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Item 4 of the provisional agenda*

Implementation of recommendations on the six mandated areas and on MDGs

Information received from governments**

Switzerland

Summary

The present document contains comments from Switzerland on a number of recommendations made by the Permanent Forum at its Fifth Session. Switzerland stated that it endorsed most of the recommendations and provided information and comments on other recommendations.

* E/C.19/2007/1.

** The present report was submitted late in order to ensure the inclusion of the most recent information.

Advance Unedited Version

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A. Introduction

1. The recommendations contained in the report of the Fifth Session of the PFII are in general consistent with good practices in the area of indigenous peoples' rights. Switzerland especially welcomes the fact that a rights-based approach is progressively taken into account.

2. Switzerland endorses most of the recommendations and puts forward comments on some recommendations and paragraphs.

3. Switzerland supports the recommendations contained in paragraph 4 as they are in conformity with the rights-based approach adopted by the Swiss Agency for Development and Cooperation (SDC) for its development work. Although redefining the MDGs at this stage would not be a useful exercise, States should consistently ensure inclusion and participation of indigenous groups in order to facilitate a more effective implementation of the MDGs. Similarly, for large scale development projects that affect indigenous communities or that are undertaken on land that historically belongs to indigenous communities, there must be effective participation, consultation and prior agreement by these communities before such projects can be implemented (i.e. free and informed prior consent).

B. Comments on some recommendations

Recommendation 11

4. Switzerland recognizes indigenous peoples' right to self-determination, but does not expressly recognize this right as linked to common article 1 of the International Covenant of Civil and Political Rights. In general, Switzerland does support the overall ethos of this recommendation.

Recommendation 15

5. Environmental sustainability, access to land and natural resources are key issues that have an impact on indigenous groups' enjoyment of their economic, social and cultural rights. The adoption of an indigenous policy by UNEP (as has been done by UNDP) would have a strong positive impact on the rights of indigenous peoples worldwide.

Recommendation 19

6. The progressive recommendations in this paragraph can be supported by Switzerland. However, Switzerland has not yet ratified ILO Convention 169.

Recommendation 24 and 25

7. There is a need for enforced mainstreaming of indigenous rights throughout the UN system and in the policies of international development organizations, so that a coherent framework underpins all strategies and processes supporting the integration of indigenous issues in the achievement of the MDGs.

Recommendation 30

8. Switzerland supports this progressive recommendation but would like to see included therein specific references to indigenous women and children, as this would ensure consistency with the legal framework provided by the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, and help mainstream gender within all MDG components.

Paragraph 34

9. The private sector and multinational corporations must be aware of how their practices can impact upon the lives and livelihoods of indigenous communities. However, in the context of access to genetic resources, the related traditional knowledge and the sharing of the commercial and other benefits arising from their use, measures under patent law are being discussed at the international and national levels, including in particular requirements for patent applicants to disclose certain information in patent applications. Switzerland is not a demandeur with regard to the disclosure of the source in patent applications. Nevertheless, Switzerland has submitted specific proposals on the disclosure of the source to the World Intellectual Property Organization (WIPO), in order to be supportive of the process and in the interest of a balanced patent protection for biotechnological inventions. More information on the proposals submitted by Switzerland can be found <http://www.ige.ch/E/jurinfo/j105.shtm#6>.

Recommendations 36 and 37

10. This approach is fully supported by Switzerland. Country programs targeted towards the reduction/prevention of the spread of HIV/AIDS and its management, must integrate indigenous peoples. Special provision should be made in terms of creating awareness within indigenous communities and supporting them in order for them to incorporate sustainable and culturally sensitive practices of prevention/management of HIV/AIDS.

Recommendations 40

11. This recommendation is supported by the Switzerland. Currently, within the framework of joining programme HURIST between UNDP and OHCHR, UNDP has updated its policy on indigenous issues in only 2 countries – Kenya and Ecuador. It would be useful to get

feedback from these country offices to see how and if the process has been successful and if outreach to more UNDP country offices is planned for the near future.

Recommendation 41

12. The enhancement of conflict prevention and peace building capacities of indigenous peoples is extremely important in understanding and preventing localized conflicts. However, training on its own is often not enough. Communities should be supported to create indicators against which they can regularly monitor and report on local situations, and be able to bring attention to situations which may be spiraling out of control. An amended recommendation in that sense would be supported by Switzerland.

Recommendation 43

13. This recommendation in its current form is confusing and needs further clarification. Switzerland has strong reservations concerning this paragraph. First of all it is unclear to which type of financial investments this paragraph makes reference: Private and/or public investments? By States or by International Organizations? Furthermore, it is not clear why reference is being made exclusively to “financial investments” as there are other forms of investment which may affect the interests of indigenous peoples at least as much as financial investments.

14. As far as trade agreements are concerned, the basic objective is that all measures in the social and environmental fields do not constitute hidden protectionism and that they are not contrary to the principal of national treatment. All measures taken in this field thus have to be consistent with the rules of WTO, where Switzerland is a member. Switzerland asks for

clarifications on the creation, via the current formulation, of a possible form of conditionality in this field.

15. Regarding officially supported export credits, Switzerland follows the environmental guidelines ("Common Approaches") of the OECD-Export Credit Group (ECG). These guidelines include the requirement that before taking decisions on officially supported export credits, the Members of the ECG have to identify and evaluate the environmental impacts of projects, including the impact on indigenous people (for the full text see "Common Approaches"). If an "Environmental Impact Assessment " (EIA) is needed, the applicant (in this case the exporter) is responsible for providing such an EIA.

Recommendation 57

16. This is an important recommendation. Youth plays a fundamental role in social development. Switzerland participates actively in the Commission for Social Development where questions of youth, including indigenous children and youth, are in-depth discussed. Switzerland has ratified ILO Conventions Nr. 138 (minimum age convention) and Nr. 182 (worst forms of child labour convention) and financially supports ILO's International Program for the Elimination of Child Labour (IPEC) in Pakistan.

Recommendation 83

17. Switzerland has not yet ratified ILO Convention 169 (C169). An in dept analysis of the implications of a ratification of C169 in relation with the Swiss travellers community has been carried out. Although C169 has not been ratified, its principles have been included in Switzerland's foreign policy, especially in its development cooperation.