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Information received from non-governmental organizations

Tebtebba Foundation , The Foundation for Aboriginal and Islander Research Action,
The Saami Council, Forest Peoples' Programme and Na Koa Ikaika o Ka Lahui
Hawaii

Note by the Secretariat

In its report on its fourth session, held from 16 to 27 May 2004, the Permanent Forum on

Indigenous Issues identified proposals, objectives, recommendations and areas of possible future action and, recommended that States, organizations of the United Nations system and intergovernmental organizations, indigenous peoples and non-governmental organizations assist in their realization. Information received in this regard from non-governmental organizations is contained in the present document.

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Re-defining the Millennium Development Goals
Indigenous Peoples and International Financial Institutions

1. In her paper entitled ‘Indigenous Peoples and the Millennium Development Goals’, the Chair of the Permanent Forum on Indigenous Issues (UNPFII) sets out compelling reasons for re-defining the Millennium Development Goals (MDG) in the case of indigenous peoples¹. She observed, among others, that a human rights-based approach to the MDGs is essential and that for indigenous peoples it is difficult to talk about development without also addressing rights to lands and resources, identity and culture, and self-determination. She also highlighted the importance of moving beyond mitigation measures to concerted support for indigenous peoples’ own development choices if pursuit of the MDGs is to benefit, rather than prejudice, indigenous peoples.

2. Development, including meeting the MDGs, has a strong human rights component which is affirmed in the Final Declaration of the 1993 Vienna World Conference on Human Rights, which stresses that “While development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights.” The jurisprudence of UN and regional human rights treaty bodies also emphasizes this principle, and the Millennium Declaration declares that “no effort” will be

¹E/C.19/2005/4/Add.13

spared to achieve “respect for all internationally recognized human rights.” Respect for the rights of indigenous peoples should therefore be fundamental to pursuing the MDGs.

3. To adequately re-define the MDGs as they relate to indigenous peoples, the role, policies and practices of international financial institutions (IFIs) also must be addressed. IFIs include multilateral bodies such as the World Bank Group, the International Monetary Fund, regional development banks, UN programmes and funds, bilateral donor agencies and national export credit agencies, and private commercial banks. IFIs provide a large proportion of the funding for projects aimed at achieving the MDGs or that otherwise affect the achievement of MDGs and some promote far reaching policy and sectoral loans that often have profound consequences for indigenous peoples. IFIs also influence the design of national structural adjustment programs, fiscal and macro-economic policies and trade and investment policies of borrower countries.

4. Attention to IFIs is also critical as many of them have recently revised or are presently revising their policies on indigenous peoples. There is an emerging global shift at the policy level concerning how IFIs view indigenous peoples in their activities. Some of these IFIs are members of the UN system and the Inter-Agency Support Group on Indigenous Issues (IASG). It is critically important that the UNPFII and indigenous peoples actively participate in these policy revisions to ensure that the implementation of the policies will be consistent with indigenous peoples’ rights and perspectives.

5. IFIs that have revised or are presently revising policies include the World Bank, the Asian and Inter-American Development Banks and the International Finance Corporation (IFC). For the most part, these policies fall below international human rights standards applying to indigenous peoples. In the case of certain loans, particularly technical assistance, sectoral and structural adjustment loans, there are no specific guarantees applicable to indigenous peoples. Institutions without a formal operational policy on indigenous peoples include the International Monetary Fund, the Global Environment Facility, the African Development Bank, most bilateral donors and Export Credit Agencies (ECAs), and a number of large commercial banks.

6. The revision of the IFC's policies has ramifications that extend far beyond the operations of the IFC itself. These policies may soon be adopted by around 40 large commercial banks that have subscribed to the Equator Principles.² These banks provide an estimated 80 percent (US\$125 billion) of private sector international project finance.³ Further, ECAs are increasingly relying on IFC policies. Therefore, as the IFC revises its own policies, it is in effect undertaking a global standard-setting exercise affecting environmental and social issues in the majority of privately-financed foreign direct investment projects.

7. IFI projects and sectoral loans often include serious negative impacts on indigenous peoples' rights. This has been recognized by the Special Rapporteur on the human rights and fundamental freedom of indigenous people, who observed that "in numerous instances the rights and needs of indigenous peoples are disregarded, making this one of the major human

² See *The Equator Principles*. Available at: <http://www.equator-principles.com>

rights problems faced by them in recent decades.” The Special Rapporteur on indigenous peoples' permanent sovereignty over natural resources on indigenous land rights reached the same conclusion, as have the World Bank studies which found that indigenous peoples “have often been on the losing end of the development process.”

8. These negative impacts are not necessarily avoided or effectively mitigated simply because an IFI has a policy on indigenous peoples, especially where these policies lack effective safeguards for rights to traditional territories and free, prior and informed consent. As the Chair of the UNPFII explains, “Protection and mitigation of the adverse impacts of development are not enough for indigenous peoples who did not seek such projects in the first place.”

Recommendations:

9. We urge the UNPFII to make the following recommendations:

- **That the UNPFII initiate or intensify its dialogue with IFIs about their policies and activities to underscore the fundamental importance of respecting indigenous peoples' rights to lands, territories and resources and to free, prior and informed consent in relation to development-related activities. This includes looking into**

³ IFC *Strategic Directions 2004*, International Finance Corporation: Washington D.C., 23 March 2004, 2.

sectoral, structural adjustment and technical assistance loans, and how these impact on indigenous peoples.

- **That the Secretariat of the UNPFII request and collate information from IFIs on their policies and projects affecting indigenous peoples and undertake in-depth case studies of IFI-financed projects to identify norms and best practices on how development projects can effectively uphold indigenous peoples' rights and strengthen indigenous peoples' own development choices;**
- **As a follow up to the January 2005 UNPFII's workshop on free, prior and informed consent, that the UNPFII draft a decision for adoption by ECOSOC authorizing a workshop to elaborate indicators on free, prior and informed consent and other pertinent issues, including as they relate to IFIs;**
- **That the UNPFII meets with the IFC with the aim of assisting it to develop implementation guides and principles that will apply to operationalization of its new policies;**
- **That the UNPFII requests regular information from the World Bank and IFC on their implementation of their policies and that the UNPFII meets with the Board of Executive Directors and management of the World Bank Group in relation to the three-year review of OP 4.10 in 2008 and implementation of the new IFC policy;**

- **That the UNPFII recommend that the Special Rapporteur on human rights and fundamental freedom of indigenous people in collaboration with other rapporteurs and experts of the Forum study write a report on indigenous peoples' rights and development and IFIs;**
- **That the UNPFII act on the November 2005 invitation of a number of the Equator Banks to begin a dialogue on indigenous peoples' issues, especially in relation to their adoption and implementation of the new IFC policy framework, and that the UNPFII convene a seminar before its next session with indigenous peoples' and Equator Banks' representatives;**
- **That the UNPFII communicates with the Organization for Economic Co-operation and Development's Export Credit Division and its Working Party on Export Credits and Credit Guarantees with a view to ensuring that adequate and effective policies are in place to safeguard the rights and interests of indigenous peoples affected by ECA-financed activities;**
- **That the UNPFII involve with the ongoing formulation and review of the Inter-American and Asia Development Banks of their policies on indigenous peoples and encourages the African Development Bank to draw upon the work of the African Commission on Human and Peoples' Rights Working Group on Indigenous Peoples**

and, in collaboration with African indigenous peoples, discuss the development of an operational policy on indigenous peoples;

- **That the UNPFII recommends that the Committee on Economic, Social and Cultural Rights develop and adopt, with the participation of indigenous peoples, a General Comment on indigenous peoples that includes treatment of IFI- and MDG-related issues; and,**
- **That the UNPFII helps ensure the participation of indigenous peoples in poverty, environmental, human rights and social impact assessment studies being undertaken by the IFIs and NGOs on their policies, programs and projects.**

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