not be subject to any natural resource development without the informed consent and participation of the peoples concerned.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>7. <u>From the November 1999 meeting:</u> When a state declares an indigenous territory to be a protected area, and in the case of any [lands], [territories] [under potential or actual claim] by indigenous peoples, as well as [lands] used as natural biopreserves, conservation areas shall not be subject to any natural resource development without the informed consent and] (informed) participation of the peoples concerned.</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>7. <u>From the November 1999 meeting:</u> When a state declares an indigenous territory to be a protected area, and in the case of any [lands], [territories] [under potential or actual claim] by indigenous peoples, as</p>	<p>7. When a state declares an indigenous territory to be a protected area or subject to wildlife reserve status, and in the case of lands and territories claimed by indigenous peoples, the conservation areas shall not be subject to any natural resource development without the informed participation of the peoples concerned.</p>

	<p>well as [lands] used as natural biopreserves, conservation areas shall not be subject to any natural resource development without the [informed consent and] (informed) participation of the peoples concerned.</p> <p>7. <u>Written proposal from the 2001 meeting by Paulo Celso Oliveira, indigenous representative of Brazil</u>: "Prior to authorizing or establishing a protected area on or near any land, territory, or resources, under actual or potential claim by indigenous peoples, states shall obtain the free and informed consent of the indigenous peoples. Protected areas shall not be subject to natural resource or any other type of development without the free and informed consent of the indigenous peoples concerned.</p> <p>Indigenous peoples have the right to declare, wholly or in part, their territories as indigenous-owned and managed protected areas. The state shall recognize and respect such declarations."</p> <p>7. <u>Proposal by the National Congress of American Indians, 1999</u>: "When the state is giving consideration to establishing a protected area on or near to an indigenous territory, legally recognized or under claim, the state shall obtain the free and informed consent of the affected indigenous peoples prior to authorizing or implementing such a proposal. Protected areas shall not be subject to natural resource development without the free and informed consent of the affected indigenous peoples.</p> <p>Indigenous peoples have the right to declare, wholly or in part, their territories as indigenous-owned and managed protected areas and the state shall recognize and respect such decision."</p>	
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<p>SECTION FOUR. ORGANIZATIONAL AND POLITICAL RIGHTS</p> <p>Article XIV. <u>The rights of association, assembly, freedom of expression and freedom of thought</u></p> <p>1. Indigenous peoples have the right of association, assembly and expression pursuant to their values, usages, customs, ancestral traditions, beliefs and religions.</p>	<p>SECTION FOUR. ORGANIZATIONAL AND POLITICAL RIGHTS</p> <p>Article XIV. <u>Rights of association, assembly, freedom of expression, and freedom of thought</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the meeting of November 1999</u>: Indigenous peoples have the right of association, assembly, and expression according to their values, usages, customs, ancestral traditions, beliefs, and religions (, in keeping with national law) (and bearing in mind the international instruments on the matter).</p> <p>1. <u>United States proposal, 1999</u>: Indigenous individuals have the right to freedom of association, assembly, opinion, and expression.</p>	<p>SECTION FOUR. ORGANIZATIONAL AND POLITICAL RIGHTS</p> <p>Article XIV. <u>Rights of association, assembly, freedom of expression, and freedom of thought</u></p> <p>1. Indigenous peoples and individuals have the right of association, assembly, and expression according to their values, usages, customs, ancestral traditions, beliefs, and religions.</p>
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	<p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>1. <u>Proposal by the National Congress of American Indians, the Amerindian Peoples Association of Guyana, and the Toledo Maya Cultural Council, and the Upper Sioux Community, 1999:</u> That the first phrase of paragraph 1 read, "Indigenous peoples and individuals."</p>	
<p>2. Indigenous peoples have the right of assembly and to the use of their sacred and ceremonial areas, as well as the right to full contact and common activities with their members living in the territory of neighboring states.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the meeting of November 1999:</u> Indigenous peoples have the right of assembly and the right of use of their sacred and ceremonial areas, as well as the right to full contact and common activities with their members living in the territory of neighboring states (, in keeping with state border control regulations).</p> <p>2. <u>Proposal by the CJI, 1999:</u> "In those cases where a single indigenous population is established in the territory of two or more states, the latter shall spare no reasonable effort—without prejudice to their public policy, to their security and defense, or to measures necessary to prevent criminal or illicit activities—to preserve communication, cooperation, and traditional exchanges among individuals belonging to that indigenous population."</p> <p>2. <u>Proposal by Canada, 1999:</u> "Indigenous peoples have the right of assembly and to the use of their sacred and ceremonial areas, subject to the existing rights of third parties. They also have the right to maintain and develop contacts, relations and undertake activities with their members, and with other indigenous peoples, across borders, which may be subject to reasonable and non-discriminatory customs and immigration regulation."</p> <p>2. <u>Proposal by United States, 1999:</u> "Indigenous individuals have the right to full contact and common activities with sectors and members of their ethnic groups living in the territory of neighboring states, subject to the nondiscriminatory enforcement of customs and immigration laws."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Proposal by the National Congress of American Indians, the Amerindian Peoples Association of Guyana, and the Toledo Maya Cultural Council, and the Upper Sioux Community, 1999:</u> "Indigenous peoples and individuals have the right to the use of their sacred and ceremonial areas as well as the right to establish and maintain, without any discrimination, free and peaceful contacts with other indigenous peoples and individuals that live in the territories of neighboring states or across state borders."</p>	<p>2. Indigenous peoples have the right of assembly and to the use of their sacred and ceremonial areas, observing the rights of third parties. They also have the right to maintain full contact and common activities with their members living in the territory of neighboring states, subject to reasonable and nondiscriminatory immigration and customs regulations.</p>

<p>Article XV. <u>The right to self government</u></p> <p>1. Indigenous peoples have the right to freely determine their political status and freely pursue their economic, social, spiritual and cultural development, and are therefore, entitled to autonomy or self-government with regard to <i>inter alia</i> culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resource management, the environment and entry by nonmembers; and to determine ways and means for financing these autonomous functions.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article XV. <u>[Right of self-government]</u></p> <p>1. <u>From the meeting of November 1999:</u> Indigenous peoples have the right to freely determine (their traditional forms of communal association) (their political status) and freely pursue their economic, social, spiritual, and cultural development, and are therefore entitled to (participate in managing their specific institutions) [autonomy or self-government] with regard, <i>inter alia</i>, to culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resource management, the environment, and entry by nonmembers; and to determine ways and means for financing these autonomous functions.</p> <p>1. <u>Proposal by United States, 1999.</u> "States should recognize, where appropriate and on the basis of a fair and open process, a broad range of autonomy for indigenous peoples to manage their local and internal affairs, including social, economic, and cultural matters. States are encouraged to utilize indigenous peoples to deliver social and economic services to indigenous societies."</p> <p>* <u>Note by the Chair during the November 1999 meeting: This question (paragraph 1) depends upon the outcome of the section on definitions.</u></p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>1. <u>Proposal by the National Congress of American Indians, the Amerindian People Association of Guyana, and the Toledo Maya Cultural Council, and the Upper Sioux Community 1999:</u> "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, spiritual, and cultural development. As a specific form of exercising their right to self-determination, they have the right to autonomy and self-government with regard to, <i>inter alia</i>, culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resource management, the environment, and entry by nonmembers; and to determine ways and means of financing these autonomous functions."</p>	<p>Article XV. <u>Right to self-government</u></p> <p>1. Indigenous peoples, in exercising their right of self-determination, have the internal right to autonomy or self-government in matters related to their local affairs, including the determination of membership, culture, language, religion, education, information, media, health, housing, employment, social welfare, maintenance of community security, family relations, economic activities, land and resource management, the environment, and entry by nonmembers, and to determine ways and means for financing these autonomous functions.</p>
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<p>2. Indigenous peoples have the right to participate without discrimination, if they so decide, in decision-making, at all levels, concerning matters which might affect their rights, lives and destiny. They may do so directly or through representatives chosen by them pursuant to their own procedures. They shall also have the right to maintain and develop their own indigenous decision-making institutions, as well as equal opportunities to gain access to, and participate in, all state institutions and fora.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the meeting of November 1999:</u> Indigenous peoples have the right to participate without discrimination, if they so decide, in decision-making, at all levels, concerning matters which might affect their rights, lives, and destiny. They may do so directly or through representatives chosen by them according to their own procedures. They shall also have the right to maintain and develop their own indigenous decision-making institutions, as well as equal opportunities to gain access to, and participate in, all national institutions and fora.</p> <p>2. <u>Proposal by United States, 1999:</u> "Indigenous individuals have the right to participate on an equal basis with other citizens in all national fora, including local, provincial, and national elections. Where a state's policy, decision, or action will have a direct effect on indigenous property, rights, or other interests, states are encouraged to provide indigenous peoples or their representatives the opportunity to be heard on the subject."</p>	<p>2. Indigenous peoples have the right to participate without discrimination, if they so decide, in decision-making, at all levels, concerning matters which might affect their rights, lives, and destiny. They may do so directly or through representatives chosen by them according to their own procedures. They shall also have the right to maintain and develop their own indigenous decision-making institutions, as well as equal opportunities to gain access to, and participate in, all national institutions and fora.</p>
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<p>Article XVI. <u>Indigenous law</u></p> <p>1. Indigenous law shall be recognized as a part of the states' legal system and framework in which the states' social and economic development takes place.</p>	<p>Article XVI. <u>Indigenous law</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the meeting of November 1999:</u> Indigenous law shall be recognized as a part of [the states' legal systems and] the framework in which the states' social and economic development takes place.</p> <p>1. <u>Proposal by Mexico, 1999.</u> "The law of indigenous peoples shall be recognized as part of the legal system, framework for social and economic development, and pluralism of states."</p> <p>1. <u>Proposal by United States, 1999.</u> "Indigenous law shall be recognized as an integral part of state legal systems and the framework for social and economic development of indigenous peoples."</p> <p>1. <u>Proposal by Argentina, 1999.</u> "Indigenous law shall be taken into account when decisions involving indigenous peoples are adopted."</p>	<p>Article XVI. <u>Indigenous law</u></p> <p>1. "Indigenous law shall be recognized as an integral part of states' legal systems, of the framework for social and economic development of indigenous peoples, and of the plural nature of states.</p>
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<p>2. Indigenous peoples have the right to maintain and reinforce their legal systems and apply them to affairs within their communities, including systems addressing such matters as conflict resolution, crime prevention and the maintenance of peace and harmony.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the meeting of November 1999:</u> Indigenous peoples have the right to maintain and reinforce their (legal) (regulatory) systems and to apply them to affairs within their communities, including systems</p>	<p>2. The states, where appropriate, shall take measures to enhance the capacity of indigenous peoples to maintain and strengthen their own legal systems with respect to internal matters, including control of real property and natural resources, resolution of disputes within and between indigenous peoples, law enforcement, and maintenance of internal harmony.</p>
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	<p>addressing such matters as conflict resolution, crime prevention, and the maintenance of peace and harmony.</p> <p>2. <u>Proposal by United States, 1999</u>. "States, where appropriate, should take measures to enhance the capacity of indigenous peoples to maintain and strengthen their own legal systems with respect to internal matters, including control of real property and natural resources, resolution of disputes within and between indigenous peoples, law enforcement, and maintenance of internal peace and harmony."</p> <p>*Note: The intent of the United States proposal is to merge paragraphs 2 and 3.</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Proposal by the National Congress of American Indians, the Amerindian People Association of Guyana, and the Toledo Maya Cultural Council, and the Upper Sioux Community:</u> "The official decisions, rulings, and actions of indigenous institutions shall be fully recognized, honored, and enforced by the institutions of the state."</p>	
<p>3. In the jurisdiction of each state, procedures involving indigenous persons or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law. This shall include observance of indigenous law and custom and, where necessary, use of their language.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>From the meeting of November 1999:</u> In the jurisdiction of each state, procedures involving indigenous persons or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law. [This (may) (shall) include observance of indigenous law and customs and, where necessary, (in criminal proceedings,) (the use of) their language (through interpretation).</p> <p>3. <u>Proposal by Venezuela, 1999.</u> Venezuela proposes that the second part of the paragraph be deleted.</p>	<p>3. In the jurisdiction of each state, procedures involving indigenous persons or their interests shall be conducted in such a way as to ensure the right of indigenous peoples to full representation with dignity and equality before the law.</p>
<p>Article XVII. <u>National incorporation of indigenous legal and organizational systems</u></p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article XVII. (National incorporation of indigenous legal and organizational systems)</p> <p><u>Proposed new title:</u> Right of access of indigenous peoples to state jurisdiction</p> <p><u>Proposed new title:</u> Incorporation of traditional practices of indigenous populations in national institutions</p>	<p>Article XVII. <u>National incorporation of indigenous legal and organizational systems</u></p>

<p>1. The states shall facilitate inclusion of the institutions and traditional practices of indigenous peoples in their organizational structures, in consultation with, and subject to the consent of, the peoples concerned.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the meeting of November 1999:</u> "The states shall facilitate the (incorporation) (inclusion), where practicable, of the institutions and traditional practices of indigenous peoples in their (national) (organizational) structures, in consultation with, and subject to the consent of, the peoples concerned.</p> <p>Proposal by United States, 1999 "The states should facilitate inclusion within their national organizational structures, wherever appropriate, of institutions and traditional practices of indigenous peoples."</p>	<p>1. The states shall facilitate the incorporation, where practicable, of the institutions and traditional practices of indigenous peoples in their national organizational structures, in consultation with, and subject to the consent of, the peoples concerned.</p>
<p>2. The relevant institutions in each state which serve indigenous peoples shall be designed in consultation with and are subject to the participation of, the peoples concerned so as to reinforce and promote the identity, cultures, traditions, organization and values of those peoples.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the meeting of November 1999:</u> The relevant institutions in each state which serve indigenous peoples should be designed in consultation with, and with the participation of, the peoples concerned, so as to reinforce and promote the identity, cultures, traditions, organization, and values of those peoples.</p> <p>2. <u>Proposal by Mexico, 1999.</u> "The institutions of each state shall be designed or updated in consultation with indigenous peoples, thereby guaranteeing their access to state jurisdiction.</p> <p>2. <u>Proposal by United States, 1999.</u> "States are encouraged in predominantly indigenous areas to facilitate the design and establishment of institutions that reflect and reinforce the identity, culture, and organization of those populations, to promote indigenous participation."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>2. <u>Proposal by the National Congress of American Indians, the Amerindian People Association of Guyana, and the Toledo Maya Cultural Council, and the Upper Sioux Community, 1999.</u> Paragraph 2 should also ensure that "no decisions directly relating to their rights and interests are taken without their free and informed consent."</p>	<p>2. The relevant institutions in each state which serve indigenous peoples shall be designed in consultation with, and with the participation of, the peoples concerned, so as to reinforce and promote the identity, cultures, traditions, organization, and values of those peoples.</p>
<p>SECTION FIVE. SOCIAL, ECONOMIC, AND PROPERTY RIGHTS</p> <p>Article XVIII. <u>Traditional forms of property ownership and cultural survival. The rights to land and territories</u></p>	<p>SECTION FIVE. SOCIAL, ECONOMIC AND PROPERTY RIGHTS</p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article XVIII. <u>Traditional forms of property ownership [and cultural survival]. The rights to land and territories</u></p>	<p>SECTION FIVE. SOCIAL, ECONOMIC AND PROPERTY RIGHTS</p> <p>Article XVIII. <u>Traditional forms of property ownership. Rights to land and territories</u></p>

<p>1. Indigenous peoples have the right to legal recognition of the varied and specific forms and modalities of their possession, control, and enjoyment of territories and property.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the meeting of November 1999:</u> Indigenous peoples have the right to legal recognition of their varied and specific forms and modes of possession, control, and enjoyment of [territories and] property (, on the basis of each state's legal system).</p> <p>1. <u>Proposal by the United States, 1999:</u> "States should respect the culture and values of indigenous peoples and the special relationship between indigenous societies and their lands and interests in their lands, including traditional uses such as subsistence farming."</p> <p>1. <u>Proposal by Mexico, 1999:</u> "Indigenous peoples have the right to legal recognition of their collective and individual possession, their control, and their enjoyment of their lands, as provided under the law of each state, as well as the use of those to which they also have had access for their traditional activities and livelihood. (This text would combine paragraphs 1 and 2.)"</p>	<p>1. Indigenous peoples have the right to legal recognition of the varied and specific forms and modalities of their possession, control, and enjoyment of territories and property, in accordance with each state's legal system.</p>
<p>2. Indigenous peoples are entitled to recognition of their property and ownership rights with respect to lands, territories and resources they have historically occupied, and to the use of those to which they historically have had access for their traditional activities and livelihood.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the meeting of November 1999:</u> (In accordance with applicable national law,) indigenous peoples are entitled to recognition of their property and ownership rights with respect to lands, territories, and resources they have (traditionally) (historically) occupied, and to the use of those to which they also have had access for their traditional activities and livelihood." (This text would combine paragraphs 1 and 2.)</p> <p>2. <u>Proposal by the United States, 1999:</u> "States should recognize forms of corporate ownership of land that reflect indigenous land tenure systems."</p> <p>2. <u>Proposal by Brazil, 1999:</u> "In accordance with specific national law, indigenous peoples have the permanent, exclusive, inalienable, imprescriptible, indefeasible, and nontransferable right of possession, ownership, and use of lands they traditionally occupy and of lands to which they traditionally have had access for their traditional activities and livelihood. (This text would combine paragraphs 2 and 3)."</p>	<p>2. Indigenous peoples have the permanent, exclusive, inalienable, imprescriptible, indefeasible, and nontransferable right of possession, ownership, and use of lands they have historically occupied, and of use of lands to which they traditionally have had access for their traditional activities and livelihood, in accordance with each state's legal system.</p> <p>The corresponding titles may be changed only by mutual consent between the state and the respective indigenous peoples when they have full knowledge and understanding of the nature or attributes of such property.</p> <p>Nothing in the previous paragraph shall be construed as limiting the right of indigenous peoples to attribute ownership within the community in accordance with their customs, traditions, usages, and traditional practices, nor shall it affect any collective community rights thereto.</p>
<p>3. i. Subject to the contents of 3.ii., when property and user rights of indigenous peoples arise from rights existing prior to the creation of those states, the states shall recognize the titles of indigenous peoples relative thereto as permanent, exclusive, inalienable, imprescriptible and indefeasible.</p> <p>ii. Such titles may be changed only by mutual consent between</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>From the meeting of November 1999:</u></p> <p>i. Subject to the provisions of 3.ii., when property and user rights of indigenous peoples arise from rights existing prior to the creation of those states, the states shall recognize the titles of indigenous peoples relative</p>	<p>3. Indigenous peoples have the right to an effective legal framework for the protection of their rights with respect to the natural resources on their lands, including the ability to use, manage, and conserve such resources, and with respect to traditional uses of their lands and their interest in lands and resources, such as subsistence items.</p>

<p>the state and the respective indigenous peoples when they have full knowledge and understanding of the nature or attributes of such property.</p> <p>iii. Nothing in 3.i. shall be construed as limiting the right of indigenous peoples to attribute ownership within the community in accordance with their customs, traditions, us and traditional practices, nor shall it affect any collective community rights thereto.</p>	<p>thereto as permanent, exclusive, inalienable, imprescriptible, and indefeasible.</p> <p>ii. Such titles may be changed only by mutual consent between the state and the indigenous peoples involved and when the latter have full knowledge and understanding of the nature or attributes of such property.</p> <p>iii. Nothing in 3.i. shall be construed as limiting the right of indigenous peoples to attribute ownership within the community in accordance with their customs, traditions, usages, and traditional practices, nor shall it affect any collective community rights thereto.</p>	
<p>4. Indigenous peoples have the right to an effective legal framework for the protection of their rights with respect to the natural resources on their lands, including the ability to use, manage, and conserve such resources, and with respect to traditional uses of their lands and their interest in lands and resources, such as subsistence items.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>4. <u>From the meeting of November 1999:</u> Indigenous peoples have the right to an effective legal framework for the protection of their rights with respect to the natural resources on their lands, including the ability to use, manage, and conserve such resources, and with respect to traditional uses of their lands and their interest in lands and resources, such as subsistence items.</p> <p>4 <u>Proposal by the United States, 1999:</u> "States should provide an effective legal framework for the protection of the rights of indigenous peoples with respect to their natural resources on their lands, including the ability to use, manage, and conserve such resources, such as subsistence."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>4. <u>Proposal by the National Congress of American Indians, Upper Sioux Community, Amerindian People Association of Guyana and the Toledo Maya Cultural Council, 1999:</u> "Their lands, territories, and natural resources, including the ability to use, develop, manage, and conserve such lands, territories, and resources; and with respect to traditional uses of their lands, territories, and resources such as subsistence."</p>	
<p>5. In the event that the subsoil minerals or resources of the subsoil belong to the state, or the state has rights over other resources on the lands, the governments shall establish or maintain procedures for the participation of the peoples concerned in determining whether the interests of such peoples would be adversely affected and to what extent, before undertaking or authorizing any program for planning, prospecting, or exploiting the resources existing on their lands. The peoples concerned shall participate in the benefits of such activities, and</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>5. <u>From the meeting of November 1999:</u> [In the event that subsurface minerals or subsurface resources belong to the state, or that the state has rights to other resources on the lands, the states shall establish or maintain procedures for the participation of the peoples concerned in determining whether their own interests would be adversely affected, and to what extent, before undertaking or authorizing any program for prospecting, planning, or exploiting the resources existing on their lands.</p>	<p>4. In the event that subsurface minerals or subsurface resources belong to the state, or that the state has rights to other resources on the lands, the states shall establish or maintain procedures for the participation of the peoples concerned in order to determine whether the interests of such peoples would be adversely affected, and to what extent, before undertaking or authorizing any program for prospecting, planning, or exploiting the resources existing on their lands. The peoples concerned shall participate in the benefits of such activities and shall receive fair compensation for any loss they may sustain as a result of such activities.</p>

<p>shall receive compensation, on a basis no less favorable than the standard international law sum for any loss which they may sustain as a result of such activities.</p>	<p>The peoples concerned shall participate in the benefits of such activities[. and shall receive compensation, on a basis no less favorable than the standard sum under international law.] for any loss they may sustain as a result of such activities].</p> <p>5. <u>Proposal by Argentina</u>: Argentina proposes that the last part of the paragraph be deleted.</p> <p>5. <u>Proposal by Venezuela</u>: Venezuela proposes that the entire paragraph be deleted.</p> <p>5. <u>Proposal by Brazil, 1999</u>: Brazil proposes that the reference to “compensation on a basis no less favorable than the standard sum under international law” be deleted.”</p> <p>5. <u>Proposal by the United States, 1999</u>: “In situations in which the state retains the ownership of mineral or subsurface resources or rights to other resources pertaining to lands held by indigenous societies, states should establish procedures to consult with them before undertaking or authorizing any program for exploiting such resources. Where possible, indigenous peoples should benefit from these activities and receive just compensation for any damages sustained as a result.”</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p><u>Proposal by the National Congress of American Indians, Upper Sioux Community, Amerindian People Association of Guyana and the Toledo Maya Cultural Council, 1999</u>: “Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories, and other resources, including the right to require that states obtain their free and informed consent prior to the approval of any project affecting their lands, territories, and other resources, particularly in connection with the development, utilization, or exploitation of mineral, water, or other resources. Compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural, or spiritual impact.”</p>	
<p>6. Unless exceptional and justified circumstances so warrant in the public interest, the states shall not transfer or relocate indigenous peoples without the free, genuine, public and informed consent of those peoples, and in all cases with prior compensation and prompt replacement of lands appropriated, which must be of similar or better quality and which must have the same legal status; and guaranteeing the right to its return if the causes that gave rise to the displacement cease to exist.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>6. <u>From the meeting of November 1999</u>: Unless exceptional circumstances so warrant in the public interest, the states shall not transfer or relocate indigenous peoples without the free, genuine, public, and informed consent of those peoples; [and in all cases with prior compensation and] prompt replacement of lands appropriated, which must be of similar or better quality and have the same legal status; and</p>	<p>5. Unless exceptional and justified circumstances so warrant in the public interest, the states shall not transfer or relocate indigenous peoples without the free, genuine, public, and informed consent of those peoples, and in all cases with their immediate replacement with appropriate lands of the same or better quality and the same legal status, and guaranteeing the right of return if the causes that gave rise to the displacement cease to exist.</p> <p>Indigenous peoples and the members thereof who have been transferred and</p>

	<p>guaranteeing the right to their return if the causes that gave rise to the displacement cease to exist.</p> <p>6. <u>Proposal by the United States, 1999</u>: "States are encouraged to avoid relocation of indigenous societies. As a general matter, the free and informed consent of indigenous peoples should be obtained before they are removed from their lands. Where such consent cannot be obtained, such removals should take place only in exceptional circumstances following appropriate procedures established by national laws and regulations. When indigenous peoples have been removed from their lands, they should be given the opportunity to return should the reasons for their relocation cease to exist."</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p><u>Proposal by the National Congress of American Indians, Upper Sioux Community, Amerindian People Association of Guyana and the Toledo Maya Cultural Council, 1999</u>: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the indigenous people concerned and after agreement on just and fair compensation and, where possible, with the option of return."</p>	<p>relocated shall be compensated for any loss or damage suffered as a result of their displacement.</p>
<p>7. Indigenous peoples have the right to restitution of the lands, territories, and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged; or when restitution is not possible, the right to compensation on a basis no less favorable than the standard set by international law.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>7. <u>From the meeting of November 1999</u>: [Indigenous peoples] have the right to restitution of the lands, territories, and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used, or damaged; or, when restitution is not possible, the right to compensation on a basis no less favorable than the standard set by international law.]</p> <p>7. <u>Argentina, seconded by Venezuela and Brazil, 1999</u>: Proposes that this paragraph be deleted.</p> <p>7. <u>Proposal by the United States to add four new paragraphs, 1999</u>:</p> <p>"States should respect the physical security of indigenous peoples. During periods of armed conflict, states may require the total or partial evacuation of indigenous people if the security of the population or imperative military reasons so demand.</p> <p>States should protect the right of indigenous individuals to own, develop, and enjoy land, and interests in land, to the same extent as other individuals.</p> <p>States should protect indigenous individuals and peoples in the use</p>	<p>Eliminated.</p>

	<p>and occupancy of their land. If their land is taken by the state, it should be for a public purpose and just compensation should be provided. States should consider the possibility of negotiated settlements, including the return of land as appropriate, when not otherwise required by law.</p> <p>States should establish penalties and enforcement mechanisms to protect the lands of indigenous individuals and peoples from unauthorized intrusions and uses.”</p> <p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>7. <u>Proposal by the National Congress of American Indians, Upper Sioux Community, Amerindian People Association of Guyana y the Toledo Maya Cultural Council, 1999:</u> “They shall be provided with lands of equal value and quality, and if this is not possible, the affected peoples have the right to compensation on a basis not less favorable than the standard under international law.”</p>	
<p>8. The states shall take all possible measures, including the use of law enforcement mechanisms, to avert, prevent and punish, when applicable, any intrusion on or use of those lands by unauthorized persons in order to take possession or make use thereof. The states shall place maximum priority on the demarcation and recognition of properties and areas of indigenous use.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>8. <u>From the meeting of November 1999:</u> The states shall take all possible measures [, including the use of law enforcement mechanisms,] to avert, prevent, and punish, when applicable, any intrusion on or use of those lands by unauthorized persons in order to take possession or make use thereof. [The states shall place maximum priority on the demarcation and recognition of properties and areas of indigenous use.]</p>	<p>6. The states shall take appropriate measures to avert, prevent, and punish, when applicable, any intrusion on or use of those lands by unauthorized persons in order to take possession or make use thereof. The states shall place maximum priority on the demarcation and recognition of properties and areas of indigenous use.</p>
<p><u>Article XIX. Workers rights</u></p> <p>1. Indigenous peoples shall be entitled to full enjoyment of the rights and guarantees recognized under international labor law and domestic labor law; and to special measures to correct, redress and prevent the discrimination to which they have historically been subject.</p>	<p><u>Article XIX. Workers' rights</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>1. <u>From the meeting of November 1999:</u> Indigenous peoples shall be entitled to full enjoyment of the rights and guarantees recognized under international and domestic labor law (which have been recognized by the states); and to special measures to correct, redress, and prevent the discrimination to which they (might be subjected) (have historically been subjected).</p> <p>1. <u>Proposal by the United States, 1999:</u> “Indigenous individuals have the right not to be subjected to any discriminatory conditions of labor, employment, salary, or other related benefits.”</p> <p>1. <u>Proposal by Canada, 1999:</u> “Indigenous individuals shall enjoy fully all rights established under applicable international and national labor law. States should take immediate and effective measures to</p>	<p><u>Article XIX. Workers' rights</u></p> <p>1. Indigenous peoples and individuals have the right to full enjoyment of the rights and guarantees recognized by the states under international and domestic labor law, and to special measures to correct, redress, and prevent the discrimination to which they might be subjected.</p> <p>The states shall take immediate and effective measures to ensure that indigenous children are protected from all forms of labor exploitation.</p>

	<p>ensure that indigenous children are protected from the worst forms of child labor.</p> <p>Indigenous individuals have the right not to be subjected to any discriminatory conditions of labor, employment, or salary.”</p>	
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<p>2. To the extent to which they are not effectively protected by laws applicable to workers in general, the states shall take such special measures as may be necessary to:</p> <p>a. effectively protect workers and employees who are members of indigenous communities in regard to fair and equal hiring and terms of employment;</p> <p>b. to improve the labor inspection and enforcement service in regions, companies or paid activities involving indigenous workers or employees;</p> <p>c. ensure that indigenous workers:</p> <p>i. enjoy equal opportunity and treatment as regards all conditions of employment, job promotion and advancement; and other conditions as stipulated under international law;</p> <p>ii. enjoy the right to association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organizations;</p> <p>iii. are not subjected to racial, sexual or other forms of harassment;</p> <p>iv. are not subjected to coercive hiring practices, including servitude for debts or any other form of servitude, even if they are based on law, custom, or an individual or collective arrangement, which shall be deemed absolutely null and void in each instance;</p> <p>v. are not subjected to working conditions that endanger their health and personal safety;</p> <p>vi. receive special protection when they serve as seasonal, casual or migrant workers and also when they are hired by labor contractors in order to benefit from national legislation and practice which must itself be in accordance with established international human rights standards for this type of workers; and,</p> <p>vii. that their employers are also made fully aware of the rights of indigenous workers, pursuant to national legislation and</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>2. <u>From the meeting of November 1999:</u> To the extent to which they are not effectively protected by laws applicable to workers in general, the states shall take such special measures as may be necessary to:</p> <p>a. effectively protect workers and employees who are members of indigenous communities in regard to fair and equal hiring and terms of employment;</p> <p>b. improve the labor inspection and enforcement service in regions, companies, or paid activities involving indigenous workers or employees;</p> <p>c. ensure that indigenous workers:</p> <p>i. enjoy equal opportunity and treatment as regards all conditions of employment, job promotion and advancement; and other conditions as stipulated under international law;</p> <p>ii. enjoy the right of association (for lawful purposes), the freedom to engage in all (lawful) trade union activities, and the right to enter into collective agreements with employers or with workers' organizations;</p> <p>iii. are not subjected to racial, sexual, or other forms of harassment;</p> <p>iv. are not subjected to coercive hiring practices, including servitude for debts or any other form of servitude, even if they are based on law, custom, or an individual or collective arrangement, which shall be deemed absolutely null and void in each instance;</p> <p>v. are not subjected to working conditions that endanger their health and personal safety; and</p> <p>vi. receive special protection when they serve as seasonal, casual, or migrant workers, and also when they are hired by labor contractors, so that they will benefit from national law and practice, which must itself be consistent with established international human rights standards for this type of worker; and</p> <p>vii. that their employers are also made fully aware of the rights of</p>	<p>2. To the extent to which they are not effectively protected by laws applicable to workers in general, the states shall take such special measures as may be necessary to:</p> <p>a) effectively protect workers and employees who are members of indigenous communities in regard to fair and equal hiring and terms of employment;</p> <p>b) improve the labor inspection and enforcement service in regions, companies, or paid activities involving indigenous workers or employees;</p> <p>c) ensure that indigenous workers:</p> <p>i) enjoy equal opportunity and treatment as regards all conditions of employment, job promotion and advancement; and other conditions as stipulated under international law;</p> <p>ii) enjoy the right of association, the right to engage freely in trade union activities, and the right to enter into collective agreements with employers or with workers' organizations;</p> <p>iii) are not subjected to racial, sexual, or other forms of harassment;</p> <p>iv) are not subjected to coercive hiring practices, including servitude for debts or any other form of servitude, even if they are based on law, custom, or an individual or collective arrangement, which shall be deemed absolutely null and void in each instance;</p> <p>v) are not subjected to working conditions that endanger their health and personal safety;</p> <p>vi) receive special protection when they serve as seasonal, casual, or migrant workers, and also when they are hired by labor contractors, so that they will benefit from national law and practice, which must itself be consistent with established international human rights standards for this type of worker; and that their employers are also made fully aware of the rights of indigenous workers, pursuant to national law and international standards, and of the resources and means available to them for the protection of those rights.</p>
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<p>international standards, and of the resources available to them for the protection of those rights.</p>	<p>indigenous workers, pursuant to national law and international standards, and of the resources and means available to them for the protection of those rights.</p> <p><u>Proposal by the United States, 1999</u>: “Indigenous individuals should have the right to special measures, where circumstances so warrant, to correct, redress, and prevent the discrimination to which they may have been subject historically.”</p>	
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<p>Article XX. <u>Intellectual property rights</u></p> <p>1. Indigenous peoples have the right to the recognition and full ownership, control, and protection of their cultural, artistic, spiritual, technological and scientific heritage, and legal protection of their intellectual property through patents, trademarks, copyright, and other such procedures as established under domestic law; as well as to special measures which ensure them legal status and institutional capacity to develop, use, share, market and bequeath that heritage to future generations.</p>	<p>Article XX. <u>Intellectual property rights</u></p> <p><u>REPRESENTATIVES OF THE STATES</u>:</p> <p>1. <u>From the meeting of November 1999</u>: Indigenous peoples have a right to the recognition and full ownership, control, and protection of their cultural, artistic, spiritual, technological, and scientific (and biogenetic) heritage, and legal protection of their intellectual property through patents, trademarks, copyright, and other such procedures as established under domestic law; [as well as to special measures which ensure them legal status and institutional capacity to develop, use, share, market, and bequeath that heritage to future generations].</p> <p>1. <u>Venezuela, seconded by Mexico, 1999</u>: Proposes that the last section be deleted.</p> <p>1. <u>Proposal by the United States, 1999</u>: “Indigenous individuals are entitled to apply for and receive, on a nondiscriminatory basis, legal protection for their intellectual property through trademarks, patents, copyright, and other such procedures as established under domestic law.”</p> <p>1. <u>Proposal by the CJI, 1999</u>: “Indigenous populations and their members shall have the right to benefit from the intellectual property rights system under the same terms as the general population. The state shall spare no reasonable effort to protect the intellectual property rights of the indigenous population and its members and to prevent third parties from using an indigenous population’s lack of familiarity with intellectual property rights to their own advantage.”</p>	<p>Article XX. <u>Intellectual property rights</u></p> <p>1. Indigenous peoples have the right to the recognition and full ownership, control, development, and protection of their cultural heritage, and to legal protection of their intellectual property through patents, trademarks, copyright, and other such procedures as established under domestic law. This heritage shall include, <i>inter alia</i>, ancestral knowledge, designs, and procedures; indigenous knowledge related to the usefulness and properties of medicinal plants; and expressions of an artistic, spiritual, technological, scientific, or biogenetic nature.</p>
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<p>2. Indigenous peoples have the right to control, develop and protect their sciences and technologies, including their human and genetic resources in general, seeds, medicine, knowledge of plant and animal life, original designs and procedures.</p>	<p><u>REPRESENTATIVES OF THE STATES</u>:</p> <p>2. <u>From the meeting of November 1999</u>: “Indigenous peoples have the right to control and develop their sciences (and) technologies (and genetic resources), including their human and genetic resources [in general, seeds, medicine, knowledge of plant and animal life, and original designs and procedures] (in keeping with applicable national law).”</p>	
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	2. <u>Proposal by Mexico, 1999</u> . Mexico proposes that all the text in square brackets be deleted.	
3. The states shall take appropriate measures to ensure the participation of indigenous peoples in determining the conditions for both public and private utilization, of the rights cited in the preceding two paragraphs.	<u>REPRESENTATIVES OF THE STATES:</u> 3. <u>From the meeting of November 1999</u> : The states shall take appropriate measures to ensure the participation of indigenous peoples in determining the rights cited in paragraphs 1 and 2.	2. The states shall take appropriate measures to ensure the participation of indigenous peoples in determining the rights cited in the previous paragraph.
Article XXI. <u>The right to development</u>	<u>REPRESENTATIVES OF THE STATES:</u> Article XXI. <u>(The right to development)</u> <u>Proposed new title: (The right to economic development)</u>	Article XXI. <u>Right to development</u>
1. The states recognize the right of indigenous peoples to decide democratically what values, objectives, priorities and strategies will govern and steer their development course, even when they differ from those adopted by the national government or by other segments of society. Indigenous peoples shall be entitled to obtain on a non-discriminatory basis appropriate means for their own development according to their preferences and values; and to contribute by their own means, as distinct societies, to national development and international cooperation.	<u>REPRESENTATIVES OF THE STATES:</u> 1. <u>From the meeting of November 1999</u> : The states recognize the right of indigenous peoples to decide (autonomously) [democratically] what values, objectives, priorities, and strategies will (guide) (govern and orient) the course of their development[, even when these differ from those adopted by the state at the national level or by other segments of society]. Indigenous peoples shall be entitled to obtain, without discrimination of any kind, appropriate means for their own development [according to their preferences and values; and to contribute in their own ways, as distinct societies, to national development and international cooperation.] 1. <u>Proposal by the United States, 1999</u> : "States should take reasonable measures to consult with indigenous peoples when considering public policies for the economic development of indigenous lands or regions, or programs that will affect the living conditions or other legitimate interests of such societies."	1. The states recognize the right of indigenous peoples to decide autonomously what values, objectives, priorities, and strategies will guide their development. Indigenous peoples shall be entitled to obtain, without discrimination of any kind, appropriate means for their own development, and to contribute in their own ways to national development and international cooperation.
2. Unless exceptional circumstances so warrant in the public interest, the states shall take the necessary measures to ensure that decisions regarding any plan, program, or proposal affecting the rights or living conditions of indigenous peoples are not made without the free and informed consent and participation of those peoples; that their preferences are recognized; and that no plan, program or proposal which might have harmful effects on those peoples is adopted.	<u>REPRESENTATIVES OF THE STATES:</u> 2. <u>From the meeting of November 1999</u> : "Unless exceptional circumstances so warrant in the public interest, the states shall take the necessary measures to ensure that decisions regarding any plan, program, or proposal affecting the rights or living conditions of indigenous peoples are not made without the free and informed [consent and] participation of those peoples; that their preferences are recognized; and that no provision which might have negative effects on those peoples is adopted."	2. The states shall take the necessary measures to ensure that decisions regarding any plan, program, or proposal affecting the rights or living conditions of indigenous peoples are taken in consultation with those peoples, so that their preferences are recognized and no provision which might have negative effects on those peoples is adopted. Said consultations shall be carried out in good faith and in a fashion suited to the circumstances, with the aim of reaching an agreement or achieving consent regarding the proposed measures.

<p>3. Indigenous peoples have the right to restitution or compensation no less favorable than set by the standards of international law, for any loss which—despite the foregoing precautions, the execution of those plans or proposals may have caused them; and to the adoption of measures to mitigate adverse environmental, economic, social, cultural or spiritual effect.</p>	<p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>3. <u>From the meeting of November 1999:</u> [Indigenous peoples have the right to restitution or compensation, no less favorable than the standard under international law, for any loss caused them by the execution of those plans or proposals despite the foregoing precautions; and to the adoption of measures to mitigate adverse ecological, economic, social, cultural, or spiritual effects.] Argentina proposes that this paragraph be deleted; Brazil seconds the motion.</p> <p>3. <u>Proposal by Argentina seconded by Brazil, 1999:</u> Proposes that this paragraph be deleted.</p>	<p>3. Indigenous peoples have the right to fair compensation for any loss caused them by the execution of those plans or proposals despite the foregoing precautions; and to the adoption of measures to mitigate adverse ecological, economic, social, cultural, or spiritual effects.</p>
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<p>SECTION SIX. GENERAL PROVISIONS</p> <p>Article XXII. <u>Treaties, acts, agreements and constructive arrangements</u></p> <p>Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other arrangements that may have been concluded with states or their successors, as well as historical Acts, according to their spirit and intent; and to have states honor and respect such treaties, agreements, and constructive arrangements as well as the historical rights emanating from those instruments. Conflicts and disputes which cannot otherwise be settled shall be submitted to the competent bodies.</p>	<p>SECTION SIX. GENERAL PROVISIONS</p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p><u>Proposal by Mexico, 1999:</u> Mexico proposes that the whole of this section be deleted.</p> <p>Article XXII. <u>Treaties, acts, agreements, and constructive arrangements</u></p> <p><u>Text from the meeting of November 1999:</u> Indigenous peoples have the right to the recognition, observance, and enforcement of (valid) treaties, agreements, and other arrangements that may have been concluded with states or their successors, [as well as historical acts], according to their spirit and intent; and to have states honor and respect such treaties, acts, agreements, and constructive arrangements as well as the [historical rights] deriving from those instruments. [Conflicts and disputes which cannot otherwise be settled shall be submitted to the competent domestic bodies.]</p> <p><u>United States proposal, 1999:</u> "States should take all necessary steps under domestic law to implement obligations to indigenous peoples under treaties and other agreements negotiated with them and, where appropriate, to establish procedures for resolving grievances arising under such treaties and agreements in accordance with principles of equity and justice."</p> <p><u>Brazilian proposal, 1999:</u> "Indigenous peoples have a right to the recognition, observance, and application of the treaties, agreements, and other arrangements they may have concluded with states or their successors, according to their spirit and original intent, and to take steps to ensure that they are respected and observed by the states."</p>	<p>SECTION SIX. GENERAL PROVISIONS</p> <p>Article XXII. <u>Treaties, agreements, and constructive arrangements</u></p> <p>Indigenous peoples have the right to the recognition, observance, and enforcement of treaties, agreements, and other arrangements that may have been concluded with states or their successors, according to their spirit and intent, and to have states honor and respect such treaties.</p>
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	<p><u>INDIGENOUS REPRESENTATIVES:</u></p> <p>Proposal by Darwin Hill, indigenous representative, 1999: "Indigenous peoples have the right to the recognition, observance, and enforcement of treaties, agreements, and other constructive arrangements that may have been concluded with states or their successors, according to their spirit and original intent; and to have states honor and respect such treaties, agreements, and arrangements. Conflicts and disputes which cannot otherwise be settled shall be submitted to the international competent bodies by all the parties involved."</p>	
<p>Article XXIII</p> <p>Nothing in this instrument shall be construed as excluding or limiting existing or future rights which indigenous peoples may have or acquire.</p>	<p>Article XXIII.</p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p><u>Text from the meeting of November 1999:</u> Nothing in this instrument shall be construed as excluding or limiting existing or future rights which indigenous peoples may have or acquire.</p> <p><u>United States proposal, 1999:</u> "Nothing in this declaration should be construed as diminishing or extinguishing rights of indigenous individuals or peoples."</p>	<p>Article XXIII.</p> <p>Nothing in this Declaration shall be construed as diminishing or extinguishing the existing or future rights of indigenous individuals or peoples.</p>
<p>Article XXIV.</p> <p>The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the Americas.</p>	<p>Article XXIV.</p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p><u>From the meeting of November 1999:</u> The rights recognized herein constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the Americas.</p>	<p>Article XXIV.</p> <p>The rights recognized in this Declaration constitute the minimum standards for the survival, dignity, and well-being of the indigenous peoples of the Americas.</p>
<p>Article XXV.</p> <p>Nothing in this instrument shall be construed as granting any rights to ignore boundaries between states.</p>	<p>Article XXV.</p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p><u>From the meeting of November 1999:</u> Nothing in this instrument shall be construed as granting any rights to ignore boundaries between states.</p>	<p>Article XXV.</p> <p>Nothing in this Declaration shall be construed as granting any rights to ignore boundaries between states.</p>

<p>Article XXVI.</p> <p>Nothing in this Declaration implies or may be construed as permitting any activity contrary to the purposes and principles of the Organization of American States, including sovereign equality, territorial integrity and political independence of states.</p>	<p>[Article XXVI.</p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p><u>Text from the meeting of November 1999:</u> Nothing in this Declaration implies or may be construed as permitting any activity contrary to the purposes and principles of the Organization of American States, including sovereign equality, territorial integrity, and political independence of states.</p> <p><u>Proposal by Brazil and Mexico, 1999:</u> Brazil and Mexico propose that Article XXVI be deleted.</p>	<p>Article XXVI</p> <p>All applications and interpretations of this Declaration shall respect the sovereign equality, territorial integrity, political independence of states, and other principles enshrined in the Charter of the Organization of American States.</p>
<p>Article XXVII. <u>Implementation</u></p> <p>The Organization of American States and its organs, agencies, and entities—in particular the Inter-American Indian Institute, the Inter-American Commission of Human Rights—shall promote respect for, and full application of, the provisions of this Declaration.</p>	<p>Article XXVII. <u>Implementación</u></p> <p><u>REPRESENTATIVES OF THE STATES:</u></p> <p>Article XXVII. <u>Implementation</u></p> <p><u>Text from the meeting of November 1999:</u> The Organization of American States and its organs, agencies, and entities—in particular the Inter-American Indian Institute and the Inter-American Commission of Human Rights—shall promote respect for, and full application of, the provisions of this Declaration.</p> <p><u>Proposal by Argentina, Brazil, and Mexico, 1999:</u> Argentina, Brazil, and Mexico propose that this article be deleted.</p> <p><u>New paragraph proposed by Brazil, 1999:</u> “The nature and scope of the measures to be taken to comply with this Declaration shall be determined flexibly, taking into account the particular circumstances of each country.”</p>	
		<p>Article XXVII</p> <p>All applications and interpretations of this Declaration shall respect the constitutional principles of each state.</p> <p>Article XXVIII</p> <p>The nature and scope of the measures that must be taken to comply with this Declaration shall be determined on a flexible basis, taking the particular conditions of each country into account.</p>

