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Follow-up of the recommendations of the Permanent Forum

Information from States on addressing the recommendations of the United Nations Permanent Forum on Indigenous Issues.

Note by the secretariat

Summary

This report is a compilation of the responses from States to the questionnaire on action taken or planned for addressing and implementing the recommendations of the United Nations Permanent Forum on Indigenous Issues. The questionnaire that was sent to States and the complete responses from States are available on the Permanent Forum website http://www.un.org/esa/socdev/unpfii/en/session_tenth.html.

* E/C.19/2011/1.

Contents

Introduction.....	
I. Response to recommendations from the Ninth Session of the United Nations Permanent Forum on Indigenous Issues (UNPFII).....	
II. Governments' efforts regarding indigenous peoples and the Millennium Development Goals	
III. Government response to (a) Economic and Social Development; (b) Environment; (c) Free, Prior and Informed Consent.	
IV. Obstacles encountered by governments in implementing the recommendations of the Permanent Forum.....	
V. Factors that facilitate government's implementation of the recommendations of the Permanent Forum.....	
VI. Specific laws and/or policies that address indigenous peoples' issues.....	
VII. National institution (ministry, department, ombudsman, etc.) on indigenous peoples' issues.....	
VIII. Formal or ad hoc capacity-building programmes on indigenous peoples' issues for civil servants.....	
IX. Promotion and/or implementation of the U.N. Declaration on the Rights of Indigenous Peoples.....	

Introduction

1. As of 21 February 2011, written responses to the questionnaire by States submitted for the 10th Session of the Permanent Forum on Indigenous Issues (Permanent Forum) were received from the **Plurinational State of Bolivia; Burkina Faso; Chile, Ecuador; El Salvador; Niger, Peru, Switzerland and the United States of America**. These States provided responses to the questionnaire, as well as overviews on the situation of indigenous peoples in their countries. Recent developments in Ecuador and Peru to build an intercultural society has led to reporting of indigenous peoples issues' along with other ethnic groups. However, for the purpose of this report, only issues relating to indigenous peoples will be outlined. The complete written responses from States can be found on the Permanent Forum's website: http://www.un.org/esa/socdev/unpfii/en/session_tenth.html.

2. Many states outlined their commitment to promoting all citizens and cultures as well as the need to eliminate discrimination against marginalized groups in the community, including indigenous peoples. In most instances, national Constitutions contain extensive safeguards to ensure that human rights apply uniformly to all citizens, as in the case of **Switzerland**. In **Ecuador**, the rights of indigenous peoples along with other nationalities have been recognized in the new Constitution of Ecuador (2008) that acknowledges Ecuador as an intercultural and plurinational state. This recognition is intended to provide a more inclusive approach to all Ecuadorians, building a new form of coexistence based on cultural diversity and harmony with Mother Earth, to achieve *Sumak kawsay* or living well. In this context, the National Assembly of Ecuador has designated 19 September as the *Day of Interculturality and Plurinationality*, in honor of the birthday of the late indigenous leader, Tránsito Amaguaña. In February 2009, the Government of **Bolivia** enacted its new Constitution which guarantees the full participation of indigenous peoples in the construction of the State of Bolivia.

3. The identification of indigenous peoples differs among countries. In **Bolivia, Chile, Ecuador, El Salvador, Peru and the United States**, there are identified indigenous peoples while the Touaregs of **Burkina Faso** have never been officially declared indigenous peoples. At the same time, Burkina Faso counts the Touaregs among its

population, describing them as belonging to the Berber nomads living in central Sahara and on the borders of the Sahel. According to Burkina Faso, the Berbers are identified as indigenous peoples in Algeria and Morocco. An organization in Burkina Faso called *Tinhinan*, that works for the development of nomadic women, has been the voice of the indigenous peoples of Burkina Faso in international forums. Hence, there is recognition of the existence of indigenous peoples in Africa and elsewhere and is committed to promoting and defending their human rights. **Switzerland** does not have indigenous peoples within the definitions of indigenous peoples in pre-colonial societies, although there are minority groups in the country. However, Switzerland supports international efforts to protect and promote the rights of indigenous peoples. In its report, **Niger** did not specifically refer to indigenous peoples.

4. States reported on recent initiatives to address indigenous peoples' issues. The **United States** reported President Obama's announcement on 16 December 2010 that the United States has changed its position and is now lending its support to the UN Declaration on the Rights of Indigenous Peoples (UN Declaration). A more detailed statement regarding the United States' support for the UN Declaration can be found on its website.¹ Also, on the same date, at the White House Tribal Nations Conference, the United States Government announced it has been working to strengthen its relationship with Native American tribes. As a part of its effort, the United States government and tribal officials have developed a comprehensive strategy to help meet the challenges facing Native American communities. In July 2010, the Government of **Peru** established the Vice Ministry for Intercultural Affairs within the structure of the Ministry of Culture which aims to promote the rights of indigenous peoples in accordance with ILO Convention 169 and the UN Declaration. In October 2010, the First National Indigenous Congress was held in **El Salvador**. At the opening of the Congress, the President of El Salvador, Mr. Mauricio Funes Cartagena, apologized to the nation's indigenous peoples for the harm they have suffered over the past five centuries and from this day forward he would

¹ <http://www.state.gov/documents/organization/153223.pdf>

officially terminate the historical denial of the diversity of peoples and acknowledge El Salvador to be a multiethnic and multicultural society.

I. Response to recommendations from the Ninth Session of the United Nations Permanent Forum on Indigenous Issues (UNPFII).

5. States addressed this question with broad reference to the Permanent Forum's recommendations from the ninth session. One of the recommendations from the ninth session was for the **United States** and Canada to endorse the UN Declaration on the Rights of Indigenous Peoples. In 2010 both States changed their previous positions and now support the UN Declaration.² The United States also reported that many of the priorities identified by Native American tribal leaders at the White House Tribal Nations Conference in December 2010, correspond to recommendations made by the Permanent Forum at its Ninth and previous sessions.

6. The Permanent Forum recommended that States and the UN system provide political, institutional and financial assistance, in accordance with Article 42 of the UN Declaration on the Rights of Indigenous Peoples, to support the efforts of indigenous peoples so they can consolidate their own development models and concepts of living well...³ In 2010, **Burkina Faso** participated for the first time at the ninth session of the Permanent Forum and reported this was an indication of the country's interest in the promotion and protection of indigenous peoples' rights. It also reported that it has laws that provide local authorities (municipalities and regions) to undertake any action to promote economic, social, cultural and environmental and participate in regional planning. These laws are for all citizens of Burkina Faso and hence apply equally to those who considered themselves to be indigenous peoples.

7. In **Peru**, the government provides political, institutional and financial support to indigenous peoples, in accordance with Article 42 of the UN Declaration, so they can

² E/C.19/2010/15 paragraph 16.

³ Ibid, paragraph 11

build their own development models and practices on the concept of living well. During 2009 and 2010 the Government conducted a series of macro-regional events with national and regional indigenous organizations to identify priority issues, project ideas and activities (such as land titling) to achieve development with identity for indigenous peoples. The Government also collected a series of contributions to be considered as the main input for the development of a proposed National Policy on Intercultural and Social Inclusion. In developing such policy, it is expected there will be participation from indigenous peoples, and that such restructuring will elevate indigenous peoples' issues to the highest political level and increase the capacity of government action. In the mining and energy sector, the Government approved an Emergency Decree in March 2010 so that regional governments receive royalties and fees for rural and indigenous communities in their jurisdiction. Further, since 2006, the Ministry of Energy and Mining has been promoting the establishment of a fund called *Mining Programme for Solidarity with the People* so that companies, in coordination with indigenous peoples, can develop projects for local development in the quest to eradicate poverty.

8. The Permanent Forum recommended that States, UN Agencies and financial institutions and donors promote and support development processes that are led and carried out by indigenous women's organizations, in accordance with articles 3 and 32 of the UN Declaration; for leadership and capacity; building schools; and the creation of funds managed by indigenous women themselves.⁴ In **Peru**, the Ministry for Intercultural Affairs have expressed interest in carrying out similar joint projects with indigenous peoples' organizations.

9. The Permanent Forum recommended that States include ethnic identification in vital statistics and health records, allocate more funding for intercultural services that ensure indigenous women's access to health care, including emergency obstetric care, voluntary family planning and skilled attendants at the delivery process, and that the role of traditional midwives be strengthened.⁵ The Ministry of Health in **Peru** has implemented

⁴ Ibid, paragraph 33

⁵ Ibid, paragraph 165

policies for the expansion of intercultural health services for women and children in the Amazon region. In addition, maternal and neonatal intervention health services have been developed in other indigenous peoples' regions. In **El Salvador**, the Ministry of Health is implementing an Outreach Health Coverage Programme for indigenous peoples and other vulnerable groups. It also proposes health interventions at community level to address the social determinants of health and promote preventable health measures.

10. The recommendation that States with indigenous peoples review their legislation, policies and programmes in accordance with the UN Declaration and the Programmes of Action for the Second International Decade of the World's Indigenous People was also addressed by some States.⁶ In **Peru**, the Vice-Ministry of Intercultural Affairs will conduct a review of Peru's national norms to propose legal reforms that include an intercultural approach in line with international commitments. The UN Declaration and ILO Convention 169 are both incorporated in **Bolivia's** new constitution and other legal provisions on the rights of indigenous peoples.

11. The Permanent Forum issued specific recommendations to the Government of **Bolivia** in its in-depth dialogue during the ninth session on the situation of indigenous peoples in the Chaco region. This in-depth dialogue was based on the report of the Permanent Forum's mission⁷ to the Plurinational State of Bolivia and also the response submitted by them⁸. In general, there were three main recommendations addressed in the written response by Bolivia. These recommendations referred to the implementation of constitutional provisions regarding the liberation of indigenous peoples living under forced labour and servitude; reforming land processes on the grounds of servitude; and implementation of specific policies in the areas of housing and health in indigenous communities that had been subjected to servitude.⁹

12. Bolivia reported that public policy on Intercultural Family and Community Health has been strengthened so that health officials and medical staff were able to tour the

⁶ E/C.19/2010/15 paragraph 47

⁷ E/C.19/2010/6

⁸ E/C.19/2010/12/Add.1

⁹ E/C.19/2010/15 paragraphs 60, 61, 63

Chaco region and offer medical care to 13,271 indigenous Guarani and Wenayeks peoples. Further, social subsidies were paid to pregnant women and women with children under two years of age, as well as the elderly. The Ombudsman also disseminated information on laws protecting indigenous peoples in the Chaco region as well as collecting reports and dealing with violations of peoples' rights. In 2010, the Ministry of Labour and Social Welfare implemented two national programmes to eradicate child labour and forced labour in the Chaco region. This included undertaking inspection of farms and developing management programmes for those farms that require further labour inspections. It also included developing training programmes in labor and social rights, creating labor unions and the establishment of a committee comprising of employers, workers and government officials to implement guidelines on labor and social standards in favour of the indigenous peoples living in the Chaco region.

13. In compliance with the provisions of the Constitution on the release of captive families and resolutions for land reform, the Government of Bolivia has implemented measures, through the National Agrarian Tribunal, and taken back abandoned lands where the previous land-owners held indigenous peoples in servitude. These lands will be transferred to the indigenous peoples as communal lands. The Government of Bolivia, in cooperation with the Guarani peoples has carried out a programme that aims to provide birth certificates and identity cards in order to benefit from the Government's social services programmes.

II. Governments' efforts regarding indigenous peoples and the Millennium Development Goals

14. The **United States** reported it has undertaken various efforts regarding indigenous peoples and the Millennium Development Goals. The Obama Administration has prioritized funding for Indian housing and education, which supports both eradicating extreme poverty and hunger and achieving universal primary education. The United States has also invested significant resources in managing wildfires and improving habitat, addressing contamination and

degradation, and supporting renewable energy resources, all of which contribute to realizing environmental sustainability as part of the MDGs

15. **Ecuador's** implementation of the Millennium Development Goals is outlined in a document entitled *Millennium Development Goals Status Report 2008: Indigenous Nationalities and Peoples of Ecuador*. The objectives are set out in the *Organic Law on Food Sovereignty* which promotes a safe and culturally appropriate food for communities, peoples and nations. The *Law of Higher Education* guarantees free public education especially for indigenous peoples. It also includes curriculum reform and scholarship programs for indigenous peoples. Further, a strong campaign against sexism has also been implemented, with a special emphasis on indigenous peoples which is articulated under the *Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion*.

16. In **Burkina Faso**, the implementation of the Millennium Development Goals applies without discrimination, to all peoples. However, in order to pursue a balanced development of all regions, the Government has provided extra efforts in particular regions that experience unpredictable rainfalls in order to improve health, education and access to drinking water to the peoples residing in these regions.

17. The Government of **Peru** reported that in the year 2000, it made a commitment to meet the objectives of the Millennium Development Goals and introduced policies and programmes to raise the living standards of the poorer sectors of the country, which includes indigenous peoples. In the 2010 report *The State of Indigenous Children in Peru*, prepared by UNICEF and National Institute of Statistics and Informatics, health insurance coverage has increased for indigenous peoples so that there is a higher proportion of indigenous children and adolescents affiliated with health insurance compared to the proportion of non-indigenous children. In terms of safe motherhood in indigenous communities the Ministry of Health has implemented delivery care and cultural adaptation in health facilities which has led to the reduction of maternal mortality.

18. The Government of **Chile**, in partnership with the United Nations system in Chile, has developed a *Program for strengthening national capacities for the prevention and management of intercultural conflicts*. One of the key elements outlined in the Programme's strategy is to measure the progress of the Millennium Development Goals in regards to indigenous peoples. The MDGs have been part of the development strategy adopted by Chile to improve the quality of life and overcoming poverty, inequality and various forms of discrimination and exclusion. The Government has prepared two national reports on achieving the MDGs. The first report considers Chile's proposed targets in economic growth and development in social programmes; and the second report, prepared in 2008, considers achievements and provides a regional analysis that revealed the differences in regional inequalities in the achievement of the MDGs. The Government of Chile and the United Nations system are conducting a study to determine the status of implementation of the Millennium Development Goals for indigenous peoples and also to forecast if it is feasible to achieve the Goals by 2015, as well as decrease the implementation gaps between indigenous and non-indigenous peoples.

19. **Switzerland** supports international efforts to protect and promote the rights of indigenous peoples which are set out in the *Information Note on the Swiss Action for Indigenous Peoples (1999)* published by the Federal Department of Foreign Affairs. Under the Department of Foreign Affairs, the mandate of the Swiss Agency for Development and Cooperation (SDC) is based on its mandate to fight against poverty and promote human rights for indigenous peoples. The activities that support indigenous peoples include capacity building; participation in decision-making and social policies; access to public services (e.g. education, health), and economic and natural resources. Switzerland supports projects for indigenous peoples within the framework of its country programs in Bolivia, Bangladesh, the Sahel and others, as well as the activities undertaken by the Geneva-based NGOs such as doCip that provides training as well as facilitates access to, and supports indigenous peoples' active participation in UN meetings. In their report, Switzerland provided examples of programmes for indigenous peoples in Bangladesh and Bolivia.

20 The Government of **Bolivia** implements the Millennium Development Goals through its National Development Plan which aims to overcome exclusion of indigenous peoples and to reduce inequalities and eradicate extreme poverty and hunger. In the area of education, measures were introduced to grant incentives to indigenous students to remain in school in order to reduce drop-out rates and absenteeism. These measures are having an impact in the rural areas. In the fight against poverty, the Treasury's Office transferred funds and resources, to be administered by the Council of Indigenous Organizations, to be used in projects to strengthen various indigenous communities, in order to facilitate productive enterprises which are intended to eradicate poverty.

21. In order to address the implementation of the MDGs, the Government of **El Salvador** stated it was necessary to first address and find resolution to the past treatment of indigenous peoples by the actions of previous Governments. This included the recognition of indigenous peoples so they can be included in social policies that benefit them as well as the establishment of the First National Indigenous Congress which held a series of meetings in October 2010 with organizations and indigenous leaders where the President formally apologized to indigenous peoples for past policies of neglect that was perpetuated by previous Governments.

III. Government response to (a) Economic and Social Development; (b) Environment; (c) Free, Prior and Informed Consent.

22. The **United States** is engaged in numerous initiatives to address the concerns raised by Native American leaders, including the areas addressed by the Permanent Forum recommendations in reference to this question. Many involve the continuation of activities highlighted in the White House Tribal Nations Conference Progress Report released in June 2010. Decentralization laws in **Burkina Faso**, enshrines the full transfer of powers to regions and municipalities in the areas of economic and social development and environment. The government also supports various local authorities in implementing their development plans by transferring financial and human resources. As

a result, that development choices are from the people themselves, including indigenous peoples.

Q3 (a) Economic and Social Development

23. The Obama Administration has taken numerous steps, in coordination with the affected tribes, to promote the economic and social well-being of indigenous peoples in the **United States** in the areas of employment and training; housing, education, access to high speed Broadband and infrastructure development. Full details of these initiatives can be found in the report provided by the United States. In **Ecuador**, the law on food sovereignty favors indigenous peoples and also aims to strengthen healthy food production. In **El Salvador** the Ministry of Health is implementing two projects to improve the health of vulnerable peoples, which includes indigenous peoples. The first project aims to improve access to the health services' tuberculosis programme and the second is the Outreach Health Services Coverage Programme. Full details of these initiatives can be found in the report provided by El Salvador.

24. **Niger** has developed, implemented and revised the *Strategy of Accelerated Development for Poverty Reduction* with the aim to improving economic and social development and eliminate extreme hunger and poverty. A number of sectoral policies were developed and they include the rural development strategy; the national education policy; the national policy on youth; and the national gender policy.

25. In **Bolivia**, the Government provides development funds and resources for indigenous and peasant communities which are managed by a board composed of organizations of indigenous peoples, peasant and Afro-Bolivian communities. All these communities, whether local, regional or national can have access to the funds by submitting project proposals in the areas of production (agriculture, handicrafts, community tourism, fodder, seeds, land reclamation and small scale irrigation); capacity building; and social projects that aim to revitalize and protect ancestral knowledge. There are also additional

development programmes for indigenous peoples that are funded by various municipalities.

26. In **Peru**, the Vice Ministry of Intercultural Affairs develops policies, programs and projects that promote the recognition of the right to cultural diversity, citizenship, ensuring social inclusion and sustainable development. There are plans underway to develop, with members of civil society organizations, academics, and representatives of indigenous peoples, a National Policy on Intercultural and Social Inclusion, which serves as the focus of public policy that will be binding on all government sectors. Further, the National Institute for the Development of Andean, Amazonian and Afro-Peruvian identifies, proposes, develops, participates and manage programs and projects for development with identity for indigenous peoples. It also promotes capacity building for indigenous peoples through training; organizes and oversees the implementation of projects and programmes for the development of indigenous and Afro-Peruvian peoples to realize the intercultural and social inclusion in order to improve the quality of life for indigenous peoples.

27. In **Chile**, there are programmes at the national level for indigenous peoples that include a fund for Indigenous Lands and Waters; an Indigenous Development Fund; an Origins Program (with the Inter-Development Bank); and Indigenous programs at the National Institute of Agricultural Development (INDAP) which supports indigenous farmers. In November 2006, the Government of Chile and the Inter-Development Bank designed the Origins Program to improve the quality of life of rural communities of the Aymara, Atacameño, Quechua and Mapuche peoples. This project is due for completion in 2011.

28. **Switzerland** has conducted interventions over several years to strengthen the capacity of public institutions such as FORDECAPI in the Plurinational State of Bolivia, to improve the rights of the Guarani peoples. The project funds three regional offices with the objective to enable Guarani peoples who have lived under forced labor and servitude,

full access to land titles; develop policies and laws that prohibit forced labor; provide access to justice programmes and negotiate salary for Guaraní workers.

Q3 (b) Environment

29. The **United States** is committed to protecting the environment, and recognizes that many indigenous peoples depend on a healthy environment for subsistence fishing, hunting and gathering. While there is far more that needs to be done, the United States is taking many steps in coordinating with the affected tribes, to address environmental challenges in Indian Country and beyond. Specific examples include *Wildfire Management and Improvement of Habitat; Addressing Contamination and Degradation; Supporting Renewable Energy Resources and Other Projects*. Full details of these initiatives can be found in the report provided by the United States. In **Ecuador**, there have been meetings with indigenous peoples' organizations on Land Management and Collective Rights as well as workshops to raise awareness of the meaning of the plurinational state, interculturalism and the Plan of Living Well, in accordance to national and international legal instruments. The Life Plan is another instrument built with the direct participation of indigenous peoples in order to build the Plurinational and Intercultural State of Ecuador.

30. As stated above, the decentralization laws in **Burkina Faso** enshrine the full transfer of powers to regions and municipalities in the areas of economic and social development and environment. In **Niger**, the development and implementation of national policies on the sustainability of the environment has contributed to protecting the flora and fauna as well as safeguard endangered animals and plant species. **El Salvador** reported that in 2010, the Municipality of Nahuizalco enacted an ordinance to protect natural resources. The regulation seeks to promote the development of indigenous communities in the municipality of Nahuizalco in protecting and preserving their cultures, the lands and territory and natural resources both renewable and non-renewable. In **Chile**, environmental laws requires environmental impact statements for project or activities where resettlement of communities or significant changes to living systems and customs

have taken place, that are located near towns or protected areas, conservation sites, as well as anthropological and archaeological sites. There is an obligation that the assessments are issued with the expressed duty to protect indigenous peoples and their lands.

31. A central objective of the Government of **Bolivia** is the management of the environment which has been emphasized in public policy. In November 2010, the Bolivian Assembly passed a law on the Rights of Mother Earth. This law incorporates the principles of harmony, common good, ensuring the regeneration of mother earth and to respect and defend the right of mother earth as the basis for living in harmony with nature. During the 16th UNFCCC Conference of Parties, held in Cancun, Mexico in December 2010, Bolivia defended the *Acuerdo de los Pueblos*¹⁰ (Agreement of the Peoples) which was an outcome document of the World Peoples' Conference on Climate Change and the Rights of Mother Earth, held in Cochabamba, Bolivia in April 2010. Bolivia has also implemented policies on access to safe water, sanitation, micro-irrigation and irrigation in rural areas for indigenous peoples. The Bolivian constitution confirms access to water and sanitation as a human right and that water should not be privatized or subjected to licensing and registration. In July 2010, following the initiative of Bolivia, the UN General Assembly adopted an historical resolution on water and sanitation as a human right. In January 2011, following extensive consultations, the Ministry of Environment and Water in Bolivia presented a draft Water Act to the National Assembly.

32. In **Peru**, there is a National Service for Natural Protection Areas which is an agency under the Ministry of Environment that is responsible for directing and establishing the technical and administrative criteria for the conservation of protected areas and the maintenance of biodiversity. Peru has also made progress in the implementation of ILO 169 in terms of procedures for consultation around the legal and technical aspects involved in the creation and administration of communal reserves. These communal reserves are natural reserves for indigenous peoples who conserve and use natural resources in a sustainable manner. The Ministry of Environment has also approved the

¹⁰ A/64/777

development of National Forest Conservation as well as the Proposed Mitigation and Adaptation to Climate Change in areas where indigenous peoples reside.

Q3(c) Free, Prior and Informed Consent

33. The **United States'** efforts to strengthen the government-to-government relationship with tribes is crucial so that government agencies have the necessary input from tribal leaders before those agencies take actions that have a significant impact on tribes. It is for this reason that President Obama signed a Presidential Memorandum in 2009¹¹ on the implementation of *Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments*, and directed all federal agencies to develop detailed plans of action to implement the Executive Order.

34. In this regard, the United States, in lending its support to the UN Declaration on the Rights of Indigenous Peoples, recognized the significance of the Declaration's provisions on free, prior and informed consent, which the United States understands to call for a process of meaningful consultation with tribal leaders before the actions addressed in those consultations are taken. The United States intends to continue to consult and cooperate in good faith with federally recognized tribes and, as applicable, Native Hawaiians, on policies that directly and substantially affect them and to improve cooperation and consultation processes, in accordance with United States federal law and President Obama's call for better implementation of Executive Order 13175. Further details are in the report of the United States.

35. In **Ecuador**, free, prior and informed consent has been a part of public policies for intercultural communication and it is demonstrated in the negotiation for access to radio frequencies for indigenous peoples. In **Burkina Faso**, the issue of free, prior and informed consent has been covered by the provisions of an Act, passed in December 2004 on local government. This Act establishes the right of local governments to freely

¹¹ <http://www.whitehouse.gov/the-press-office/memorandum-tribal-consultation-signed-president>

administer and manage their own affairs in order to promote grassroots development and strengthen local governance.

36. In 2010, at the request of the Government of Bolivia, **Switzerland** coordinated the first consultation process at the national level in accordance with the ILO Convention 169 on the development of the law and justice. The consultation process was conducted using a methodology developed with the assistance of the High Commissioner for Human Rights in Bolivia. Switzerland intends to present the process of consultation and methods used to the tenth session of the Permanent Forum. As part of this process, the Government of **Bolivia** enacted legislation on implementing the right to consultation in accordance with the State Constitution, the United Nations Declaration and ILO 169, Bolivia has an obligation to conduct a consultation process on legislative or administrative measures pertaining to indigenous peoples.

37. Article 34 of **Chile's** Indigenous Act establishes the general rules of participation and consultation where government departments and State organizations must consider the views of indigenous peoples when dealing with matters relating to indigenous peoples' issues. In order to comply with its obligations under Articles 6 and 7 of ILO 169, Chile issued Decree No 124 which regulates Article 34 of the Indigenous Act. It states that indigenous peoples are to be consulted through their traditional organizations, communities and associations. The bodies responsible for holding consultations include Ministries, Municipalities, and Regional Governors, armed forces and Public Order and Security.

38. In **Peru**, the government is obliged to guarantee the rights of indigenous peoples in accordance with ILO Convention 169 and the UN Declaration. These frameworks not only recognizes the rights of indigenous peoples but also the right to consultation and that the consultation process includes the broad participation of indigenous peoples. In order to promote and monitor the ongoing dialogue process with indigenous peoples, the Congress of Peru approved a law in May 2010 that establishes the right of indigenous peoples to be consulted on legislative and administrative measures. Further, the Ministry

for Energy and Mines developed, with the technical assistance of ILO, a Draft Regulation for consultation with indigenous peoples on mining and energy. It sets out the framework for consultation with indigenous peoples when developing mining and energy activities that directly affects them.

39. In **El Salvador**, the Social Investment Fund for Local Development is designed to encourage municipalities to strengthen and promote decentralization and regionalization. It also incorporates an indigenous peoples' component that identify the influences and impact on indigenous peoples in the municipalities. In order to ensure that consultations are carried out with indigenous peoples during the project implementation, an appropriate framework is being considered that promotes the inclusion of indigenous peoples and other groups in every stage of the project. Similarly, the process will include an Action Plan with measures to ensure indigenous peoples obtain adequate social and economic benefits as well as measures to strengthen the capacity of the project implementing agencies. Further, the Ministry of Social Inclusion, in keeping with its mandate to remove discrimination and promoting social inclusion and capacity building of indigenous peoples, has formed three working groups to respond in a positive way to realizing the rights of indigenous peoples. Within this framework, a Task Force on Indigenous Peoples has been mandated to establish a dialogue with indigenous leaders and indigenous organizations to ensure that all activities, programmes and policies have the approval of indigenous peoples themselves.

IV. Obstacles encountered by governments in implementing the recommendations of the Permanent Forum

40. The **United States** changed its position on the UN Declaration which has led to the increased awareness among federal agencies about the work of the United Nations regarding indigenous peoples. For this reason the United States believes it is premature at this point to comment on obstacles. The Government of **Ecuador** reported that it was difficult to support indigenous peoples' demands and while there had been established

dialogues with indigenous peoples, obstacles remained because there is division within the indigenous peoples' movement. Further, there is no consistency between the indigenous leadership and local leaders, largely because of the lack of knowledge of government projects and processes. Hence, these divergent positions have made it difficult to fully implement the recommendations of the Permanent Forum. For **Bolivia** the difficulties in implementing the Permanent Forum recommendations is often due to resistance from some sectors of society that tends to be conservative and thus hinder public policies that could benefit indigenous peoples. The Government of **Chile** reported there are important opportunities to improve policies for indigenous peoples and that there is overwhelming consensus that institutional frameworks must be improved. Further, Chile faces institutional constraints in developing programs and benefits for indigenous peoples' development. For example, there are all kinds of institutional barriers that prevent or hinder indigenous peoples' access to benefits and programs offered by various government departments and ministries. Some of these issues are being addressed and the details are outlined in the report by Chile.

41. The Government of **Peru** reported it has specific rules for indigenous peoples residing in isolation and Peru recognizes their right to communal reserves so they can maintain their isolation in order to protect their rights, habitat and conditions that ensure their existence and integrity as peoples. At the same time, the situation of dispersion and remoteness of some indigenous peoples mean there is limited state presence to meet their needs. Coupled with this, is the need to find specific formulas to implement the Permanent Forum recommendations. However, the establishment of the Vice Ministry of Intercultural Affairs may result in improving state action. On the other hand, not all resources and capabilities have been fully developed since the decentralization process that was initiated some years ago where many central government powers were transferred to regional and local governments and this could be a factor that limits the implementation of the recommendations of the Permanent Forum. However, it is important to note that the Government is aware of these limitations.

V. Factors that facilitate government's implementation of the recommendations of the Permanent Forum?

42. As previously stated, the **United States** changed its position on the UN Declaration which has increased awareness among federal agencies about the work of the UN regarding indigenous peoples. Hence, the United States felt it was premature at this point to comment on this question. **Burkina Faso** noted the implementation of its decentralization law and regulatory measures to promote and protect human rights of all social groups, including those who claim to be indigenous peoples is a factor that facilitates the implementation of the Permanent Forum's recommendations. **Niger**, while not referring specifically to indigenous peoples, stated it was important to have political stability, political engagement and national commitment in implementing the Permanent Forum's recommendations.

43. According to the Government of **El Salvador**, in order to implement the recommendations of the Permanent Forum, it was necessary to first address and find resolution to the past treatment of indigenous peoples by previous Governments. In July 2010, the Secretary of Social Inclusion signed an agreement with the National Registry of Natural Resources, the Corporation of Municipalities of the Republic of El Salvador, and the Attorney General's Office, to grant all indigenous peoples the right to regain their indigenous names and identity which had been denied to them under repressive policies introduced in 1932.

44. The Government of **Chile** is committed to promoting cultural diversity, including promoting indigenous cultures and identities; revising and improving existing methods of land grants; restructuring existing institutions, and continuing to build effective consultation processes that include indigenous peoples' participation. In September 2010, a Roundtable meeting was convened by the President to establish and expand dialogue with indigenous peoples and their organizations in order to address concerns, as well as restore trust between the government and indigenous peoples.

45. The Government of **Ecuador** reported that strengthening institutions was the key factor for facilitating the government's implementation of the Permanent Forum recommendations. Part of this process includes bridging the interface between civil society and the state; working closely with indigenous peoples to strengthen their organizations; support the formulation and implementation of plans and proposals for organizational and community strength, with emphasis on interculturalism, plurinationality and non-discrimination. Further, to establish Inter-Ministerial Committees as intergovernmental forums to collect and respond to proposals from indigenous peoples.

46. The Government of **Peru** reported that one factor that facilitates the implementation of the Permanent Forum's recommendations was promoting the visibility of indigenous peoples in the national agenda and the various branches of government that requires special attention and will remain a priority for 2011. Another factor that facilitates the implementation of the Permanent Forum's recommendations includes the creation of an executive branch within the Vice Ministry of Intercultural Affairs which has resulted in indigenous peoples' issues to be at the same level of importance as other issues prioritized by the state. Further, the issue around the right to consultation for indigenous peoples has been recognized in court cases. Another important factor is the Congress of Peru has established legislative bodies that are devoted exclusively to indigenous peoples' issues, such as the Commission of Andean, Amazonian and Afro-Peruvian Peoples and Environment and Ecology. These bodies adopt policy framework that track and evaluate standards concerning the rights of indigenous peoples, as well as those related to environmental preservation and conservation of natural resources

47. In 2007, President Evo Morales of **Bolivia** addressed the seventh session of the Permanent Forum which raised the promotion and implementation of the UN Declaration. Also on November 2007 in Santiago de Chile, at the XVII Iberoamerican Summit of Heads of State and Government, President Morales proposed a United Nations World Conference on Indigenous Peoples. As a result, in 2010, the General Assembly of

the United Nations agreed to organize the World Conference on Indigenous Peoples in 2014. Similarly, Bolivia's government has facilitated the participation of leaders and indigenous peoples' organizations in meetings of the Permanent Forum and the Expert Mechanism on the Rights of Indigenous Peoples. Through the various ministries, the Executive has endorsed the UN Declaration and ILO Convention 169, through publications and workshops. Also, with support from the Fund for the Development of Indigenous Peoples of Latin America and Caribbean, the UN Declaration has been translated into Aymara, Spanish, Quechua and Guarani.

VI. Specific laws and/or policies that address indigenous peoples' issues.

48. It is not possible to list all of the laws and policies that pertain to indigenous peoples in the **United States**. Nevertheless, there are several landmark laws and policies that address indigenous peoples' issues:

- President Nixon's 1973 Message to Congress on Indian Self-Determination
- The 1974 Indian Self-Determination and Education Assistance Act, and its many innovative amendments, including Self-Governance provisions
- The 1994 Native American Graves Protection and Repatriation Act
- President Clinton's 1996 Executive Order 13007 on sacred sites
- President Clinton's 2000 Executive Order 13175 on tribal consultation
- The 2010 Permanent Authorization of the Indian Health Care Improvement Act
- The 2010 Tribal Law and Order Act

49. In **Ecuador**, there are laws that may impact on indigenous peoples. These include the Water Law; Land and Mining Law; Intercultural Bilingual Education Law; Food Security Law. **Burkina Faso** and **Niger** do not have laws and/or policies specifically designed for indigenous peoples. As previously stated, in **El Salvador** has implemented specific actions in relation to indigenous peoples and these include signed agreements in July 2010 between the Secretary of Social Inclusion with the National Registry, the Corporation of Municipalities of the Republic of El Salvador and the Attorney General's

Office which grants the rights of indigenous peoples to be registered as indigenous peoples and regain their indigenous names, a practice which had been repressed since 1932.

50. In **Peru**, there are many laws that recognize the importance of safeguarding the rights of indigenous peoples. It is not possible to list all the laws here and they are in the report by Peru. Some of the laws include:

- Law of Native Communities and Agrarian Development of the Selva and Ceja de Selva (1979);
- Regulations of the Law for the Protection of Indigenous Peoples in isolation (2006);
- Protection Act on Access to Peruvian Biological Diversity and Collective Knowledge of Indigenous Peoples (2004);
- Protection on Indigenous Peoples' Knowledge derived from Biological Resources (2002);
- Law on Private Investment in the development of economic activities on indigenous peoples' lands (1995).

51. **Bolivia** has five key laws that were adopted during 2010 to strengthen the structure of the States which consolidate and expands the rights of indigenous peoples. These include:

- Act No. 027 of the Constitutional Court
- Act No. 025 of the Judiciary
- Act No. 026 of the Electoral System
- Act No. 018 of the Plurinational Electoral Body
- Law No. 031, Framework Law on Autonomy and Decentralization.

52. In **Chile**, there are many laws that recognize the importance of safeguarding the rights of indigenous peoples. It is not possible to list all the laws here but they are in the report by Chile. Some of the laws include:

- Creation of Council of Ministers for Indigenous Affairs. Ministry of Planning.
Decree No. 101 July 14, 2010
- Designates Coordinating Minister of Indian Affairs from the General Secretariat of the Presidency, General Secretariat of the Presidency.
Decree No. 97 September 26, 2009
- Promulgates the Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries of the Organization of Labour, Ministry of Foreign Affairs.
Decree No. 236 October 14, 2008
- Promulgates the Support Management Program of the National Corporation for Indigenous Development, Ministry of Foreign Affairs.
Decree No. 338 February 18, 2005
- Declares the zone of "Alto Andino Arica-Parinacota" as indigenous development area from the Ministry of Planning.
Decree No. 224 March 11, 2005
- Sets rules on the protection, promotion and development of indigenous peoples, and creates the Corporation National Indigenous Development (CONADI).
Law N ° 19.253 5 October 1993

VII. National institution (ministry, department, ombudsman, etc.) on indigenous peoples' issues

53. Historically, the **United States** Congress has placed broad-ranging authority over Indian affairs with the Secretary of the Interior, as reflected in Acts of Congress and often codified in Title 25 of the United States Code. In recent years, specialized authority has also been given to other parts of the executive branch of the federal government whose responsibilities are typically exercised in consultation with the Secretary of the Interior. Day-to-day operations of Indian Affairs at the Department of the Interior are exercised by the Assistant Secretary of the Interior – Indian Affairs and the Secretary, Presidentially-appointed and Senate-confirmed positions. The Obama Administration appointed a Senior Policy Advisor for Native American Affairs within the White House Domestic

Policy Council. The official in that position coordinates issues within the White House and across the entire executive branch of the U.S. government. The position is currently filled by Ms. Kimberly Teehee.

54. In **Peru**, the responsibility for indigenous peoples' issues falls under the Minister for Culture, in particular the Vice Ministry of Intercultural Affairs which proposes mechanisms and develop policies that prevent the exclusion or discrimination of indigenous peoples in accordance with ILO 169 and the UN Declaration. Other State structures have dedicated units that work on indigenous peoples' issues and they include the Directorate of Intercultural, Bilingual and Rural Education, in the Ministry of Education; the Rural Development Division of the Ministry of Agriculture; the Ministry of Health, the Ministry of Energy and Mines; the Ministry of Environment; the Ministry of Labour, the National Institute for the Defence of Competition and Intellectual Property; the President's of the Council of Ministers; the Ombudsman; the Ministry for Foreign Affairs; the Ministry for Women and Social Development and in Congress, there is the Regular Commission of the Andean, Amazonian and Afro-Peruvian Peoples and Environment and Ecology. Further details on these Ministries can be found in the report by Peru.

55. In **El Salvador** there are three institutions that are responsible for indigenous peoples: The Secretaría de Inclusión Social; Secretaría de Cultura de la Presidencia; Ministerio de Relaciones Exteriores. In **Burkina Faso**, the Ministry for the Promotion of Human Rights is the state organization responsible for implementing the national policy for promoting and protecting human rights for all peoples in the country, including those who consider themselves to be indigenous peoples. In **Ecuador**, the Secretariat of Peoples, Social Movements and Citizen Participation is responsible for indigenous peoples' issues and it is based in the Department of Peoples and Interculturality.

56. In **Chile**, the main institution responsible for implementing indigenous peoples' policies is the National Indigenous Development Corporation (CONADI) which was created under the Indigenous Act 1993. CONADI is under the Ministry of Planning. In

addition, the overall coordination of indigenous policy is in the General Secretariat of the Presidency which is responsible for developing the legislative agenda for the Government. There is also an effort to mainstream indigenous policies through the creation of indigenous affairs units in all Ministries including the Police. In June 2010, the Council of Ministers for Indigenous Affairs was established which advises the President in the design and coordination of public policies for indigenous peoples. Further details can be found in the report by Chile.

VIII. Formal or ad hoc capacity-building programmes on indigenous peoples' issues for civil servants

57. A number of countries provided information on training programmes on indigenous peoples' issues for government officials. In the **United States**, there are many federal government agencies that have training courses for federal officials about federal Indian law and policy. One inter-agency example is a course, developed in the previous administration titled *Working Effectively with Tribal Governments*.¹² The Government of **Ecuador** reported it has signed agreements with universities to train public officials on indigenous peoples' issues. In **El Salvador** the Ministry for Social Inclusion conducts workshop for civil servants on indigenous peoples' issues. There have also been a number of training activities in **Chile** for national and regional governments and municipalities on indigenous peoples' issues as well as workshops for Unit managers and Regional Ministries on Indigenous Affairs to review and advance the inclusion of indigenous peoples in public policies and programmes. Further details can be found in the report provided by the Government of Chile. In **Peru**, the National Institute for the Development of Andean, Amazonian and Afro-Peruvian peoples has agreements with universities for training government officials on public policies and interculturality. Workshops have also been held with school officials to advance the values of equal opportunity and tolerance in order to eliminate prejudice and stigma about indigenous peoples in Peru.

¹² <http://tribal.golearnportal.org/>.

IX. Promotion and/or implementation of the U.N. Declaration on the Rights of Indigenous Peoples.

58. The document *Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples – Initiatives to Promote the Government-to-Government Relationship & Improve the Lives of Indigenous Peoples* explains the **United States** support for the UN Declaration.¹³ In **Ecuador**, the Constitution welcomes the UN Declaration and ILO Convention 169, as well as other laws on Civil and Indigenous Justice Systems. In the National Plan of Living Well, objective 8 is aimed at Indigenous Peoples and other Nationalities as well as *Sumak Kawsay*.

59. **Burkina Faso** supported the adoption of the UN Declaration in the UN General Assembly in 2007. Burkina Faso's attendance at the Permanent Forum's session for the first time in 2010 is part of its stated desire to learn more about the rights of indigenous peoples. The Government of **El Salvador** voted in favour of the UN Declaration in the UN General Assembly in 2007 and this is a clear demonstration that there is a will by the Government to recognize the rights of indigenous peoples. The Ministry for Social Inclusion, in conjunction with the Regional office of the High Commissioner for Human Rights, is scheduled to hold a forum to promote the UN Declaration in early 2011 with the participation of the Special Rapporteur on the Rights of Indigenous Peoples via teleconference. In **Bolivia**, the UN Declaration on the Rights of Indigenous Peoples became part of the legal structure of the State in 2007 and was included in the new Constitution that was enacted in February 2009.

60. In **Peru**, one of the functions of the Vice Ministry of Intercultural Affairs within the Ministry of Culture is to promote and guarantee social equality and respect for the rights of indigenous peoples of the country in accordance with Convention 169 of the International Labour Organization (ILO) and the United Nations. In addition, the

¹³ <http://www.state.gov/documents/organization/153223.pdf>

Commission of Andean, Amazonian and Afro-Peruvian, Environment and Ecology of Peru, has been promoting initiatives to ensure full implementation of the UN Declaration.

61. The Government of **Chile** supported the adoption of the United Nations Declaration during the 61st session of the General Assembly of the United Nations on 13 September 2007. Since 2009, Chile has been developing a joint project with the UN System on *Strengthening national capacities for the prevention and intercultural conflict management in Chile 2009-2011*. This project is based on the United Nations Declaration. Additionally, the project involves all UN agencies, including the International Labour Organization (ILO), an institution that collaborates with the Government of Chile in the implementation of Convention 169. As part of its emphasis on international rights for indigenous peoples, Chile has been implementing and disseminating ILO Convention 169.