

United Nations Special Rapporteur  
on the Situation of Human Rights and Fundamental Freedoms  
of Indigenous Peoples

**FORMAL COMMUNICATION MADE PURSUANT TO  
COMMISSION ON HUMAN RIGHTS RESOLUTION 2001/57**

Failure of the Republic of Suriname to Recognize, Guarantee and  
Respect the Rights of Indigenous and Tribal Peoples to Lands,  
Territories and Resources, to Cultural Integrity and  
to be Free from Racial Discrimination

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## Forest Peoples Programme

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## **Executive Summary**

This formal communication highlights widespread and systematic violations of the human rights and fundamental freedoms of indigenous and tribal peoples in the Republic of Suriname. It details the fact that indigenous and tribal rights to own, control, use and peacefully enjoy their lands, territories and resources are neither recognized nor guaranteed in Surinamese law and that these rights are frequently violated in practice, especially in connection with resource exploitation operations. Concessions for logging and mining are routinely granted on and around indigenous and tribal territories without notifying, consulting with or seeking the consent of the affected indigenous and tribal peoples and without regard for their human rights.

It is submitted herein that indigenous and tribal peoples (approximately 15-18 percent of the total population) presently suffer institutionalized and systematic racial discrimination, particularly evident in the failure of the Suriname to recognize indigenous and tribal possession and laws as sources of property rights, in the denial of their linguistic and cultural rights and in the provision of substantially lower education and health facilities compared to other sectors of Surinamese society and its failure to take action to remedy this situation.

The communication stresses that Suriname is the only state in the Americas that has failed to legally recognize and guarantee some measure of protection for indigenous and tribal rights to lands, territories and resources. Coupled with substantial and highly prejudicial resource exploitation operations, this failure to recognize and respect territorial and resource rights has led to gross violations of indigenous and tribal peoples' human rights, undermined their means of subsistence, and severely compromised their physical, cultural and economic integrity. As territorial and other rights are not recognized and protected by Surinamese law, indigenous and tribal peoples are without adequate and effective remedies to assert and defend their rights in domestic procedures leaving them no choice but to seek international oversight, intervention and protection.

International attention is urgently needed as violations of indigenous and tribal rights in Suriname are widespread, systematic and substantial and the nature and impact of the violations is immediate, ongoing and, in some cases, irreversible. Suriname is internationally responsible for these violations by virtue of its acts and omissions, which include active support for third parties by providing military and paramilitary police units to guard multinational concessions in indigenous and tribal areas.

The rights presently violated with impunity in Suriname are fundamental to the physical and cultural survival and well being of indigenous and tribal peoples. Without urgent international attention, the lands, territories and resources of indigenous and tribal peoples in Suriname will be irreversibly degraded, depriving the affected peoples of the source of their physical, cultural, economic, social and spiritual sustenance.

Finally, this formal communication respectfully requests:

1. That the Special Rapporteur, as an urgent matter, contact the State of Suriname to seek its views on the issues raised herein and to commence dialogue with the state aimed at securing recognition of and respect for the rights of indigenous and tribal peoples;

2. That the Special Rapporteur, or his representative(s), conduct an on-site visit to Suriname to view the situation first hand and to hear the views of indigenous and tribal peoples, government officials and other interested parties;
3. That the Special Rapporteur write a report of his on-site visit to Suriname, including the relevant facts, observations of the State and indigenous and tribal peoples, the points of law and rights implicated, and his proposals and recommendations to the State for immediate/urgent actions and follow up measures required to prevent and remedy violations of the human rights and fundamental freedoms of indigenous and tribal peoples;
4. That the Special Rapporteur act as or appoint a representative to act as a facilitator of a settlement securing the rights and fundamental freedoms of indigenous and tribal peoples in Suriname;
5. Should Suriname fail to respond to the Special Rapporteur's requests for information or for an on-site visit:
  - (a) that the Special Rapporteur inform the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights and the Permanent Forum on Indigenous Issues and;
  - (b) that the Special Rapporteur seek to have Suriname included as part of the Commission on Human Rights' Country Mandate and propose that the Commission adopt a resolution appointing a country rapporteur to examine and report on the situation of indigenous and tribal peoples in Suriname.

## I. Introduction

1. This communication, submitted pursuant to paragraph 1(a) of Commission on Human Rights resolution 2001/57, provides information on the human rights situation of indigenous and tribal peoples in the Republic of Suriname with an emphasis on their rights to lands, territories and resources. It requests, *inter alia*, that the Special Rapporteur contact the State of Suriname to seek its views on the issues raised herein and to commence dialogue with the state aimed securing recognition of and respect for the rights of indigenous and tribal peoples and; that the Special Rapporteur conduct an on-site visit to Suriname to view the situation first hand and to hear the views of indigenous and tribal peoples, government officials and other interested parties.

2. The Special Rapporteur's first report to the Commission on Human Rights emphasizes that the need for strong and effective guarantees for indigenous and tribal peoples' rights to lands, territories and resources cannot be overstated. In addition to reviewing international standards pertaining to these rights, the report notes that in the past 20 years states throughout the world have adopted Constitutional provisions, laws and other measures to recognize and guarantee the rights of indigenous and tribal peoples to their lands, territories and resources, to their cultures, their languages and identity, and their institutions and legal systems.<sup>1</sup> The report observes that this is especially the case in South America.

3. The Republic of Suriname, a small country on the north east coast of South America, stands in stark contrast to the other states in South America; indeed, it is the only state in the Americas as a whole that has failed in any way to legally recognize and guarantee the rights of indigenous and tribal peoples to own, control, manage, use and peacefully enjoy their lands, territories and resources. Other rights, fundamental to indigenous and tribal survival, are also not recognized and guaranteed.

4. In this context, the Special Rapporteur's report states that "[t]he Special Rapporteur considers, on the basis of the evidence and in agreement with Ms. Daes, that land, territory and resources together constitute an essential human rights issue for the survival of indigenous peoples ...,"<sup>2</sup> and, that "[f]rom time immemorial indigenous peoples have maintained a special relationship with the land, their source of livelihood and sustenance and the basis of their very existence as identifiable territorial communities."<sup>3</sup> The report also observes that "Indigenous communities maintain historical and spiritual links with their homelands, geographical territories in which society and culture thrive and which therefore constitute the social space in which a culture can reproduce itself from generation to generation."<sup>4</sup> This connection between territory, identity and cultural integrity has been repeatedly recognized and affirmed by international human rights bodies and others.<sup>5</sup>

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<sup>1</sup> *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen, submitted pursuant to Commission resolution 2001/57*. UN Doc. E/CN.4/2002/1997, paras. 30-3.

<sup>2</sup> *Ibid.*, at para. 57.

<sup>3</sup> *Ibid.*, at para. 39.

<sup>4</sup> *Ibid.*, at para. 49.

<sup>5</sup> See, for instance, *Report on the Situation of Human Rights in Ecuador*, Inter-American Commission on Human Rights, OEA/Ser.L/V/II.96 doc.10, rev.1 (1997), 115; *Second Report on the Situation of Human*

5. In Suriname, indigenous and tribal land and resource rights are also not respected in practice. Numerous concessions for logging and mining have been issued in and around indigenous and tribal lands and territories. Logging and mining activities taking place in these concessions have seriously compromised indigenous and tribal peoples' resource base, subsistence rights and the quality of their environment. In some cases, the state has provided military and paramilitary forces to guard the concessions of multinational mining and logging companies. Nature conservation activities, especially the establishment of nature reserves and national parks, have also resulted in expropriation of indigenous and tribal lands and led to denials of their subsistence and cultural rights.<sup>6</sup> In some cases, the impact of these activities may accurately be described as ethnocidal as they are undermining and tearing apart the socio-cultural integrity of indigenous and tribal peoples and communities.

6. Future plans for mining will also affect indigenous and tribal peoples. In west Suriname, for example, state plans to authorize exploitation of bauxite deposits will require relocation of at least one indigenous community called Washabo.<sup>7</sup> Relocation has been presented to the community as a *fait accompli*. Another six communities will be directly affected by the mining plans and may also face forcible relocation. The Maroon community of Adjoemakondre experienced this in 1991 and is still suffering the effects of bauxite mining today.<sup>8</sup> Another Maroon community, Nieuw Koffiekamp, faces forcible relocation for the second time in 40 years so that a Canadian multinational can mine a gold deposit under and around the village.<sup>9</sup>

7. The preceding has occurred despite Suriname's ratification of numerous universal and regional human rights instruments obligating it to recognize and respect the rights of indigenous and tribal peoples and despite numerous good faith attempts by indigenous and tribal peoples to seek resolution of their land and resource rights concerns. Domestic remedies to challenge violations of indigenous and tribal rights are either non-existent or have proved ineffective and illusory. For this reason and in light of the preceding, international scrutiny and action is urgently needed.

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*Rights in Peru*, Inter-American Commission on Human Rights, OEA/Ser.L/V/II.106, Doc 59 rev., June 2, 2000, Ch. X, para. 16; *General Comment No. 23 (50) (art. 27)*, adopted by the Human Rights Committee at its 1314th meeting (fiftieth session), 6 April 1994. UN Doc. CCPR/C/21/Rev.1/Add.5; Bernard Ominayak, Chief of the Lubicon Lake Band vs. Canada, Report of the Human Rights Committee, 45 UN GAOR Supp. (No.43), UN Doc. A/45/40, vol. 2 (1990); *United Nations draft Declaration on the Rights of Indigenous Peoples*. UN Doc. E/CN.4/Sub.2/1993/29, Annex, arts. 7 and 25 and; Committee on the Elimination of Racial Discrimination, *General Recommendation XXIII (51) concerning Indigenous Peoples Adopted at the Committee's 1235th meeting*, on 18 August 1997. UN Doc. CERD/C/51/Misc.13/Rev.4., at para. 5

<sup>6</sup> See, *infra* paras. 94-8.

<sup>7</sup> See, Annex B(2) and (3).

<sup>8</sup> See, *infra* paras. 65-7

<sup>9</sup> See, Annex B(8). Nieuw Koffiekamp is one of the so-called "transmigration villages" (over 20 Maroon villages with a population of approximately 6000) that were forcibly relocated from their ancestral lands to make way for a hydroelectric dam and reservoir in 1963-4. The dam was constructed to provide power for a bauxite and alumina refinery. For an extensive discussion on the situation at Nieuw Koffiekamp, see, MacKay, F., 2002. Mining in Suriname: Multinationals, the State and the Maroon Community of Nieuw Koffiekamp. In, L. Zarsky (ed.), *Human Rights and the Environment*. EarthScan: London. See, also, *Natural Resources, Foreign Concessions and Land Rights: A Report on the Village of Nieuw Koffiekamp*. Unit for Promotion of Democracy, General Secretariat, Organization of American States 1997.

8. The failure of Suriname to recognize and guarantee the land and resource rights of indigenous and tribal peoples and active violation of those rights caused by, among others, logging and mining concessions and widespread environmental degradation, not only violates specific protections for these rights in international law, it also manifestly discriminatory on the basis of race. Among others, indigenous and tribal peoples' forms of land tenure and the property rights flowing from their customary laws are not recognized and respected, while the property rights of other Surinamese citizens are recognized and respected. The only distinction is race and ethnicity. Indigenous and tribal peoples constitute around 15-18 percent of the total population of Suriname. Moreover, the discrimination against indigenous and tribal peoples is firmly entrenched in Surinamese law and official practice. Racial discrimination is therefore both widespread and systematic in contravention of customary international, *jus cogens* norms and various international instruments ratified by Suriname.

## **II. The Forest Peoples Programme**

9. The Forest Peoples Programme is an international NGO, founded in 1990, with its main office in the United Kingdom. It supports the rights of forests peoples by, among others, providing policy advice, technical support and training to indigenous and other forest-dependent peoples at local, national and international levels. It exists to support the response of forest peoples to the global forest crisis and aims to secure the rights of peoples, who live in the forests and depend on them for their livelihoods, to control their lands and destinies. The Programme has five main goals:

- to support an effective global movement of forest peoples.
- to promote coordinated action on forests by NGOs of North and South in line with forest peoples' visions and concerns.
- to promote the rights and interests of forest peoples in international forest policy and human rights fora.
- to support genuine, community-based, sustainable forest management.
- to counter top-down planning and official solutions to the deforestation crisis, which deny local people a decisive voice about resource use in their areas.

10. The Programme has had an extensive field programme in Suriname since 1996 and presently employs two persons to support indigenous and tribal peoples and organizations in that country, one of whom is a tribal person and based in-country on a full-time basis. The Programme has produced numerous publications relating to the situation in Suriname, the most comprehensive of which is entitled *The Rights of Indigenous Peoples and Maroons in Suriname*, published by the International Work Group for Indigenous Affairs, Doc. No. 96. (1999).<sup>10</sup>

## **III. Indigenous Peoples and Maroons in Suriname – Basic Information**

11. Indigenous peoples comprise approximately 3-4 percent of the Surinamese population – approximately 12-16,000 persons - comprising four distinct peoples: Kalinya (Carib), Lokono (Arawak), Trio and Wayana. Small numbers of other indigenous peoples also live in Suriname – the Wai Wai, Akuriyo, Okomoyana, Sirituyana, for instance –

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<sup>10</sup> Kambel, E-R., & F. MacKay, 1999. *The Rights of Indigenous Peoples and Maroons in Suriname*. International Work Group for Indigenous Affairs, Doc. No. 96. Copenhagen.

mainly concentrated around the Trio community of Kwamalasemutu. In total there are 35 major indigenous villages in Suriname, some of them on the coast and some deep in the interior of the country. Suriname's rainforests, savannahs and coastal forests have sustained them since time immemorial and for the most part remain their most important source of subsistence resources.

12. Suriname is also home to non-indigenous tribal peoples known as Maroons. There are six Maroon peoples: the Saramaka, N'djuka (or Aucaner), Matawai, Kwinti, Aluku, and Paramaka comprising approximately 60,000 persons (around 15 percent of the total population). Maroons are the descendants of escaped slaves who fought themselves free from slavery, established viable, autonomous communities along the major rivers of Suriname's rainforest interior in the 17<sup>th</sup> and 18<sup>th</sup> centuries and have maintained distinct cultures comprising an amalgamation of African and Amerindian traditions. Their freedom from slavery and rights to lands and territory and the autonomous administration thereof were recognized in treaties concluded with the Dutch colonial government in the 1760s and reaffirmed in further treaties in the 1830s. Recognition of their autonomy has eroded in the past 50 years and the government now asserts that Maroons have no rights to their territories and, for the most part, refuses to recognize tribal authorities and law.<sup>11</sup>

13. Maroons consider themselves and are perceived to be culturally distinct from other sectors of Surinamese society and regulate themselves according to their own laws and customs. This was acknowledged by the Inter-American Court on Human Rights in 1993.<sup>12</sup> As such, they qualify as tribal peoples according to international definitional criteria and for the most part enjoy the same rights as indigenous peoples under international law.<sup>13</sup> Maroons also constitute minorities for the purposes of article 27 of the International Covenant on Civil and Political Rights (hereinafter 'ICCPR') and peoples under article 1 of the same instrument. Maroons are also recognized as tribal peoples by the state of Suriname.<sup>14</sup>

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<sup>11</sup> *Ibid.*, 55-80.

<sup>12</sup> Inter-American Court on Human Rights, *Aloeboetoe et al. Case. Reparations (Art. 63(1) of the American Convention on Human Rights)*, Judgment of September 10, 1993. ("In this regard, the evidence introduced shows that . . . the members of the tribe . . . are governed by their own norms. . . . Moreover, any disputes that arise on this subject are not submitted by the Saramacas to the government courts, and the intervention of the courts in the affairs of the Saramacas with respect to the subjects mentioned is virtually nonexistent. It should also be noted that, in the present case, Suriname recognized the existence of a customary law for the Saramacas." (para. 58)). See, also, *inter alia*, E-R. Kambel & F. MacKay, *The Rights of Indigenous Peoples and Maroons in Suriname*, IWGIA Doc. 96, Copenhagen (1999), at 66-70.

<sup>13</sup> See, *Proposed American Declaration on the Rights of Indigenous Peoples*, approved by the Inter-American Commission on Human Rights at its 1333rd sess. on Feb. 26, 1997. In, OEA/Ser.L/V/II.95.doc.7, rev. 1997, at 654-676, art. 1(2): - "This Declaration applies to indigenous peoples as well as peoples whose social, cultural and economic conditions distinguish them from other sections of national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations" - *International Labour Organization Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries 1989*, Article 1- "This Convention applies to: (a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;" and, *World Bank Operational Directive 4.20 on Indigenous Peoples (1991)*. See, also, F. MacKay, *The Rights of Maroons in International Law*, 25(4) *Cultural Survival Quarterly* 10 (2002).

<sup>14</sup> See, *infra*, note 44 and accompanying text and para. 40.

## **IV. Human Rights Situation of Indigenous Peoples and Maroons in Suriname**

### **A. General Overview**

14. Indigenous and tribal peoples, especially women and children, fall at the bottom of all economic indices and are the most disadvantaged and impoverished sectors of Surinamese society. Indigenous and tribal peoples receive fewer services than non-indigenous and tribal persons, both quantitatively and qualitatively. Their property rights in and to their ancestral territories are neither guaranteed in law nor respected in practice. Their socio-cultural integrity, territorial and resource rights are presently threatened and violated by uncontrolled resource exploitation operations that are causing severe environmental degradation and health threats. These operations are taking place without consultation, participation or agreement, without regard for the human rights of the affected peoples and without compensation or mitigation measures.

15. Some of the forms of discrimination faced by indigenous and tribal peoples have been noted above. In particular, discrimination based on the failure to recognise indigenous and tribal peoples' forms of land tenure and laws as giving rise to property rights. Discrimination is also pervasive and institutionalized with regard to health and education.

#### **1. Discrimination with regard to health and education**

16. According to UNICEF, only 50-60 percent of indigenous and tribal communities has access to primary schooling and then only up to grade 6 (11 years of age).<sup>15</sup> Frequently, education is only provided until grade 4 (9 years of age). The Wayana community of Kawemhakan, for instance, sends its children to school in French Guiana as they have no school in the village; despite repeated requests to the government over a six year period they still do not have a school. This not only violates international human rights law, it also violates Article 39 of Suriname's Constitution, which restates the right to education, including the duty of the State to guarantee obligatory and equal primary education free of charge.<sup>16</sup> Schools in the interior<sup>17</sup> are almost exclusively run by the Roman Catholic and Moravian churches, which operate without state subsidies, whereas on the coast the government funds, operates and maintains free primary and secondary education services. There are only two secondary schools in the interior and access to secondary school in Paramaribo, the capital, is extremely difficult for indigenous and maroon children. If the child is able to pass the entrance exam, the costs for boarding and school fees far exceeds the means of most indigenous and tribal families. Children that do gain entrance are forced to leave their families, their communities and their cultures and live in boarding houses (known as *internaten*) in order to obtain secondary education.

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<sup>15</sup> UNICEF-Caribbean Office, *Suriname*, 21 May 2002. Accessible at: <http://www.unicef-cao.org/publications/Reports/PromiseToCaribbeanChildren/Suriname2.html>

<sup>16</sup> This provision of the Constitution is non-justiciable, as are the majority of the Constitutional rights, which may only be pronounced upon by the Constitutional Court. Despite its establishment in the 1975 Constitution (repeated in the 1987 Constitution), to date, the Constitutional Court exists on paper only.

<sup>17</sup> As used herein and in Suriname, 'interior' refers to remote rural areas predominantly inhabited by indigenous and tribal peoples. It is generally used in opposition to the 'coast' an area including and surrounding the capital city, Paramaribo, inhabited by non-indigenous/tribal people, where approximately 85 percent of the population live, rather than the coastal region *per se*.

17. Almost every school in the interior receives less materials and supplies than schools on the coast. Salaries, training and qualifications for teachers to work in the interior are substantially lower for interior schools in comparison to coastal schools. To teach in the Interior, only a special 'Bushland Diploma' is required; candidates do not need a secondary school diploma and only a few months of training is required. These lower requirements are partly aimed to attract more teachers to the interior. Because of the lack of facilities (including adequate schooling for their own children) and low salaries, few teachers in Paramaribo are willing to move to the interior.

18. These differences are clearly reflected in drop out, graduation and attendance rates for interior versus coastal schools. For instance, successful passage of entrance exams for secondary school is 18.5 percent less for interior students and the average number of students repeating a year in the interior (1996/7) was 44 percent and 61 percent for first year students compared to 23% for coastal students.<sup>18</sup>

19. Almost all schools in the interior are run by the Roman Catholic and Moravian churches. The State pays teachers' salaries and an allowance of Sf 26.50 (or US\$ 0.05) per student per year for maintenance of the buildings and school materials. The poor financial situation of the churches has slowed reconstruction of the schools destroyed during the interior war of 1986-92 and the level of education provided is of an extremely poor quality, in violation of national standards for coastal schools.

20. There are no entrance or school fees, however, due to withdrawal of state subsidies to churches in 1997, the Catholic and Moravian schools require parents to pay an annual contribution per child. In 1997, this contribution was raised from Sf125 to Sf3500 (from approximately US\$0.05 to US\$1.59) per child and in 1998, to Sf5000 (US\$2.27) per child. By contrast, in 1999, State-run schools required only a registration fee of Sf 500 (US\$0.22).<sup>19</sup> For people in the interior who do not have regular incomes, these fees present a substantial obstacle, especially as families in the interior are in general much larger than on the coast. This again stands in stark contrast to the State's duty to guarantee free primary education in conformity with article 39 of the 1987 Constitution and clearly discriminates against indigenous and tribal children.

21. Bi-lingual and bicultural education is also not provided in schools in the interior. This is discussed in the summary record of the Committee on the Rights of the Child:

Mr. VREEDZAM (Suriname), referring to general principles, said that non-discrimination was enshrined in the Constitution of Suriname. Concerning the language of instruction of indigenous children, he said he disagreed with the idea that children in the interior should receive mother-tongue instruction until the age of 12. While some mother-tongue education was necessary for very young children (6-7 age group), failure to introduce Dutch prior to age 12 would be discriminatory, as it would place children in the interior at a disadvantage vis-à-vis their compatriots in the capital.

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<sup>18</sup> Krisnadath, I., & Verwey-Deley, H., *The Language Problem in Education. A study in the use of the mother tongue in education among Saramaka and Aucaner children in the Interior of Suriname*. UNICEF, Paramaribo, 1999.

<sup>19</sup> Stichting Sanomaro Esa, *Indigenous Rights, Women and Empowerment in Suriname*. E.R. Kambel (ed.), Global Law Association, Nijmegen, 1999

Ms. KARP ... Concerning the language of instruction, she understood and welcomed the fact that all children were taught in Dutch in order to ensure that everyone had equal opportunities in adult life. However, article 30 of the Convention enshrined the right of the child to enjoy his or her own culture and use his or her own language. She therefore welcomed the idea that children from linguistic minorities should be taught their own language in addition to Dutch and encouraged the Government of Suriname to implement such a policy.<sup>20</sup>

22. Indigenous and tribal peoples also suffer discrimination with regard to the provision of health services. Many communities do not have functioning health care facilities. Those that do exist have few, or in some cases no, supplies and are rarely visited by a qualified doctor.<sup>21</sup> Immunization rates are 50 percent lower than on the coast.<sup>22</sup> While the situation on the coast is far from ideal, the level of health services enjoyed there is far higher than in the interior. Most problematic from a human rights perspective is the State's lack of action to remedy this situation. Moreover, little has been done to ameliorate the substantial impact on health caused by mining and logging activities in the interior (see below).

23. The preceding was remarked upon with concern by the Committee on the Rights of the Child in 2000. Its Concluding observations state that:

The Committee notes with concern that the principle of non-discrimination is not adequately respected with regard to ... children belonging to indigenous and minority groups. The Committee is particularly concerned about their limited access to adequate health, education and other social services.

The Committee recommends that the State party increase its efforts to ensure the implementation of laws, policies and programmes guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, particularly as it relates to the vulnerable groups.<sup>23</sup>

Specifically addressing education, the Committee stated that it:

remains concerned, however, about the situation of education, particularly in the interior. In this regard, the Committee notes that there are still limited access to education, high drop-out and repetition rates, insufficient numbers of trained teachers actually in the classroom, insufficient schools and classrooms, and a general lack of relevant learning material. The Committee notes with concern that the budgetary allocations for education have been progressively reduced during the past decade. The insufficient efforts made by the State party to incorporate the use

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<sup>20</sup> *Summary record of the 636th meeting : Suriname. 06/06/2000. CRC/C/SR. 636, at paras. 34 and 46. See, also, Summary record of the first part (public)\* of the 1237th meeting : Burkina Faso, Suriname. 22/08/97. CERD/C/SR.1237, para.37; and, Concluding observations of the Committee on Economic, Social and Cultural Rights : Suriname. 07/06/95. E/C.12/1995/6, paras. 15 and 22.*

<sup>21</sup> Health care for Indigenous peoples and Maroons is provided by the Medical Mission (a coalition of Christian churches that have traditionally worked in the Interior), historically funded by the government and international donors like UNICEF. It is unclear if the State continues to fund the activities of the Medical Mission.

<sup>22</sup> UNICEF-Caribbean Office, *Suriname*, 21 May 2002. Accessible at: <http://www.unicef-cao.org/publications/Reports/PromiseToCaribbeanChildren/Suriname2.html>

<sup>23</sup> *Concluding Observations of the Committee on the Rights of the Child : Suriname. 28/06/2000. CRC/C/15/Add.130. (Concluding Observations/Comments), at para. 25-6.*

of local languages into the educational curriculum is also a matter of concern for the Committee.<sup>24</sup>

With regard to health,

The Committee notes with concern the health situation of children, especially those living in the interior. In particular, it notes their limited access to basic health care; the insufficient number of trained medical personnel; the high incidence of malaria; high maternal, child and infant mortality rates, including suicides and accidents; inadequate breastfeeding and weaning practices; high rates of malnutrition; and poor sanitation and limited access to safe drinking water, especially in rural areas.<sup>25</sup>

## 2. Resource Exploitation

24. In the past 10 years the state has authorized numerous resource exploitation operations in and around indigenous and tribal territories, both small-scale and large, foreign and domestic, that have had and continue to have a substantially negative impact upon the human rights, environment, health, dignity, resource base, standard of living and quality of life of indigenous and tribal peoples. These operations are not monitored or controlled in any meaningful way and concessions are routinely granted without informing, consulting with or seeking the agreement of the affected peoples or communities. Indigenous and tribal women and children disproportionately suffer the negative effects of these activities.<sup>26</sup>

25. Surinamese law provides no mechanism nor recognizes any right of indigenous and tribal peoples to be consulted about and participate in decisions that affect them. Concessions for mining and logging are routinely issued without informing communities even if they are located within the concessions. Suriname has no comprehensive environmental laws that regulate or control the environmental impact of mining, logging or other resource exploitation activities.<sup>27</sup> Logging concessions presently encompass around 40 percent of the country and include some 60 percent of indigenous and tribal communities; mining concessions encompass approximately 30 percent of the country and affect anywhere up to 40 percent of the communities. This only accounts for legal activities.

26. An estimated 15-30,000 Brazilian small-scale miners are operating in Suriname under license from the Government as are many thousands of local small-scale miners. It is estimated that 20-30 tonnes of mercury are released into the environment, most of it inhabited by indigenous and tribal peoples, every year.<sup>28</sup> Other sources estimate that between 1993 and 1998 gold miners dumped over 150,000 kg of mercury into the

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<sup>24</sup> *Ibid.*, at para. 51.

<sup>25</sup> *Ibid.*, at para. 43.

<sup>26</sup> See, among others, Stichting Sanomaro Esa, *Indigenous Rights, Women and Empowerment in Suriname*. E.R. Kambel (ed.), Global Law Association, Nijmegen, 1999; and, E.R. Kambel, *Resource Conflicts, Gender and Indigenous Rights in Suriname: Local, National and Global Perspectives*. PhD Dissertation, University of Leiden 2002.

<sup>27</sup> *Conservation of Globally Significant Forest Ecosystems in Suriname's Guyana Shield*, UNDP Project Brief SUR/99/G31/A/1G/31 (1999), 3, para. 9. Suriname received funding from the European Union and Inter-American Development Bank in 1998 to develop framework and sectoral environmental protection legislation; as of June 2002, this legislation has yet to be drafted.

<sup>28</sup> See, Annex A(1)

environment.<sup>29</sup> Some indigenous and tribal communities report that their rivers and other water sources are unfit for human consumption and that they catch fish with tumors and soapy white eyes. Fish is a prime source of protein for the communities and a major component of their daily diet. Many important food fishes are now heavily contaminated by mercury.<sup>30</sup> Other than vague promises, the State's only response to-date has been to issue a health advisory warning pregnant women not to consume fish caught in the rivers.<sup>31</sup>

27. Mercury contamination is not controlled and is a major health hazard. A United States Army Corp of Engineers report on water quality in Suriname, for instance, states that “[d]ue to the lack of proper waste disposal throughout the country and mercury contamination in the surface water, the water is in danger of becoming unusable in areas.”<sup>32</sup> This same report notes that:

A main concern is the contamination of surface water due to uncontrolled mercury contamination originating from gold mining processes. Little regulation exists and enforcement is limited due to a lack of resources. There is also very little (if any) monitoring of mercury in the surface water in the Interior.

The expansion of the gold mining industry has polluted many creeks and rivers, which the indigenous population uses for water supply. This additional health threat further expands the villages' need to be served with safe water from water supply systems. However, the active participation of the communities is necessary for this to be realized.

... In the Interior, 60 percent of the people use untreated river water for drinking purposes. This is a major health concern because 25 percent of the population defecates in the country's rivers, mercury contamination from gold mining is widespread, and the water quality unmonitored. There are entire villages in the Interior without access to potable drinking water.<sup>33</sup>

28. This report also notes that mercury levels in certain rivers were far above levels deemed permissible by the World Health Organization:

In the Interior, the social impacts of water contamination are now exacerbated by the presence of mercury in the rivers due to the rapid increase in small-scale gold mining operations. According to a recent Suriname study developed in 1997, mercury contamination in excess of permissible WHO limits of 0.001 milligrams per liter was found in the following rivers: Lawa (3.89 milligrams per liter), Marowijne (1.87 milligrams per liter), Tapanahoni (0.69 milligrams per liter), Saramacca (0.10 milligrams per liter) and the Suriname Rivier (2.97 milligrams per liter).<sup>34</sup>

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<sup>29</sup> See, Annex B(13).

<sup>30</sup> *Ibid.* See, also, Annex A(1), A(2) and B(25).

<sup>31</sup> See, Annex B(25).

<sup>32</sup> US Army Corp of Engineers, *Water Resources Assessment of Suriname*, December 2001, at i. Full report is available at:

<http://www.sam.usace.army.mil/en/wra/Suriname/Suriname%20Water%20Resources%20Assessment.pdf> See, also, *Sectoral Analysis of Drinking Water Supply and Sanitation in Suriname*, Paramaribo 1999. Plan Regional de Inversiones en Ambiente y Salud. Serie Análisis No. 1 Part 9, Pan American Center for Sanitary Engineering and Environmental Services/Pan American Health Organization/World Health Organization.

<sup>33</sup> *Ibid.*, at 9 (footnotes omitted).

<sup>34</sup> *Ibid.*, at 12 (footnotes omitted), citing, Pan American Health Organization, *Assessment of Drinking Water and Sanitation 2000 in the Americas*, Internet, <http://cepis.ops.oms.org/enwww/eva2000/eva2000.html>.

These rates are: 3,890 milligrams per liter in excess of WHO limits (Lawa); 1, 870 milligrams per liter (Marowijne), 690 milligrams per liter (Tapanahoni), 100 milligrams per liter (Saramacca) and 2,970 milligrams per liter (Suriname River). These same rivers are heavily populated by indigenous and tribal peoples and are one of their primary sources of drinking water and fish. As the study cited here was conducted in 1997 – the beginning of the major influx of Brazilian miners to Suriname – it is expected that testing today would reveal far higher levels of contamination. Additionally, diarrhea, skin diseases and vomiting are all attributed to turbidity caused by mining. Sexually transmitted diseases including HIV/AIDS, as a result of prostitution in mining camps, are also reaching alarming proportions.<sup>35</sup>

29. Malaria, also related to mining activities,<sup>36</sup> has reached “epidemic” proportions in many parts of the interior.<sup>37</sup> According to the Pan American Health Organization Suriname has the highest incidence of malaria infection in the Americas.<sup>38</sup> Some 25 percent of the 10,000 cases of malaria diagnosed in 1999 were in indigenous and tribal children under the age of 5.<sup>39</sup> In some areas of the interior, almost every person contracts malaria at least once a year – for instance, in Gakaba and Apoema, Ndjuka Maroon villages, 1,095 out of 1,156 persons were reported to have had malaria in 2000.<sup>40</sup> Malaria has a debilitating effect on the agricultural cycle, leaving many, especially the young, without adequate food. This is also makes them more susceptible to further infections and lengthens recovery periods.

30. Concerning resource exploitation and its impact on indigenous and tribal peoples, Suriname’s official report prepared for the World Summit on Sustainable Development (Rio +10) 2002 observes that

Suriname is encouraging foreign investors interested in other resources exploitation, especially oil, gold and timber. ... Gold mining has soared over the past five years, when Suriname was ‘discovered’ by Brazilian small-scale gold miners (*garimpeiros*). They introduced gold mining with mercury, leading to mercury pollution of the creeks and rivers used by the indigenous and maroon communities in the interior. Accompanying environmental problems are riverbank erosion due to the mechanized sand blasting to unearth gold ore and mercury accumulation in food fish. A Canadian multinational is interested in large-scale gold mining but is awaiting the settlement of a land rights dispute between the government who granted the mining concession and the local maroon communities. There is a number of logging multinationals active in Suriname as well as some local companies, including a state logging company.<sup>41</sup>

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<sup>35</sup> Medische Zending, *Jaarverslag* [Annual Report Medical Mission], Paramaribo, 1995, 60.

<sup>36</sup> See, Annex B(15).

<sup>37</sup> Caribbean Epidemiology Center, *Communicable Diseases Feedback Report 1999*. Available at: <http://www.carec.org/data/comm-dis/99wks39-52/>

<sup>38</sup> Pan American Health Organization, *Situation of Malaria Programs in the Americas*, 2000. Accessible at: [http://www.paho.org/English/SHA/be\\_v22n1-malaria.htm](http://www.paho.org/English/SHA/be_v22n1-malaria.htm)

<sup>39</sup> Pan American Health Organization, Country Health Profile for Suriname 1999. Accessible at: <http://165.158.1.110/english/sha/prflsur.html>

<sup>40</sup> Table of malaria infection rates compiled by the Rotary Club of Suriname with support from PAHO. See, Annex C. Full report is available at: <http://www.parbo.com/rotary/ram>.

<sup>41</sup> Republic of Suriname, *Rio +10 Assessment (National Report)*, Paramaribo, September 2001, at 13. Full report available at: [http://www.ncsdnetwork.org/mgf/files/Rep.\\_Suriname.doc](http://www.ncsdnetwork.org/mgf/files/Rep._Suriname.doc)

31. The effects of this activity and the failure of the Government to recognise and respect indigenous and tribal land rights are substantially negative. Indigenous and tribal subsistence activities are seriously threatened in some areas, in others they are no longer possible. Agricultural areas are damaged and destroyed by small-scale and multinational operators alike with impunity. For example, on 20 May 2001, the *Philadelphia Inquirer*, a US newspaper, published an article on the activities of logging companies in Suriname with particular reference to the situation of Saramaka Maroon people (see Annex B(11) for the full article). This article states in pertinent part that:

This was all too clear [environmental degradation] walking through the Jin Lin concession. The company had plowed large, muddy roads about 45 feet wide into the forest, churned up huge piles of earth, and created fetid pools of green and brown water. Upended and broken trees were everywhere and what were once plots of sweet potatoes, peanuts, ginger, cassava, palm and banana crops - planted in the forest by Maroon villagers - were muddy pits.

32. Malnutrition among once self-sufficient communities is common. The children, especially the very young, suffer the most and it is highly probable that in some areas their normal physical, intellectual and emotional development is affected. According to UNICEF, “[i]n some Amerindian villages, the levels of acute malnutrition were found at 22% and chronic malnutrition was 35% for children under 2 years.”<sup>42</sup>

33. Indigenous and tribal cultures are based in large part on a detailed and extensive relationship with the total environment of their lands. In many areas of Suriname they can no longer enjoy this relationship. An integral part of their children’s education and socialization is based upon experiencing the natural world and learning agriculture and other subsistence practices from their parents. If the parents are unable to hunt, fish, gather and farm, the children cannot learn how to sustain themselves, lose an integral part of their cultural heritage and eventually become dependent on outside foodstuffs.

34. The State of Suriname itself acknowledges that the situation described above is accurate. In its report to the World Summit on Sustainable Development, Suriname states that

Special mention goes to the participation of the peoples of the interior – the ‘interior’ is a descriptive term in use for rural areas, mostly inhabited by indigenous peoples (‘Amerindians’) and maroons (‘Bushnegroes’) living traditionally and mostly self-sufficient from forest resources, and where many state-provided provisions such as health and education services, telecommunication and infrastructure are weak or absent. The ‘interior’ thus covers about 80% of Suriname’s surface, is home to 13-14% of the total population, and is also the most natural resources-rich part of the country. Due to weak communication structures between the capital and the interior and the expensiveness of transport to and from the remote areas, among others, there is little exchange of information and participation in national policymaking by the interior population. There is no formal recognition of the traditional indigenous and maroon authorities within the national governance structures and legislation. At the same time, it is this part of the

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<sup>42</sup> UNICEF-Caribbean Office, *Suriname*, 21 May 2002. Accessible at: <http://www.unicef-cao.org/publications/Reports/PromiseToCaribbeanChildren/Suriname2.html>

population that is the farthest behind in (economic) development and the most vulnerable to environmental disturbances, e.g. overlogging, mercury water pollution and decrease of biodiversity resources. The indigenous peoples and maroons are major stakeholders in natural resources exploitation in their traditional lands, ecotourism and bioprospecting, among others, but their participation in decision taking in those issues needs to be improved. A Peace Agreement (1992), ending 5 years of armed clashes between the National Army and guerrilla groups from the interior, promised strategies and mechanisms for interior development and land rights issues but has not been fully implemented yet, which leads to rather regular outbreaks of expressions, sometimes even threatening, of discontent by the former guerilla groups. This situation can be considered a significant threat to the sustainability of Suriname's development;<sup>43</sup>

and, further, that:

An emerging critical issue is the growing call for recognition of indigenous peoples' and maroon rights, especially land rights and development opportunities for the interior. The awareness on human rights in general and the rights of indigenous and tribal peoples in particular, is rapidly increasing and gains national and international attention. A previously held view was, that the maroons and indigenous peoples would 'become extinct', be integrated in mainstream society and loose their collectivity. Even though there certainly are changes in cultures, the peoples of the interior have made clear that they are not willing to loose their distinct cultural identity and collectivity, and that they claim their traditional rights over the land. Development of the interior is also rapidly increasing in priority now that the attention is focused highly on the interior for its natural resources. These sensitive issues will need to be addressed in an appropriate way within Suriname's view of sustainable development.<sup>44</sup>

35. As can be seen from the preceding, indigenous and tribal peoples in Suriname are presently denied enjoyment of a wide range of human rights and fundamental freedoms. Many of these violations are related to the failure of the state to recognize and respect their rights to lands, territories and resources and to the impact of resource exploitation on their cultures, lands, environment and health. These violations are also evidence of widespread, systematic and institutionalized racial discrimination. While the same may be said of the situations in other states, Suriname stands out in the Americas and elsewhere as one of the few states to systematically deny the rights of indigenous and tribal peoples and to violate these rights as a matter of law and routine practice. If allowed to continue, these violations pose an immediate threat of irreparable harm to the survival of indigenous and tribal peoples.

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<sup>43</sup> Republic of Suriname, *Rio +10 Assessment (National Report)*, Paramaribo, September 2001, at 11.

<sup>44</sup> *Ibid.*, at 14.

## **B. Rights to lands, territories and resources**

### **1. The Failure of Suriname to Recognize and Respect the Land, Resource and Territorial Rights of Indigenous and Tribal Peoples**

36. In contravention of various provisions of regional and universal human rights instruments and customary international law, Suriname has failed to recognize and respect the rights of indigenous and tribal peoples to own, control, use and enjoy their lands, territories and resources traditionally occupied and used, to demarcate those lands and territories or to take other effective measures to secure their property rights in those lands, territories and resources.

37. In its *Second Report on the Human Rights Situation in Peru*, the Inter-American Commission on Human Rights stated clearly that “Land, for the indigenous peoples, is a condition of individual security and liaison with the group. The recovery, recognition, demarcation and registration of the lands represents essential rights for cultural survival and for maintaining the community’s integrity.”<sup>45</sup> In its *Ecuador Report*, the Commission stated that “For many indigenous cultures, continued utilization of traditional collective systems for the control and use of territory are essential to their survival, as well as to their individual and collective well-being. Control over the land refers to both its capacity for providing the resources which sustain life, and to ‘the geographical space necessary for the cultural and social reproduction of the group.’”<sup>46</sup> This is no less the case for indigenous and tribal peoples in Suriname.

#### **(a) Surinamese law**

38. Under Surinamese law, the rights of indigenous and tribal peoples to own, control, use and peacefully enjoy their lands, territories and resources are not recognized in law nor are these rights respected in practice.<sup>47</sup>

39. In Surinamese law, jurisprudence and practice, almost all land in the interior of Suriname is presently classified as privately-owned state land (*domaingrond*).<sup>48</sup> As the

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<sup>45</sup> *Second Report on the Situation of Human Rights in Peru*, OEA/Ser.L/V/II.106, Doc 59 rev., June 2, 2000, at Ch. X, para. 16.

<sup>46</sup> *Report on the Situation of Human Rights in Ecuador*, OEA/Ser.L/V/II.96 doc.10, rev.1 (1997), at 115.

<sup>47</sup> See, *infra* notes 58-74 and accompanying text. See, also, Kambel, E-R., & F. MacKay, 1999. *The Rights of Indigenous Peoples and Maroons in Suriname*. International Work Group for Indigenous Affairs, Doc. No. 96. Copenhagen; UN Food and Agriculture Organization, *Strengthening National Capacity for Sustainable Development of Forests on Public Lands; Report of the Legal Consultant, Cormac Cullinan*, FAO Project TCP/SUR/4551 (1996), at sec. 4.6.2 (the section of this report pertaining to indigenous and tribal rights is excerpted in Annex D); Hadden, P., *Forestry Issues in the Guiana Shield Region: A Perspective on Guyana and Suriname*. European Union Tropical Forestry Paper 3 (Overseas Development Institute, London and European Commission, Brussels) 1999, at 8. Available at: <http://www.odifpeg.org.uk/publications/papers/eutfp/eutfp-03.pdf>; and Kambel, E-R., *Resource Conflicts, Gender and Indigenous Rights in Suriname: Local, National and Global Perspectives*. PhD Dissertation, University of Leiden 2002.

<sup>48</sup> For instance, see, Quintus Bosz, A.J.A., *Drie Eeuwen Grondpolitiek in Suriname* [Three Centuries of Land Policies in Suriname], Paramaribo, 1980 (original diss. Groningen 1954); Quintus Bosz, *Commentaar op eigendomsbeschouwingen van de Surinaamse Juristenvereniging* [Comments on reflections on ownership by the Surinamese Jurist Association]. In: *Grepen uit de Surinaamse Rechtshistorie*, Paramaribo, (1982) Verzamelde Werken van Prof. Mr. A.J.A. Quintus Bosz, Vaco N.V., Paramaribo, 1993; Quintus Bosz, *De Rechten van de Bosnegers op de Ontruimde Gronden in het Stuwmeergebied* [The Rights of the Bushnegroes to the Evacuated Lands in the Reservoir Area]. In: *Grepen uit de Surinaamse Rechtshistorie*, Paramaribo, [1965] 1993; Quintus Bosz, *De toepassing van het uit Indonesië geïmporteerde desa-model in Suriname* [The

state is considered in law to be the private, rather than public, owner of land, all rights to land in Suriname must derive from a valid grant issued by the state.<sup>49</sup> Indigenous and tribal peoples, who cannot show title issued by the state, are therefore regarded as merely permissive occupiers of state land, without effective rights or title thereto.<sup>50</sup>

40. The primary legislation in Suriname concerning *domaingrond*, the 1982 military-era L-Decrees, provides that indigenous and tribal customary rights to their villages and agricultural plots shall be respected, unless there is a conflict with the general interest.<sup>51</sup> General interest is understood to be the execution of any project or activity conducted pursuant to an approved development plan.<sup>52</sup> The pertinent provision reads:

- 4(1) In allocating *domaingrond*, the rights of the tribal Bushnegroes and Indians to their villages, settlements and forest plots will be respected, provided that this is not contrary to the general interest;
- (2) General interest includes the execution of any project within the framework of an approved development plan.

41. According to the L-Decrees' explanatory note, it is "a requirement of justice that in allocating domain land, [the] factual [interpreted as unenforceable entitlements] rights to those areas [upon which tribal communities depend for their livelihood] shall be taken into account as much as possible."<sup>53</sup> Under this law, indigenous and tribal peoples are the only Surinamese citizens whose land or other rights are only to be respected "as much as possible," and as the explanatory note reveals, only during the period that they are not yet assimilated into Surinamese society: "[o]f course, this principle will have to be applied during a - possibly long - transitional period in which the forest population will be gradually incorporated into the total socio-economic life...."<sup>54</sup>

42. The exception related to the general interest is so broad that indigenous and tribal rights, defined by law as entitlements, will always be superceded by any action that the state deems in the public interest or any project included in a development plan. The effect is to substantially limit the rights of indigenous and tribal peoples to the point that they become essentially meaningless. This is particularly evident when these entitlements conflict with logging, mining and other resource exploitation activities as these are all done pursuant to general objectives set out in the state's development plan.

43. A consultant for the UN Food and Agriculture Organization confirms that the customary entitlements set forth in Surinamese law are ineffective and do not amount to a recognition of rights. The consultant's report states

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implementation in Suriname of the *desa* model imported from Indonesia]. In: *Grepen uit de Surinaamse Rechtshistorie*, [1981] 1993; and, Nelson, J., *Recht en Grond* [Law and Land]. In: Kanhai & Nelson (eds), *Strijd om grond in Suriname* [The Struggle for land in Suriname], 1993.

<sup>49</sup> *Grepen uit de Surinaamse Rechtshistorie*. Verzamelde Werken van Prof. Mr. A.J.A. Quintus Bosz, 1993, at 329, 337, 371. See, also, UN Food and Agriculture Organization, *Strengthening National Capacity for Sustainable Development of Forests on Public Lands; Report of the Legal Consultant, Cormac Cullinan*, FAO Project TCP/SUR/4551 (1996), at sec. 3.3.8.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Decree L-1, 1982, Basic Principles on Land Policy*, art. 4.1

<sup>52</sup> *Decree L-1, 1982, art. 4.2*

<sup>53</sup> *Explanatory note to art. 1 (1) Decree L-1*, at 13.

<sup>54</sup> *Ibid.*

Use rights in respect of public land must be granted by the state and registered at the Public Land Registry (*Domeinkantoor*) of the Ministry of Natural Resources. The content of customary laws has not been officially recorded nor have any such rights been registered. One of the consequences of this is that such rights are not legally enforceable. If a “right” cannot be enforced in court it is not generally considered to be a legal right and accordingly references to “customary rights” which appear in the Forest Management Act and in various concession agreements are probably unenforceable.<sup>55</sup>

44. According to Surinamese law, mining, logging and other activities classified as being in the general interest (which they are) are exempted from the requirement that customary entitlements be respected. Classification of an activity as being in the general interest is a non-justiciable, political question that cannot be challenged in the judicial system. Moreover, indigenous and tribal entitlements only apply to their villages and current agricultural plots and do not account for their larger territory and other lands occupied and used for hunting, fishing and other subsistence activities. This excludes *a priori* large areas from the purview of even the rudimentary and illusory protections provided by legislation.

45. Article 41 of Suriname’s 1987 Constitution states, “Natural riches and resources are property of the state and shall be used for economic, social and cultural development. The state shall have the inalienable right to take complete possession of natural resources, in order to apply them to the needs of economic, social and cultural development of Suriname.” The rights of indigenous and tribal peoples to their lands, territories and resources, and to cultural integrity, are not explicitly recognized in nor guaranteed by the 1987 Constitution.

46. Finally, indigenous and tribal peoples and communities do not have legal personality in Suriname and are ineligible to receive communal titles in the name of the community or other traditional collective land holding entities. The FAO consultant quoted above confirms this: “[s]ince the legal system currently has no way of recognising traditional tribal groups and institutions as legal entities, they are effectively invisible to the legal system and incapable of holding rights.”<sup>56</sup>

**(b) Statements confirming Suriname’s failure to legally guarantee indigenous and tribal peoples’ rights to lands, territories and resources**

47. Numerous intergovernmental and non-government organizations have confirmed that Suriname has failed to legally recognize and guarantee indigenous and tribal peoples’ rights to lands, territories and resources. Suriname has also acknowledged this in its statements before and reports to intergovernmental bodies.<sup>57</sup> Suriname’s statement during the Twelfth session of the Committee on Economic, Social and Cultural Rights in 1995 is illustrative. This statement is summarized in the official record thus:

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<sup>55</sup> UN Food and Agriculture Organization, *Strengthening National Capacity for Sustainable Development of Forests on Public Lands; Report of the Legal Consultant, Cormac Cullinan*, FAO Project TCP/SUR/4551 (1996), at sec. 4.6.2

<sup>56</sup> *Ibid.*

<sup>57</sup> See, also, Republic of Suriname, *Rio +10 Assessment (National Report)*, Paramaribo, September 2001, *supra* note 43.

Land rights represented a major problem, which was currently under discussion. The people who lived in the interior had always claimed rights over the land where they lived, *but those claims had had no formal basis in law*. The Government had, however, recognized, and was implementing, such claims as part of the peace process. A report would shortly be issued containing an inventory of the land in question and detailing the claims that had been made.<sup>58</sup> (emphasis added)

48. The report referred to here was never completed and, over 10 years after it was concluded, the Peace Accord's provisions pertaining to land rights (Article 10) have not been implemented.<sup>59</sup> The Inter-American Development Bank (IDB) arrived at the same conclusion in a recent report, which states that “[a]s of September 1999, none of the four provisions [found in article 10 of the Peace Accord] had been acted upon and the interpretation of the wording remains unclear and contradictory.”<sup>60</sup> Moreover, the Peace Accord merely requires that the State “shall endeavor that legal mechanisms be created, by which citizens who live and reside in a tribal setting will be able to secure a real title to their respective living areas.”<sup>61</sup> This is clearly not a recognition of indigenous and tribal property rights as required by human rights law, which imposes immediate and specific obligations on states.

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<sup>58</sup> UN Committee on Economic, Social and Cultural Rights, Twelfth session. *Summary Record of the 20<sup>th</sup> Meeting, Friday, 12 May 1995*. UN Doc. E/C.12/1995/SR.20, 18 May 1995, at para. 38.

<sup>59</sup> Two commissions have been established by the State, both of which became defunct without result. The first, the Redan Commission, ceased to function without any report in 1995. The most recent, the State Lands Commission, was established in November 1996. It formulated the question to be investigated as: “Do the Indigenous peoples and Maroons have a real right [right *in rem*] to the land on which they have lived for centuries and if so, which right?” Its three page interim and only report concluded that:

1. a proper preparation of its task would require meetings in the interior;
2. that Indigenous peoples and Maroons have different concepts regarding land rights;
3. that interior inhabitants are aware of the advantage of a real title;
4. that the government must come up with a proposal for the creation of development poles (concentrations of villages) along roads, and that the lack of funds and appropriate legislation were major obstacles to overcome and that three months were not enough to carry out its task.

See, E-R. Kambel & F. MacKay, *The Rights of Indigenous Peoples and Maroons in Suriname*, IWGIA Doc. 96, Copenhagen, 1999, at 124.

<sup>60</sup> Inter-American Development Bank, Regional Operations Department 3, *Sector Study: Governance in Suriname*, Washington DC, April 2001, at 2.2.6. See, also, *infra* note 73 and accompanying text.

<sup>61</sup> Article 10 of the Accord reads:

1. The government shall endeavor that legal mechanisms be created, under which citizens who live and reside in a tribal setting will be able to secure a real title to land requested by them in their areas of residence [*woongebieden*].
2. The demarcation and size of the respective residential areas, referred to in the first paragraph, shall be determined on the basis of a study carried out with respect thereto by the Council for the Development of the Interior.
3. The traditional authorities of the citizens living in tribes or a body appointed thereto by them, will indicate a procedure on the basis of which individual members of a community can be considered for real title to a plot of land in the area referred to in paragraph 2.
4. Around the area mentioned in paragraph 2, the Government will establish an economic zone where the communities and citizens living in tribes can perform economic activities, including forestry, small-scale mining, hunting and fishing.

Article 11 of the Accord states that the Government will commence a national discussion on ILO 169 and the desirability of ratification. This has never occurred.

49. The IDB report noted above also acknowledges that indigenous and tribal property rights are not recognized in the general laws of Suriname. Discussing the challenges involved with addressing indigenous and tribal rights, the report states that “[r]ecognizing rights such as communal rights to land ownership within the constitutional system of the country will require some creative legislating and jurisprudence.”<sup>62</sup>

50. Suriname’s failure to recognize and protect indigenous and tribal lands rights is also highlighted by the UNDP as a major cause of biodiversity loss and poverty:

Major threats to biodiversity include lack of awareness on the impact of unsustainable methods in economic activities such as logging, mining, and the wildlife trade. The sustainable use of natural resources as traditionally practiced by the indigenous peoples is threatened by the lack of recognition of their land rights, increasing poverty and underdevelopment which have resulted in the pursuit of economic alternatives, e.g. small-scale gold mining, which continue to result in negative environmental and social impacts.<sup>63</sup>

51. In short, the Suriname has not taken any steps, legal, administrative or otherwise, to recognize and respect the property and associated rights of indigenous and tribal peoples living within its borders. A 2001 report on Suriname published by the OAS Unit for Promotion of Democracy further confirms this conclusion.<sup>64</sup> It states that

This lack of legal recognition [of the traditional authorities of indigenous and tribal peoples] was always a concern to the traditional rulers in the interior of Suriname. The recent encroachment, however, of determined multinationals seeking to fix legal claims on vast lumber and mineral concessions – cutting right through what for over two hundred years or more Maroons and Amerindians considered their subsistence resources – has turned this concern into panic. *Cries for help and for recognition of some sort of rights, have spurred an abundance of reflection and discussion, but yielded no concrete results to date.*<sup>65</sup> (emphasis added)

52. Discussing resource exploitation in the interior of Suriname, the same report states that

The land rights problem came to a head in the early 1990s, when national and international gold and timber companies received huge concessions from the government to undertake exploration of huge reserves in the Surinamese interior. Often, these concessions were located directly adjacent to or on the traditional hunting, planting and fishing areas of the traditional populations. ... Conflicts arose throughout the interior over traditional rights to make use of natural resources and the rights of indigenous people to undertake gold mining and timber cutting on lands they have inhabited since colonial times for Maroons, and precolonial for Amerindians. In addition mercury pollution of the rivers, destruction of the natural

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<sup>62</sup> *Ibid.*, at 5.1.1.

<sup>63</sup> Global Environment Facility/Small Grants Programme, *Country Programme Strategy 1999-2000, Republic of Suriname*. Approved by the GEF/SGP National Steering Committee (NSC) on April 7, 1999, and subsequently approved by the GEF/SGP New York Coordination Unit (NYCU), UNDP New York, on September 14, 1999. Available at: <http://www.undp.org.tt/gefsgp/cpsur.html>

<sup>64</sup> OAS/UPD, *Peace and Democracy in Suriname. Final Report of the Special Mission to Suriname (1992-2000)*. Unit for Promotion of Democracy, Organization of American States (OEA/Ser.D/XX SG/UPD/III.2), 2001.

<sup>65</sup> *Ibid.*, at 102.

environment, and the by-products of modern fossil-fuel technology wreaked havoc on the traditional life-styles and modes of production of the indigenous people.<sup>66</sup>

53. Further discussing this same issue, the report states that

With independence in 1975, the new Constitution did not take into consideration past tacit treaties and land rights proposals for Amerindians and Maroons, nor did it establish legal recognition of their over 900 traditional authorities. The post-revolution Constitution of 1987 further failed to address these questions of land, timber, and mining rights, and the statutory role of traditional authorities;<sup>67</sup>

and; “[t]oday, Maroons and Amerindians are demanding land rights, and the establishment of any serious, durable peace must address the combined problem of land and mining rights and the need for constitutional recognition of indigenous peoples as full members of Suriname’s polity.”<sup>68</sup>

54. The FAO legal consultant observed that: “[o]ne of the central legal issues affecting the development of forestry in Suriname relates to the legal recognition of the rights of tribal peoples (the Maroons and Amerindians) in respect of the land, forests and other resources of the areas they inhabit.”<sup>69</sup> He adds that “[t]he main elements of the issue which are relevant from a legal perspective are that:

1. the legal system of Suriname does not have a mechanism for recognising the customary laws or institutions of tribal people;
2. the jurisprudential basis (*rechtsfilosofie*) of the land tenure system does not recognise that tribal people can have acquired rights over their land by virtue of historical occupation; and
3. the previous pragmatic approach of allowing the national legal system to coexist more or less peacefully with the customary law systems which prevailed in the interior, is no longer viable as the government is seeking to promote development (particularly large-scale timber concessions) in the interior.<sup>70</sup>

55. In 1999, the UK-based Overseas Development Institute, in cooperation with the European Commission, reported that

Maroon and Amerindian rights to own their ancestral territories are not recognised in any form in the laws of Suriname. Almost all land in the interior is presently classified as state land, and the government also claims all sub-surface and surface resources (Constitution of Suriname, 1987). Amerindians and Maroons are treated as permissive occupiers of state land. Land titles are issued to individuals only; there is no recognition of communal title. The titling procedure provides no protection against logging, mining or other activities defined as being ‘in the general interest’. In addition, customary law rights only apply to villages and

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<sup>66</sup> *Ibid.*, at 97.

<sup>67</sup> *Ibid.*, at 96.

<sup>68</sup> *Ibid.*

<sup>69</sup> UN Food and Agriculture Organization, *Strengthening National Capacity for Sustainable Development of Forests on Public Lands; Report of the Legal Consultant, Cormac Cullinan*, FAO Project TCP/SUR/4551 (1996), at sec. 4.6.1.

<sup>70</sup> *Ibid.*

agricultural plots and do not account for larger territory and other lands associated with hunting, fishing and other subsistence activities;<sup>71</sup>

and,

The only legal mechanism that is used in Suriname to give local communities preferential access to their ancestral territories is through the issuance of wood cutting licenses (HKV) which are given as long-term leases and permit the cutting of timber according to simple regulations. About 500,000 ha of forest is controlled by communities under HKV licenses. There is no limit on volume harvested nor is there any charge for timber unless it is sold. If the timber is sold, royalties are payable but not the acreage fees required of concession holders. These licenses are problematic, encouraging the logging companies to enter into low-cost contracts with communities without any regard for sustainable management. Leases are registered in the names of community leaders, which has caused serious disputes within communities.<sup>72</sup>

56. In 2001, the United States Department of State reported that

The Constitution affords no special protection for, or recognition of, indigenous people. Most Amerindians suffer a number of disadvantages and have only limited ability to participate in decisions affecting their lands, cultures, traditions, and natural resources. ... Government services in the interior are largely unavailable, and much of the infrastructure was destroyed during the 1986-91 domestic insurgencies; progress in reestablishing services and rebuilding the infrastructure has been very slow.

The Government-appointed Consultative Council for the Development of the Interior, provided for in the 1992 peace accords that formally ended the insurgencies, includes representatives of the Maroon and Amerindian communities. However, the Government did not consult with representatives of these communities about the granting of gold and timber concessions on indigenous and tribal lands. Following demonstrations in July by veterans of the Jungle Commando, who played a large role in the insurgencies, their de facto leader Ronny Brunswijk met with the Minister of Regional Development. The meeting resulted in a promise of quarterly meetings to monitor the implementation of the native land rights portion of the 1992 peace accords; however, at year's end neither the quarterly meetings nor the implementation had occurred.

Organizations representing Maroon and Amerindian communities complain that small-scale mining operations, mainly by illegal Brazilian gold miners, dig trenches that cut residents off from their agricultural land and threaten to drive them away from their traditional settlements. Mercury runoff from these operations also contaminates and threatens traditional food source areas. During the year, villagers from the Maroon village of Kayapaati [sic; petition filed on behalf of 58 Maroon villages by their traditional authorities, Case 12.338] filed a petition with the Inter-American Commission on Human Rights stating that lumber operations were threatening their culture and way of life. The villagers sought observance of a 1762

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<sup>71</sup> Hadden, P., *Forestry Issues in the Guiana Shield Region: A Perspective on Guyana and Suriname*. European Union Tropical Forestry Paper 3 (Overseas Development Institute, London and European Commission, Brussels) 1999, at 8. Available at: <http://www.odifpeg.org.uk/publications/papers/eutfp/eutfp-03.pdf>

<sup>72</sup> *Ibid.*, at 12.

treaty between their ancestors and Dutch colonial authorities, which granted ownership of the interior to the tribes as long as they occupy the land.<sup>73</sup>

57. Freedom House, a US-based NGO, observes that:

Both indigenous and tribal peoples, the latter called Maroons—the descendants of escaped African slaves who formed autonomous communities in the rainforest in the seventeenth and eighteenth centuries—reside within Suriname’s borders. Indigenous people number around 12,000 to 15,000 people (four percent of the population); Maroons number approximately 40,000 to 50,000. Their rights to their lands and resources, to cultural integrity, and to the autonomous administration of their affairs are not recognized under Surinamese law. Despite numerous attempts and agreements, all of which have been disregarded, between the state and the indigenous peoples and Maroons, this situation has not changed. A breakdown in the rule of law over the past five years, disputes between the executive and judiciary, and an absence of adequate domestic guarantees have forced the Maroons to seek protection of their rights through the Inter-American Commission on Human Rights.

Indigenous and Maroon land and resource rights are repeatedly violated: in particular, the state has granted large areas of land as concessions to logging and mining interests. These concessions were made without any form of consultation with affected village authorities and without any attempt to safeguard subsistence and other rights. Approximately 30,000 Brazilian small-scale gold miners, licensed by the state, and numerous local miners are working on indigenous and Maroon lands, causing severe environmental degradation, health epidemics (malaria and sexually transmitted diseases), and social problems. The state has made no attempt to mitigate the impact of local and multinational operators on the environment, and in general Suriname lacks environmental laws and monitoring capacity. Discrimination against indigenous peoples and Maroons is widespread in law and practice and is especially pronounced in the provision of education and health services.<sup>74</sup>

58. As the preceding demonstrates, Suriname is the only state in the Americas to have failed to legally recognize and guarantee, at least to some extent, indigenous and tribal peoples’ rights to own, control, use and peacefully enjoy their lands, territories and resources. This has been acknowledged by the state itself and reported by numerous intergovernmental and non-governmental organizations.

59. This failure to recognize and guarantee rights also includes a failure to recognize and respect rights to judicial remedies, to due process and equal protection of the law. This lack of domestic remedies both invites and compels international oversight and intervention.

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<sup>73</sup> United States State Department, *Country Reports on Human Rights Practices for 2001*. Available at: <http://www.usis.usemb.se/human/2001/west/suriname.html>

<sup>74</sup> Freedom House Inc., *Freedom in the World 2001*, New York, 2001. Available at: <http://www.freedomhouse.org/research/freeworld/2001/countryratings/suriname2.htm>

**(c) Suriname's active violation of indigenous and tribal peoples' rights**

60. The negative impact of Suriname's failure to recognize and guarantee indigenous and tribal peoples' rights to their lands, territories and resources, is further compounded by its active violation of those rights. Among others, Suriname has authorized numerous resource exploitation operations – as well as tolerated many illegal operations – that have had and continue to have a devastating impact on the human rights of indigenous and tribal peoples.<sup>75</sup> The following are examples of this disregard for the rights of indigenous and tribal peoples.

**(i) Nieuw Koffiekamp - Ndjuka Maroon**

61. Mining has had both direct and indirect impacts on Maroons. In the Brokopondo district, approximately 6000 Saramaka and Ndjuka Maroons were forced off their land in 1963-4 to make way for a hydroelectric dam and a reservoir constructed to provide power to a bauxite refinery operated by Suralco. The reservoir flooded an area of approximately 600 square miles, almost half of Saramaka and part of Ndjuka territory. The communities were paid the equivalent of US\$3 in compensation and were not provided with secure land rights in their new areas.

62. Nieuw Koffiekamp was one of the relocated villages. It presently faces a second relocation, this time to make way for a gold mine to be operated by Canadian companies, Golden Star Resources and Cambior. Less than one year after its arrival in Suriname in 1991, Golden Star obtained rights to the Thunder Mountain, Headley's Reef and Gross Rosebel gold and diamond concessions. In 1994, it concluded a Mineral Agreement with the government granting it exclusive rights to explore the 17,000 hectare Gross Rosebel concession. Nieuw Koffiekamp, which has a population of 500-800 persons lies in the center of the southern block of Gross Rosebel concession. It was neither consulted nor informed about the granting of the concession.

63. In early 1995, Nieuw Koffiekamp complained that they were surrounded by armed guards and that their subsistence activities, including small-scale mining, were restricted and sometimes banned by Golden Star security personnel and armed police units, including the paramilitary Special Police Support Group, working with them. They also complained that Golden Star personnel and the police were firing live ammunition to intimidate them and keep them from areas in which Golden Star was working. These allegations were substantiated by Moiwana '86, Suriname's main human rights organization, which asserted that Golden Star, Cambior and the Government of Suriname were jointly responsible for violations of at least eight articles of the American Convention on Human Rights.<sup>76</sup>

64. Plans to begin mining at Nieuw Koffiekamp were suspended in 1999 due to the low value of gold on the international market. In 2001, after an increase in the price of gold, it was announced that the government had authorized the mining companies to commence operations.<sup>77</sup> Recent reports indicate that this will involve not only forcible relocation of Nieuw Koffiekamp, but also relocation of the nearby village of Marchall Kreek as well.<sup>78</sup>

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<sup>75</sup> See, *supra* paras. 24-35.

<sup>76</sup> Moiwana '86 1995.

<sup>77</sup> See, Annex B(2).

<sup>78</sup> See, Annex B(8).

**(ii) Adjoemakondre – Ndjuka Maroon**

65. Maroon communities near Moengo in eastern Suriname have experienced serious problems caused by bauxite mining operations. These operations are conducted by Suralco, a wholly owned subsidiary of the US company, Alcoa. The communities have never been compensated for the loss of their lands and livelihoods and for severe environmental degradation caused by Suralco's activities. These once forested communities now live in a moonscape, surrounded by blasted rock, covered in dust and debris from blasting and are subjected to high intensity lights that allow mining to take place 24 hours a day, seven days a week. Adjoemakondre is an extreme example of the impact of Suralco's activities. It is presently surrounded by three active concessions and mining is taking place less than 200 metres from the village itself.

66. After it commenced operations near Adjoemakondre in 1991, Suralco informed the community that they would be relocated. The community objected and sought help from the government. Negotiations between Suralco and the government ensued, resulting in an agreement to relocate the village. The community was not accorded a meaningful role in the negotiations. They did, however, accept relocation at this point as they saw it as inevitable. Suralco identified a site, which had already been mined near the village, and bulldozed it flat to build a new village. At this point, Suralco changed its mind and, pointing to its contract with the government, stated that the government alone was solely responsible for ensuring the welfare of local communities. The government took no action and relocation did not take place. Seven years and numerous requests to the government and Suralco later, the community's position has worsened.

67. In September 1998, the community petitioned the President to intervene. The petition stated that 'Suralco's activities have severely impacted upon our rights and well-being. In particular: our agricultural plots and houses have been destroyed, without any compensation; our river has been polluted so badly that we can no longer use it - wastes from the mining operation run down hill through the village into the river, turning it an orange-brown colour; health problems have occurred from villagers using the river water; use of dynamite by the company causes noise pollution and has contributed to the loss of game animals we use for food; and, destruction of the forest and pollution of the river has also substantially limited our ability to hunt and fish on our lands.'<sup>79</sup>

**(iii) The Upper Suriname River Saramaka Maroon People**

68. The Saramaka people are one of the largest Maroon tribes, amounting to around 20,000 persons living in over 70 villages located along the Suriname River, one of the main watercourses in the country. They have occupied their territory since at least the early 18<sup>th</sup> century when their ancestors escaped coastal plantations and moved into the forest. Their freedom from slavery, ownership rights to their territory and rights to political and cultural autonomy were recognized by treaty with the Dutch in 1762. This treaty was renewed in 1835 and, in the minds of the Saramaka, remains the basis of their autonomous existence, ownership of their territory and relationship with the Surinamese state. Ownership of Saramaka territory is divided among a number of matrilineal clans. Members of the clans have rights to hunt, fish, farm and gather forest produce in the area owned by their clan, but ownership remains vested collectively in the clan.

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<sup>79</sup> *Petition to the Suriname Government Concerning the Situation in Adjoemakondre*, September 1998.

69. The Saramaka people regard the forest as fundamental to their physical, cultural and spiritual existence and live in a delicate balance with their natural environment. They derive the majority of the subsistence resources from the forest and their religion is based upon a relationship with spirits that inhabit certain areas of the forest and with their ancestors. In short, Saramaka religious and cultural identity and their physical survival is inextricably linked to their forest and its productive capacity. Threats to the forest and its environmental quality are threats to the Saramaka as a whole.

70. Beginning in 1996, a series of logging and mining concessions have been issued in Saramaka territory, the former encompassing most of the 58 villages on the Upper Suriname River, the latter affecting around 20 of these villages. The Saramaka only became aware of a concession in their territory when the employees of a Chinese logging company calling itself NV Tacoba or NV Tacoba Forestry Consultants arrived in the area and began operations in 1996/7. When challenged by the communities, they were told that the company had permission from the government and any attempt to interfere with or challenge its operations would be punished by imprisonment. Other concessions, particularly gold and stone concessions, were subsequently discovered when the Saramaka obtained a map of concessions via an NGO. These concessions included a large logging concession issued to NV Botopasi, which is suspected to be a front company for MUSA, an Indonesian logging company.<sup>80</sup>

71. Another Chinese company, calling itself Jin Lin Wood Industries surfaced in the area in 2000.<sup>81</sup> Jin Lin Wood Industries has relations with Ji Sheng, another Chinese company operating in Saramaka territory. Another concession of 150,000 hectares held by Chinese company, NV Lumprex, was also recently discovered in Saramaka territory. Lumprex is owned by the same parent company as NV Tacoba, another Chinese company, operating in Saramaka territory. Finally, a Chinese company known as Fine Style is also operating in Saramaka territory.

72. According to the Saramaka, Tacoba's and Jin Lin's operations have included damage to the forest and water quality, construction of a substantial network of feeder roads contributing to water pollution and further destruction of the forest, a reduction in game animals, destruction of subsistence farms, restrictions on community access to hunting, fishing and farming areas and intimidation from company employees.

73. In one case, Jin Lin built a road over a Saramaka woman's farm. 15,000 Surinamese guilders (US\$7.50) was offered as compensation for the loss of her farm.<sup>82</sup> It cost her 80,000 Suriname guilders to pay someone to clear the forest plot prior to planting and all told she lost enough produce to feed her family for almost year as well as cash crops that provide much needed income. She now must rely on relatives to feed herself and her family. In the course of constructing the road that destroyed the woman's and others' agricultural plots, the same company also blocked the creek running through the

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<sup>80</sup> The nature of MUSA's activities in Suriname, where it has been working since 1993, have led to it being called "the flying bulldozer brigade." Substantial allegations have been made concerning destruction of forests, blatant violations of forest laws and exploitation of local communities. See, for example, Sizer and Rice, *Backs to the Wall in Suriname: Forest Policy in a Country in Crisis*. World Resources Institute, Washington DC, 1995; and, Colchester, *Forest Politics in Suriname*. International Books, Utrecht, 1995.

<sup>81</sup> The activities of Jin Lin around Kayapati were described by the *Philadelphia Inquirer* in May 2001. This article is repeated in Annex B(11).

<sup>82</sup> See, Annex B(11).

area. This creek was the primary source of water for drinking, bathing and domestic use available to a nearby Saramaka community. It is now without a readily accessible water supply and is forced to travel large distances to obtain fresh water. The creek is also an important source of fish, a primary source of protein in the Saramaka diet.

74. In addition to destroying subsistence farms and polluting water sources, this company has recently acquired the services of the Surinamese National Army to guard its concession. A military post has been established in the concession and military forces are actively preventing Saramaka from accessing hunting, fishing and farming areas. Military personnel are armed with standard issue military weapons. Given that the Surinamese Army has been responsible for serious violations of human rights in Saramaka territory in the recent past, their presence serves not only to guard the concession, but also, intentionally or otherwise, to intimidate the Saramaka people.<sup>83</sup>

75. Cesar Adjako, the Captain (traditional leader) of Kayapati Village, made the following statement about the situation on 21 April 2002:

We have our camps at km 52 to km 59 of the Tjongalanga pasi [the road connecting Paramaribo to the Upper Suriname River]. In general we live from agriculture, hunting and fishing. We also do small scale logging. Usually we go hunting and fishing deep into the forest. We consider the area as our ancestral lands, since our ancestors have lived on it and used it for centuries. Today we face a situation which is a violation of our rights. It happens regularly that we meet with Chinese logging workers, soldiers and police while we are hunting in the forest. They prevent us from going into the forest and harass us. They steal our game and fruits and crops from our farms. When we complain, the policemen and the soldiers, who guard the concessions of these Chinese people in the surroundings do not listen to us. They collaborate with and support the Chinese people.<sup>84</sup>

The company also destroyed the farm of Captain Adjako and refused to pay any compensation. The farm produced food for domestic consumption and for sale, and would normally provide enough basic provisions for 6 months to a year.

76. That the State has turned over control of the military units to the Chinese companies is clear from the following statement of a Saramaka eyewitness:

I have to eat, so I need to hunt and fish. I am, just like my ancestors, accustomed to hunting and fishing in the area of the "Kleine Saramacca" River. Some months ago, the soldiers let me pass to go fishing, but when the Chinese from the logging-company saw me they drove me away very roughly. Later the soldiers asked the Chinese officials whether they could give me permission to hunt. The Chinese said no.<sup>85</sup>

77. Surinamese government statistics for the years 1999 and 2000 show that Chinese loggers were by far the largest producers of roundwood in Suriname and China was by far the largest export destination for Surinamese timber, exceeding the next highest

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<sup>83</sup> See, *Aloeboetoe et al. Case. Reparations (Art. 63(1) of the American Convention on Human Rights)*, Judgment of September 10, 1993. Series C No. 15. See, also, Report No. 03/90, Case 10.150, Suriname, OEA/Ser.L/V/II.77 doc. 23 1990).

<sup>84</sup> Statement of Cesar Adjako, Captain of Kayapati Village, 21 April 2002.

<sup>85</sup> Statement of Mr. G. Huur, 20 April 2002.

destination fourfold.<sup>86</sup> For the years 1999-2000, Tacoba and Fine Style together declared exports of 22,516 cubic meters of roundwood, valued at US\$3,128,742.<sup>87</sup> This is over 50 percent of the total recorded roundwood exports from Suriname during the same period, the vast majority of which was cut in Saramaka territory. For 2001, timber exports to China amounted to around US\$4 million, indicating a substantial increase in timber production.<sup>88</sup> There is also some evidence that the labour force used by the Chinese companies is in part drawn from the Chinese prison population. These persons are reportedly forced to work as part of completing their sentence.

78. Environmental organizations familiar with logging in Suriname state that, although only 10 percent of the trees are cut in a given area, 20-30 percent of the forest in that area is destroyed by roads and other logging related activities.<sup>89</sup> Evidence on the ground indicates that the Chinese companies have caused substantial destruction of the forest, both in concessions held directly by them and in concessions exploited by agreement with third parties.

79. According to a Saramaka eye-witness, military personnel ordered him to keep out of the concession of Jin Lin/Ji Sheng and to hunt in an area previously logged, an area where he encountered massive destruction of the forest:

The soldiers told me: 'Leave the Chinese, go hunting here (in an area where the Chinese have finished cutting already). But don't let the Chinese see you.' Well, I went there: there was destruction everywhere; the forest was destroyed. In Paramaribo people don't know what the Chinese are doing. Should not someone control the logging-activities of foreign investors? The Chinese cut hundreds of trees, dragged them to a place and piled them up there. They abandoned them in the forest because they did not need them anymore. For us, people from the interior, it is terrible to see cedar trees [a tree used by the Saramaka for wood carving, an important cultural activity] cut down that are so important for us. And all this destruction made the animals flee away also.<sup>90</sup>

80. One of the Chinese companies has constructed a road to the Kleine Saramacca River, some 20 km from the Tjongalanga pasi, and built a bridge over the river. On the other side of the river, the road is scheduled to go south behind the Saramaka village of Abenaston, further opening up Saramaka territory to logging operations. This road will permit logging deep in the heart of Saramaka territory affecting the southern-most Saramaka villages. It will also allow Brazilian small-scale miners and others to move heavy equipment into concessions held in the southern regions of Saramaka territory.

81. The concessions held by Tacoba, NV Lumprex, Jin Lin Wood Industries and Fine Style were all granted without informing the Saramaka people, without consulting with them and without their agreement. In the case of Tacoba and Lumprex each concession is for 150,000 hectares granted for 20 years. The rights of the Saramaka people to their ancestral territory and resources were not considered or respected and they have received no compensation for the timber extracted from their lands or for the damages to their

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<sup>86</sup> Surinamese Forestry Management Foundation, *Forest Statistics 1999-2000*.

<sup>87</sup> *Ibid.*

<sup>88</sup> 'China Wants Closer Trade Relations with Suriname'. *De Ware Tijd*, Tuesday, 26 March 2002

<sup>89</sup> Raiding the Rain Forest.

<sup>90</sup> Statement of Mr. G. Huur, Annex A.

lands, waters and crops caused by these companies. Moreover, the Suriname has been unwilling to respond to or address in any way the many petitions and complaints filed by the Saramaka people in connection with the operations of these companies. Domestic legal remedies are absent or, where they do exist, had proved ineffective.

82. In light of the preceding, the Saramaka sought the protection of the Inter-American Commission on Human Rights and filed a petition there in October 2000. Filed by the Association of Saramaka Authorities, an organization composed of the leaders of the Upper Suriname River Saramaka communities, and twelve village leaders representing each of the Saramaka matrilineal clans, the petition cited Suriname's failure to recognize Saramaka rights to land, territory and resources as defined by the American Convention on Human Rights and active violation of those rights due to the logging and mining concessions granted in Saramaka territory.

83. On 6 June 2001, the Saramaka transmitted a Supplemental Submission and Request to the Commission. This Supplemental Submission provided updated information about the case; reiterated the Saramaka peoples' request for the application of precautionary measures in order to prevent irreparable harm to their physical and cultural; integrity and irreversible damage to their lands, territory and resources.<sup>91</sup>

84. By letter dated 22 March 2002, Saramaka were informed that, pursuant to Article 37(3) of the Commission's Rules of Procedure, that the Commission had formally opened *Case 12.338 Twelve Saramaka Communities (Suriname)* deferring treatment of admissibility until debate and discussion on the merits. The Commission also noted that it had requested that the State provide information concerning the allegations raised in the Original Petition on two separate occasions (21 November 2000 and 8 August 2001) and that "so far there has been no reply...." By the same letter, petitioners were requested to provide additional observations on the merits of the case.

85. Additional Observations on the Merits were submitted in May 2002. Therein the Saramaka reiterated their request that the Commission institute precautionary measures stating that if logging activities were not immediately suspended that they will suffer irreparable harm to their basic and fundamental human rights, including their rights to property, economic and cultural survival and their right to be free from ethnocide.

86. While Suriname has not formally responded to the petition filed by the Saramaka people, it has responded indirectly. In this respect, the government appears to be on a campaign intended to intimidate the victims and to create a climate of fear and uncertainty surrounding the petition before the Commission. In a recent public statement, the President of Suriname equated Maroons who file petitions with the Commission to armed insurrectionists. As reported in the national newspaper, *De Ware Tijd*, President Venetiaan told the National Assembly that:

"When you open a website you see that there are people who say that they will start a guerilla war with the help of some really impressive names of guerilla

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<sup>91</sup> *Supplemental Submission and Request (Petition No. 12.338) submitted to the Inter-American Commission on Human Rights by the Association of Saramaka Authorities (VSG) and 12 Saramaka Captains in their individual capacity and on behalf of the members of their respective clans (lös) and the Saramaka people as a whole*, 06 June 2001, at para. 24

organizations in Colombia, if their wishes are not being met.” According to the head of state there are indeed elements who are trying to get a permanent armed struggle started in Suriname, such as is the case in countries like Colombia and Sri Lanka. Is that what one wants in Suriname? he asked. “And let us not think that people don’t have such wishes for our country,” he warned. He said that when people think that this is just bluffing, they should take into account that the little people of Brokopondo [sic; Ndjuka Maroons from Moiwana, Marowijne District] and Sipaliwini [Saramaka Maroons from the Upper Suriname River] are capable of going to neighbouring countries and of offering petitions to the OAS.<sup>92</sup>

87. The petition filed by the Saramaka people is the first time that either indigenous peoples or Maroons from Suriname have challenged Suriname’s failure to recognize and respect their land rights in an international human rights body. If successful, it may represent a precedent that all other indigenous and tribal peoples can benefit from. The Saramaka have requested that the Commission make itself available to mediate a friendly settlement that will hopefully result in a negotiated settlement withdrawing the logging concessions and recognizing Saramaka territorial rights. Failing that they ask that the case be submitted to the Inter-American Court on Human Rights for a binding decision.

**(iv) Washabo – Arawak indigenous community**

88. Suriname is presently negotiating with multinational mining companies for concession rights to a large bauxite deposit located in west Suriname, the so-called Bakhuis deposit.<sup>93</sup> These concessions will affect at least six indigenous communities (Arawak and Kalinya communities in the Wayambo region) and require relocation of Washabo, an indigenous community located on the Corentijn River. Mining in this area will mostly likely be accompanied by one or more dams to provide hydroelectric power – flooding a substantial area of primary tropical forests - a deep water harbour and other infrastructure. The same company that operated around Adjoemakondre is competing for the concession rights.

**(v) Kawemhakan – Wayana indigenous community**

89. The Wayana community of Kawemhakan is presently surrounded by mining concession issued to Surinamese and multinational mining companies. The majority of the territory occupied and used by this community is covered by these concessions, which have also been invaded by small-scale miners. The Wayana have suffered greatly from the effects of small scale mining. Many have moved to Wayana communities in French Guiana to escape rampant malaria, violence and alcoholism.

90. In 1998, Canadian companies, Canarc Resources and Placer Dome Inc., concluded an agreement to explore and eventually exploit a gold deposit in the Benzdorp concession in Suriname (approximately 20 km north of Kawemhakan) – Placer Dome has since pulled out of the deal and Canarc is seeking other partners. Canarc’s preliminary results indicate that the various deposits in the Benzdorp concession may amount to in excess of 5 million ounces of gold. Grassalco, the Surinamese state mining company, also has an interest in Canarc’s Benzdorp concession. In 1998, its Director said that east Suriname will become a gold mining complex of enormous importance for the economy of Suriname.

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<sup>92</sup> ‘Web Sites Encourage Terrorism in Suriname’. *De Ware Tijd*, 25 July 2001.

<sup>93</sup> See, Annex B(2) and (3).

91. Canadian companies, Golden Star Resources and Blue Ribbon Resources, are also working in concessions in Benzdorp. Both companies have announced positive preliminary results that indicate that there maybe commercial quantities of gold in their concessions. These concessions are contiguous with Canarc's. Golden Star, for instance, has announced favourable drilling results from a site called Antino. This concession, optioned by Golden Star from NaNa Resources, includes the village of Kawemhakan.

92. The community was not informed or consulted about the granting of the concession. It was so alarmed about exploration and mining activities that the son of the Wayana headman traveled to Washington DC in 1997, where he asked for international support in dealing with the threat to his people posed by Golden Star. This prompted the United States Congressional Human Rights Caucus to write to the Surinamese government; no response was received and the government proceeded to issue another concession in the area. Golden Star claimed to have an agreement with the Wayana. The Wayana say that they were given presents by Golden Star in return for allowing them to work on their land, that Golden Star did not explain what they wanted to do there and that they now want Golden Star to leave their land.<sup>94</sup>

93. If these mines go ahead, presently inactive due to weakness of international gold prices, the Wayana will almost certainly be forced to leave their lands. If preliminary results are correct, there could be at least two multi-million ounce gold mines operation within 2-15 kilometres of the present site of the village. These mines most likely will use open pit, cyanide heap leaching methods to remove material and extract gold. This will also pose a substantial threat to the environment of the Wayana and downstream Arawak and Kalinya indigenous and Aluku and Ndjuka Maroon communities.

**(vi) Nature conservation and indigenous and tribal rights**

94. In 1993, Molendijk and Kanhai stated that indigenous and maroon communities are located within or in the vicinity of seven of the existing and proposed protected areas.<sup>95</sup> The number of communities affected by protected areas is much higher however. For example, with regard to the Wane Creek reserve, Molendijk and Kanhai only mention the existence of "small bushnegro [Maroon] family units,"<sup>96</sup> while the Wane Creek reserve is also an important fishing and hunting area and considered the ancestral territory of the seven indigenous communities in the Lower-Marowijne River region.<sup>97</sup> In fact, most of the existing and currently proposed protected areas are located within or near areas traditionally used and occupied by Indigenous and Maroon peoples (see table).

95. The Nature Protection Act of 1954 makes no provision for indigenous and tribal traditional use of the resources within protected areas: indigenous and tribal peoples are subject to the same restrictions as anyone else regarding the use and management of protected areas. In 1986, when four new protected areas were established by the Nature Protection Resolution, it was provided that if villages and settlements are located in or

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<sup>94</sup> *Canarc and Placer Dome Sign Deal to Exploit Gold Deposits in Benzdorp Concession*, Forest Peoples Programme, Information Update, June 1998.

<sup>95</sup> Molendijk M. & I. Kanhai, *Overheid, Grondenrechten en Natuurbescherming* [Government, Land Rights and Nature Protection], in: Kanhai & Nelson (eds), *Strijd om Grond in Suriname*, 1993, *supra* note 48 at 110.

<sup>96</sup> *Ibid.*

<sup>97</sup> *Map of the Lower Marowijne Indigenous Territory*. Association of Indigenous Village Leaders in Suriname (VIDS), 2001.

near those areas, the rights of the tribal population will be respected.<sup>98</sup> The rights referred to here as the same (unenforceable) customary entitlements discussed above.<sup>99</sup> The 1986 Resolution established four nature reserves in the coastal area and the bordering savanna belt (i.e. Peruvia, Wane Creek, Upper-Cusewijne and Copi), at least three of which include areas used and occupied by indigenous and tribal peoples (Wane Creek, Upper-Cusewijne and Copi).

<b>Protected Areas established before 1986</b>	<b>Affected communities</b>
Hertenrits Nature Reserve (GB 1972, 25)	unknown
Koppenname Monding Nature Reserve (GB 1966, 59)	unknown
Wia Wia Nature Reserve (GB 1966, 59)	Langamankondre, Christiaankondre
Galibi Nature Reserve (GB 1969, 47)	Langamankondre*, Christiaankondre*
Brinckheuvel Nature Reserve (GB 1966, 59)	Nieuw-Koffiekamp and other transmigrated Maroon communities
Brownsberg Nature Park (D 3226/69, 14 March 1970)	Brownsweg* and other transmigrated Maroon communities
Raleighvallen/Voltzberg Nature Reserve (GB 1966, 59; expired by Nature Reservation Resolution 1998, SB 1998, 65)	Witagron, Kaimanston*
Tafelberg Nature Reserve (GB 1966, 59; expired by Nature Reservation Resolution 1998, SB 1998, 65)	possibly Kwamalasamutu, Tepu and several Saramaka communities
Eilerts de Haan Nature Reserve (GB 1966, 59; expired by Nature Reservation Resolution 1998)	possibly Kwamalasamutu, Tepu
Sipaliwini Nature Reserve (GB 1972, 25)	Kwamalasamutu, possibly Tepu
<b>Protected Areas established after 1986</b>	
Peruvia Nature Reserve (SB 1986, 52)	possibly Post Utrecht and Cupido
Boven-Cusewijne Nature Reserve (SB 1986, 52)	Bigi Poika*
Kopi Nature Reserve (SB 1986, 52)	Kopi*, Redi Doti, Casipora, Pierrekondre and other Maroon and Indigenous communities in Mapane/Blakawatra area
Wanekreek Nature Reserve (SB 1986, 52)	Maroon communities*, Christiaankondre, Langamankondre, Pierrekondre, Tapuku, Wanshisha (Marijkedorp)
Bigi Pan Multiple Use Management Area	unknown
Central Suriname Nature Reserve (SB 1998, 65)	Kwinti communities of Witagron and Kaaimanston; Kwamalasamutu and possibly Tepu
<b>Proposed protected areas:</b>	
Kaburikreek Nature Reserve	Washabo*, Section*, Apura*
Nani Nature Reserve	unknown
MacClemen Forest Reserve	unknown
Snake-Creek Forest Reserve	unknown
Estuarine Zone Multiple Use Management Area	Langamankondre, Christiaankondre

\* Source: Molendijk and Kanhai 1993, 110.

<sup>98</sup> Article 4 Nature Protection Resolution of 1986 (SB 1986, 52).

<sup>99</sup> *Supra* paras. 40-4.

96. Article 4 of the 1986 Resolution explicitly states that protection of traditional rights only applies to the reserves established by the Resolution. The ten protected areas created prior to 1986 were established by resolutions which contain no reference to indigenous or tribal rights. In several places the establishment and implementation of the nature reserves has led to conflicts with the local communities who, in almost every case, were not consulted about the plans or, if they were, the reserve was established over their objections. The same applies to the protected areas that are currently proposed.

97. The most recent reserve, the Central Suriname Nature Reserve was announced in New York in June 1998 attracting international media attention. The reserve was officially created by Presidential resolution a month later.<sup>100</sup> The new reserve, ‘established to protect and preserve the natural resources in Suriname’ (art. 1) comprises the existing nature reserves of Ralleighvallen, Tafelberg and Eilerts de Haan and amounts to approximately 1.5 million hectares (9.7% of the total Surinamese land mass).<sup>101</sup>

98. The Central Suriname Nature Reserve expropriated approximately one-third of the territory over which the Kwinti Maroon people have exercised ownership and other rights since the 18<sup>th</sup> century. Consultation consisted of one meeting at which the Kwinti were asked to identify compensable interests. To date, the Kwinti have yet to receive any compensation. With regard to the rights of the Kwinti, the 1998 Resolution provides, in article 2, that the villages and settlements of bushland inhabitants living in tribes, will be respected as long as it is (a) not contrary to the general interest or the national goal of the established nature reserve and if (b) it is not provided otherwise.<sup>102</sup>

## **2. The Obligations of Suriname to Recognize and Respect the Land, Resource and Territorial Rights of Indigenous and Tribal Peoples**

99. The failure of Suriname to recognize and respect the property rights of indigenous and tribal people violates regional and universal human rights instruments. For instance, Suriname ratified the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter “CERD”) without reservation on 15 March 1984. Under CERD, States-parties are obligated to, among others, respect and observe the right ‘to own property alone as well as in association with others,’ without discrimination (art. 5(d)(v)).<sup>103</sup> In a 1997 General Recommendation, the Committee on the Elimination of Racial Discrimination elaborated on state obligations and indigenous rights under article 5(d)(v) of the Convention. In doing so, it called upon states-parties to “recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and

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<sup>100</sup> Nature Protection Resolution 1998 (*Natuur Beschermings Besluit 1998*), SB 1998, 65.

<sup>101</sup> See *De Ware Tijd* 18 June 1998.

<sup>102</sup> Art. 2: To the extent that within the established nature reserve areas are located which have been issued as allodial ownership, leasehold, land lease, rent, use, or concessions, including villages and settlements of tribal bushland inhabitants, the acquired rights will be respected, unless (a) the general interest or the national goal of the established nature reserve is harmed; or (b) is provided otherwise.

<sup>103</sup> Article 5(d)(v) of CERD essentially repeats article 17 of the Universal Declaration of Human Rights, which affirms that: “(1) Everyone has the right to own property alone as well as in association with others; (2) No one shall be arbitrarily deprived of his property.”

territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return these lands and territories.”<sup>104</sup>

100. Indigenous and tribal rights to lands, territories and resources are also guaranteed under the ICCPR, particularly articles 1 and 27. Suriname ratified the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights on 28 December 1976 without reservation. Common article 1 of the Covenants states in pertinent part that

(1) All peoples have the right to self-determination, by virtue of that right they freely determine their political status and freely pursue the economic, social and cultural development.

(2) All peoples may, for their own ends, freely dispose of their natural wealth and resources . . . . In no case may a people be deprived of its own means of subsistence.

101. That the right to self-determination applies to indigenous and tribal peoples is clear from the observations of the HRC, the body charged with monitoring state compliance with the ICCPR. In its Concluding observations on Canada’s fourth periodic report, the HRC stated that

With reference to the conclusion by the [Royal Commission on Aboriginal Peoples] that without a greater share of lands and resources institutions of aboriginal self-government will fail, the Committee emphasizes that the right to self-determination requires, *inter alia*, that all peoples must be able to freely dispose of their natural wealth and resources and that they may not be deprived of their own means of subsistence (article 1(2)). The Committee recommends that decisive and urgent action be taken towards the full implementation of the RCAP recommendations on land and resource allocation. The Committee also recommends that the practice of extinguishing inherent aboriginal rights be abandoned as incompatible with article 1 of the Covenant.<sup>105</sup>

102. The HRC reached similar conclusions – that the State implement and respect the right of indigenous peoples to self-determination, particularly in connection with their traditional lands – in its Concluding Observations on Mexico and Norway issued in 1999.<sup>106</sup>

103. The right of all peoples to self-determination has both procedural (determining political status and pursuing economic, social and cultural development and the right to give or withhold consent) and substantive aspects (*inter alia*, the right to autonomous, self-government and the right to ownership of and control over lands, territories and

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<sup>104</sup> *Committee on the Elimination of Racial Discrimination*, General Recommendation XXIII (51) concerning Indigenous Peoples Adopted at the Committee’s 1235th meeting, on 18 August 1997. *UN Doc. CERD/C/51/Misc.13/Rev.4.*, at para. 5 (*hereinafter* ‘*Gen. Rec. on indigenous peoples*’).

<sup>105</sup> *UN Human Rights Committee*, Concluding observations of the Human Rights Committee: Canada. 07/04/99, at para. 8. *UN Doc. CCPR/C/79/Add.105. (Concluding Observations/Comments) (1999)*.

<sup>106</sup> Concluding observations of the Human Rights Committee: Mexico, *UN Doc. CCPR/C/79/Add.109 (1999)*, at para. 19; Concluding observations of the Human Rights Committee: Norway, *UN Doc. CCPR/C/79/Add.112 (1999)*, at paras. 10 and 17.

resources). It has been described as “a fundamental human right the enjoyment of which is an essential precondition for the enjoyment of any other human rights and fundamental freedoms.”<sup>107</sup> Some scholars and a major UN study conclude that the right to self-determination is a peremptory norm of international law or *jus cogens*, and therefore, non-derogable.<sup>108</sup>

104. The jurisprudence of the Committee on the rights of indigenous peoples under article 27 is considerable. Article 27 protects linguistic, cultural and religious rights and, in the case of indigenous peoples, includes, among others, land and resource, subsistence and participation rights.<sup>109</sup> In its complaints-based jurisprudence, the HRC has also related the right to self-determination to the right of indigenous peoples to enjoy their culture under Article 27 of the ICCPR.<sup>110</sup>

105. The Committee has interpreted article 27 to include the “rights of persons, in community with others, to engage in economic and social activities which are part of the culture of the community to which they belong.” In reaching this conclusion, it recognized that indigenous peoples’ subsistence and other traditional economic activities are an integral part of their culture, and substantial interference with those activities can be detrimental to their cultural integrity and survival. By necessity, the land, resource base and the environment thereof also require protection if subsistence activities are to be safeguarded.

106. Many of the cases brought by indigenous peoples under article 27 challenge state- or corporate-directed resource exploitation. In this context, the Committee has observed that a state’s freedom to encourage economic development is limited by the obligations it has assumed under article 27.<sup>111</sup> An activity that amounts to a denial of the right to enjoy culture, for indigenous peoples this includes land, subsistence and other rights, is prohibited under article 27. Such activities include forcible relocation, severe environmental degradation and denial of access to subsistence areas and areas of cultural and religious significance. In its 1999 Concluding Observations on Chile, for instance, the HRC stated that

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<sup>107</sup> *UN Working Group on Indigenous Populations, Discrimination Against Indigenous Peoples, Report of the Working group on its tenth session. UN Doc. E/CN.4/Sub.2/1992/33, 1992, at para 71. H. Gros Espiell, Special Rapporteur, The right to self- determination. Implementation of United Nations resolutions, UN Doc. E/CN.4/Sub.2/405/Rev.1 (1980), at para. 50.*

<sup>108</sup> *Brownlie, Principles of Public International Law (4th ed.), Oxford University Press, Oxford (1990), at 513; Parker and Nelson, Jus Cogens: Compelling the Law of Human Rights, Hastings International and Comparative Law Review, vol. 12, (1989), at 440 and; H. Gros Espiell, Special Rapporteur, The right to self- determination. Implementation of United Nations resolutions, UN Doc. E/CN.4/Sub.2/405/Rev.1 (1980), at para. 74.*

<sup>109</sup> *Bernard Ominayak, Chief of the Lubicon Lake Band vs. Canada, Report of the Human Rights Committee, 45 UN GAOR Supp. (No.43), UN Doc. A/45/40, vol. 2 (1990), 1. See also, Kitok vs. Sweden, Report of the Human Rights Committee, 43 UN GAOR Supp. (No.40) UN Doc. A/43/40; Lovelace vs. Canada (No. 24/1977), Report of the Human Rights Committee, 36 UN GAOR Supp. (No. 40) 166, UN Doc. A/36/40 (1981). I. Lansman et al. vs. Finland (Communication No. 511/1992), UN Doc. CCPR/C/52/D/511/1992; and, Jouni Lansman et al. vs. Finland (Communication No. 671/1995), UN Doc. CCPR/C/58/D/671/1995. Although not decided under article 27, see, also, Hopu & Bessert v. France. Communication No. 549/1993: France. 29/12/97. UN Doc. CCPR/C/60/D/549/1993/Rev.1, 29 December 1997.*

<sup>110</sup> *Apirana Mahuika et al. vs. New Zealand (Communication No. 547/1993, 15/11/2000), UN Doc. CCPR/C/70/D/547/1993 (2000), at para. 9.2.*

<sup>111</sup> *I. Lansman et al. vs. Finland (Communication No. 511/1992), CCPR/C/52/D/511/1992, 10.*

The Committee takes note of the various legislative and administrative measures taken to respect and ensure the rights of persons belonging to indigenous communities in Chile to enjoy their own culture. Nevertheless, the Committee is concerned by hydroelectric and other development projects that might affect the way of life and the rights of persons belonging to the Mapuche and other indigenous communities. *Relocation and compensation may not be appropriate in order to comply with article 27 of the Covenant. Therefore: When planning actions that affect members of indigenous communities, the State party must pay primary attention to the sustainability of the indigenous culture and way of life and to the participation of members of indigenous communities in decisions that affect them.*<sup>112</sup> (emphasis added)

107. In a 1994 General Comment (No.23), the Committee further elaborated upon the scope of, and state obligations under, article 27 by stating that

one or other aspects of the rights of individuals protected [under Art. 27] - for example to enjoy a particular culture - may consist in a way of life which is closely associated with a territory and its use of resources. This may particularly be true of members of indigenous communities constituting a minority . . . . With regard to the exercise of the cultural rights protected under Article 27, the committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, specifically in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law. The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them . . . . The Committee concludes that article 27 relates to rights whose protection imposes specific obligations on States parties. The protection of these rights is directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole....<sup>113</sup>

108. Further, in July 2000, the Committee added that article 27 requires that “necessary steps should be taken to restore and protect the titles and interests of indigenous persons in their native lands ...” and that “securing continuation and sustainability of traditional forms of economy of indigenous minorities (hunting, fishing and gathering), and protection of sites of religious or cultural significance for such minorities ... must be protected under article 27....”<sup>114</sup>

109. In inter-American human rights law, Suriname also has concrete and specific obligation to recognize, guarantee indigenous and tribal property rights.<sup>115</sup> For instance, in the *Mayagna (Sumo) Awas Tingni Community Case*, the Inter-American Court on Human Rights affirmed that indigenous peoples, and presumably also tribal peoples, have collective rights to their traditional lands, resources and environment protected by article 21 of the American Convention and held that failure to adequately and effectively

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<sup>112</sup> *Concluding observations of the Human Rights Committee : Chile. 30/03/99. CCPR/C/79/Add.104. (Concluding Observations/Comments) CCPR/C/79/Add.104, 30 March 1999, at para. 22*

<sup>113</sup> *General Comment No. 23 (50) (art. 27)*, adopted by the Human Rights Committee at its 1314th meeting (fiftieth session), 6 April 1994. UN Doc. CCPR/C/21/Rev.1/Add.5. (1994), at 3.

<sup>114</sup> *Concluding observations of the Human Rights Committee: Australia. 28/07/2000. CCPR/CO/69/AUS. (Concluding Observations/Comments)*, at paras. 10 and 11.

<sup>115</sup> Suriname ratified the American Convention on Human Rights in 1987 and is bound by the American Declaration on the Rights and Duties of Man.

recognize, guarantee, respect and enforce those rights contravened state obligations under article 1, 2, 21 and 25 of the American Convention.<sup>116</sup>

110. In the *Awas Tingni Community Case*, the Court found, *inter alia*,

- that the right to property in the American Convention has a meaning separate from, and not limited by, definitions of property under domestic law;<sup>117</sup>
- that “article 21 of the Convention protects the right to property in the sense that it comprises, among other things, the rights of members of indigenous communities within the framework of communal possession ...;”<sup>118</sup>
- that, “[a]mong indigenous communities, there is a communal tradition as demonstrated by their communal form of collective ownership of their lands, in the sense that ownership is not centered in the individual but rather in the group and in the community. By virtue of the fact of their very existence, indigenous communities have the right to live freely on their own territories; the close relationship that the communities have with the land must be recognized and understood as a foundation for their cultures, spiritual life, cultural integrity and economic survival. For indigenous communities, the relationship with the land is not merely one of possession and production, but also a material and spiritual element that they should fully enjoy, as well as a means through which to preserve their cultural heritage and pass it on to future generations;”<sup>119</sup>
- that Indigenous property rights arise and are enforceable by virtue of traditional occupation and use and by virtue of Indigenous law - “The customary law of indigenous peoples should especially be taken into account because of the effects that flow from it. As a product of custom, possession of land should suffice to entitle indigenous communities without title to their land to obtain official recognition and registration of their rights of ownership”<sup>120</sup>

Finally, the Court held, “in conformity with article 2 of the American Convention on Human Rights ... that the State must adopt measures of a legislative, administrative, and whatever other character necessary to create an effective mechanism for official delimitation, demarcation, and titling of the indigenous communities’ properties, in accordance with the customary law, values, usage, and customs of these communities.”<sup>121</sup>

111. The failure of Suriname to recognize and respect indigenous and tribal property rights also contravenes article 2 of the American Convention and article 2 of the ICCPR. Indigenous and tribal peoples’ ownership, use and possession of their communal lands traditionally occupied and used, including the waters and forests within those lands, is a form of property recognized by regional and international legal instruments. As decided by the Court, their traditional forms of land tenure and use, as defined and determined by indigenous and tribal customary law, give rise to property rights that Suriname is bound to respect. Therefore, Suriname’s obligations to take effective measures to recognize, secure and guarantee the rights set out in the American Convention also extends to the land and

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<sup>116</sup> *The Mayagna (Sumo) Awas Tingni Community Case*, Judgment of August 31, 2001, Inter-Am. Ct. H.R. Ser. C No. 76. (hereinafter ‘*The Mayagna (Sumo) Awas Tingni Community Case*’).

<sup>117</sup> *Ibid.*, at para. 146-48.

<sup>118</sup> *Ibid.*, at para. 148.

<sup>119</sup> *Ibid.*, at para. 149.

<sup>120</sup> *Ibid.*, at para. 151.

<sup>121</sup> *Ibid.*, at para. 164.

resource rights of indigenous and tribal peoples. It has failed to do so in violation of articles 1, 2 and 21 of the American Convention and other international instruments.

112. The present situation may be distinguished from the *Awás Tingni Community Case* insofar as indigenous peoples' property rights were recognized in the Nicaraguan Constitution, whereas in Suriname these rights are not legally recognized in any way. Consequently, in addition to incurring international responsibility for failing to take adequate measures to delimit, demarcate and title indigenous and tribal peoples' property, Suriname is also internationally responsible for failing to legally recognize these rights. Such recognition is a prerequisite to and provides the legal basis for demarcation and titling. The extent of the violations is thus of a greater magnitude in the case at hand.

113. Not only has Suriname failed to recognize the rights of indigenous and tribal peoples to their property, it has actively violated those grants by granting concessions to a series of logging and mining companies to exploit the forests, timber resources and minerals within their territories. This has led to a series of other violations as the companies have seriously compromised their resource base, denied them access to areas critical to their basic subsistence needs and caused widespread degradation of the environment that they depend upon for their physical, cultural and spiritual sustenance. In some cases, the companies have been actively assisted in these violations by the Surinamese National Army and police.

### **C. The Right to Cultural Integrity and Rights to Lands, Resources and Territories**

114. By failing to recognize and respect the rights of indigenous and tribal peoples to own, control and peacefully enjoy their rights to their lands, territories and resources, Suriname is also responsible for violations of indigenous and tribal peoples' right to practice, enjoy and transmit their cultures. The cultures of indigenous and tribal peoples are fundamentally and inextricably related to their systems of land ownership and use, their religious and spiritual freedom and their laws and customs pertaining thereto. By failing to recognize and respect indigenous and tribal territorial rights and by authorizing logging and mining activities in those lands, activities that interfere with and deny indigenous and tribal subsistence and other rights, the Suriname has violated their right to the integrity of their culture.

115. As noted by the Inter-American Commission in 1997, the right to cultural integrity is recognized in a range of international human rights instruments, including the American Declaration, which proclaims the right to take part in the cultural life of the community.<sup>122</sup> Specifically, the Commission stated that "special protections for indigenous peoples may be required to ensure their physical and cultural survival -- a right protected in a range of international instruments and conventions."<sup>123</sup>

116. The Inter-American Commission has addressed this right in a number of cases involving Indigenous peoples in the past. In the *Report on the Situation of Human Rights of a Segment of the Nicaraguan Population of Miskito Origin*, the Commission found that

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<sup>122</sup> IACHR, Report on the Situation of Human Rights in Ecuador, *OEA/Ser.L/V/II.96 doc.10, rev.1 (1997)*, at 115.

<sup>123</sup> *Ibid.*

“special legal protection is recognized for the use of their language, the observance of their religion, and in general, all those aspects related to the preservation of their cultural identity. To this should be added the aspects linked to productive organization, which includes, among other things, the issue of ancestral and communal lands. Non-observance of those rights and cultural values leads to a forced assimilation with results that can be disastrous . . . .”<sup>124</sup>

117. In its *Third Report on the Situation of Human Rights in The Republic of Guatemala*, the Inter-American Commission found Guatemala responsible for acts and omissions detrimental to Indigenous “ethnic identity and against development of their traditions, their language, their economies, and their culture.”<sup>125</sup> It characterized these as “human rights also essential to the right to life of peoples.”<sup>126</sup>

118. Explicitly relating the right to cultural integrity to rights to lands, territories and resources, the Commission stated in 1997 that “For many indigenous cultures, continued utilization of traditional collective systems for the control and use of territory are essential to their survival, as well as to their individual and collective well-being. Control over the land refers to both its capacity for providing the resources which sustain life, and to ‘the geographical space necessary for the cultural and social reproduction of the group.’”<sup>127</sup>

119. Suriname has committed itself to respect the culture and way of life of indigenous peoples by subscribing to the CARICOM Charter of Civil Society, a regional human rights instrument adopted by the Heads of Government of the member states of the Caribbean Community on February 19, 1997. Article XI provides that “The States recognize the contribution of the indigenous peoples to the development process and undertake to continue to protect their historical rights and respect the culture and way of life of these peoples.” It has not, however, done anything to honour this commitment in domestic law and practice.

120. Article 27 of the ICCPR also guarantees the right of persons belonging to indigenous and tribal peoples to cultural integrity. Suriname is party to the ICCPR. The Inter-American Commission, for example, has relied on article 27 in the past to affirm that international law protects indigenous peoples’ rights to practice, enjoy and perpetuate their cultures in all their manifestations.<sup>128</sup>

121. Article 27 of the ICCPR applies to minorities and recognizes, *inter alia*, an individual right to enjoy one’s culture in community with other members of the cultural collective. The HRC has interpreted this article to include the “rights of persons, in

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<sup>124</sup> IACHR, Report on the Situation of Human Rights of a Segment of the Nicaraguan Population of Miskito Origin, OEA/Ser.L/V/II.62, doc.26. (1984), at 81.

<sup>125</sup> IACHR, *Third Report on the Situation of Human Rights in The Republic of Guatemala* OEA/Ser.L/V/II.67, doc. 9 (1986), at 114.

<sup>126</sup> *Ibid.*

<sup>127</sup> IACHR, Report on the Situation of Human Rights in Ecuador, OEA/Ser.L/V/II.96 doc.10, rev.1 (1997), at 115.

<sup>128</sup> Report on the Situation of Human Rights of a Segment of the Nicaraguan Population of Miskito Origin, OEA/Ser.L/V/II.62, doc.26. (1984), at 76-78, 81; Report on the Situation of Human Rights in Ecuador, OEA/Ser.L/V/II.96 doc.10, rev.1 (1997), at 103-4; Case 7615 (Brazil), IACHR, OEA/Ser.L/V/II.66, doc 10 rev 1 (1985), at 24, 31; and, Third Report on the Situation of Human Rights in The Republic of Guatemala OEA/Ser.L/V/II. 67, doc. 9 (1986), at 114.

community with others, to engage in economic and social activities which are part of the culture of the community to which they belong.”<sup>129</sup> In reaching this conclusion, the HRC recognized that indigenous and tribal peoples’ subsistence and other traditional economic activities are an integral part of their culture, and interference with those activities can be detrimental to cultural integrity and survival.<sup>130</sup> The HRC made it clear in 1994 that indigenous and tribal land tenure and use patterns are cultural elements that states are under positive obligation to protect and guarantee. In its 1994 General Comment on article 27, the HRC specifically addressed the connection between indigenous and tribal land rights and culture and noted that the enjoyment of these rights may require positive measures of protection.

#### **D. The right to be consulted and to participate in decision-making**

122. In addition to violating the rights of the indigenous and tribal peoples to property, Suriname has also violated their rights to be consulted, to participate in and to consent to activities that directly affect their rights, lives, ancestral lands and environment. These rights are recognized in a range of international instruments ratified by Suriname.

123. During its consideration of the *Awás Tingni Indigenous Community Case*, for instance, the Inter-American Commission determined that Nicaragua had violated the right to property, judicial protection and due process of law by granting logging concessions on indigenous lands without taking steps to title and demarcate those lands. In that case, the Commission decided that “The State of Nicaragua is actively responsible for violations of the right to property, embodied in Article 21 of the Convention, by granting a concession to the company SOLCARSA to carry out road construction work and logging exploitation on the Awás Tingni lands, without the consent of the Awás Tingni Community.”<sup>131</sup>

124. In its *Ecuador Report*, the Commission referred to various principles adopted at the United Nations Conference on Environment and Development and various articles of the American Convention to highlight the right to participate in decisions affecting the environment.<sup>132</sup>

125. United Nations human rights bodies have also affirmed that indigenous and tribal peoples’ right to participate in and consent to decisions affecting their traditional lands is guaranteed under UN instruments. The Committee on the Elimination of All Forms of Racial Discrimination, for instance, has recognized indigenous and tribal peoples’ right to “effective participation ... in decisions affecting their land rights, *as required under article 5(c) of the Convention and General Recommendation XXIII of the Committee*, which stresses the importance of ensuring the ‘informed consent’ of indigenous peoples”

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<sup>129</sup> *Bernard Ominayak, Chief of the Lubicon Lake Band vs. Canada, Report of the Human Rights Committee*, 45 UN GAOR Supp. (No.43), UN Doc. A/45/40, vol. 2 (1990), at 1.

<sup>130</sup> *Ibid.* See, also, *Kitok vs. Sweden, Report of the Human Rights Committee*, 43 UN GAOR Supp. (No.40) UN Doc. A/43/40; *I. Lansman et al. vs. Finland (Communication No. 511/1992)*, CCPR/C/52/D/511/1992; *and, Jouni Lansman et al. vs. Finland (Communication No. 671/1995)*, CCPR/C/58/D/671/1995.

<sup>131</sup> Inter-American Commission of Human Rights, Report No. 27/98 (Nicaragua), at para. 142, *quoted in, The Mayagna (Sumo) Awás Tingni Community Case*, Judgment on the Preliminary Objections of February 1, 2000, Inter-Am. Ct. H.R. (Ser. C) No. 66 (2000).

<sup>132</sup> *Report on the Situation of Human Rights in Ecuador*, OEA/Ser.L/V/II.96 doc.10, rev.1 (1997), at 92-5.

(emphasis added).<sup>133</sup> This General Recommendation calls upon states parties to “ensure that members of indigenous peoples have equal rights in respect of effective participation in public life, and that no decisions directly relating to their rights and interests are taken without their informed consent.”<sup>134</sup>

126. The Committee on Economic, Social and Cultural Rights has similarly noted “with regret that the traditional lands of indigenous peoples have been reduced or occupied, without their consent, by timber, mining and oil companies, at the expense of the exercise of their culture and the equilibrium of the ecosystem.”<sup>135</sup> The United Nations Human Rights Committee also affirmed that the members of indigenous and tribal peoples have the right to effective and meaningful participation in measures that affect them under article 27 of the International Covenant on Civil and Political Rights.<sup>136</sup>

### **E. The Right to a Healthy Environment**

127. Suriname has also violated the right of indigenous and tribal peoples to a healthy environment. Article 11 of the OAS Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) provides that

1. Everyone shall have the right to live in a healthy environment and to have access to basic public services.
2. The States Parties shall promote the protection, preservation, and improvement of the environment.

127. The Protocol of San Salvador was ratified by Suriname on 10 July 1990. Despite the obligation contained in article 2 of the Protocol of San Salvador to give effect to article 11 in its domestic legislation, Suriname has failed to enact any form of environmental or other legislation that would permit indigenous and tribal peoples to seek protection of their right to a healthy environment. Moreover, the logging and mining activities presently taking place in and around indigenous and tribal territories clearly contravene the standard set in article 11.

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<sup>133</sup> Concluding Observations by the Committee on the Elimination of Racial Discrimination : Australia. 24/03/2000. CERD/C/56/Misc.42/rev.3. (Concluding Observations/Comments), at para. 9.

<sup>134</sup> Gen. Rec. on indigenous peoples, at para 4. See, also, *Committee on the Elimination of Racial Discrimination*, General Recommendation XXI on self-determination, CERD/48/Misc.7/Rev.3 (1996), at paras. 3 and 5 (relating the right to take part in public affairs and the right of indigenous peoples to cultural integrity to the right to self-determination).

<sup>135</sup> *Concluding Observations of the Committee on Economic, Social and Cultural Rights : Colombia*. 30/11/2001. UN Doc. E/C.12/1/Add.74. (Concluding Observations/Comments), at para. 12

<sup>136</sup> See, among others, General Comment No. 23 (50) (art. 27), adopted by the Human Rights Committee at its 1314th meeting (fiftieth session), 6 April 1994. UN Doc. CCPR/C/21/Rev.1/Add.5.; Bernard Ominayak, Chief of the Lubicon Lake Band vs. Canada, *Report of the Human Rights Committee*, 45 UN GAOR Supp. (No.43), UN Doc. A/45/40, vol. 2 (1990), 1. See also, Kitok vs. Sweden, *Report of the Human Rights Committee*, 43 UN GAOR Supp. (No.40) UN Doc. A/43/40; Lovelace vs. Canada (No. 24/1977), *Report of the Human Rights Committee*, 36 UN GAOR Supp. (No. 40) 166, UN Doc. A/36/40 (1981). *I. Lansman et al. vs. Finland* (Communication No. 511/1992), UN Doc. CCPR/C/52/D/511/1992; *Jouni Lansman et al. vs. Finland* (Communication No. 671/1995), UN Doc. CCPR/C/58/D/671/1995; and, *Apirana Mahuika et al v. New Zealand*. (Communication No 547/1993) CCPR/C/70/D/547/1993, 15 November 2000. Although not decided under article 27, see, also, *Hopu & Bessert v. France*. Communication No. 549/1993: France. 29/12/97. UN Doc. CCPR/C/60/D/549/1993/Rev.1, 29 December 1997.

128. As described above and elsewhere, Logging and mining are polluting water sources, destroying wide areas of forest in which game animals exist and reproduce, in which indigenous and tribal peoples grow food and gather medicines and fruits and generally disrupting the delicate equilibrium upon which the health of the forests depends. If the health of the forest is damaged, the health of indigenous and tribal peoples is also damaged. Destruction or substantial reduction of food sources will rapidly lead to malnutrition, especially affecting the young, elderly and infirm, and increased susceptibility to diseases.

129. The right to a healthy environment is also set forth in article 24 of the Convention on the Rights of the Child, ratified by and binding on Suriname.

132. Finally, numerous international processes have recognized the fundamental importance to indigenous and tribal peoples of a safe and healthy environment. The draft Declaration of Principles on Human Rights and the Environment submitted by UN Special Rapporteur F-Z. Ksentini in 1994, for instance, states that

Indigenous peoples have the right to control their lands, territories and natural resources and to maintain their traditional ways of life. This includes the right to security in the enjoyment of their means of subsistence.

Indigenous peoples have the right to protection against any action or course of conduct that may result in the destruction or degradation of their territories, including land, air, water, sea-ice, wildlife or other resources.<sup>137</sup>

This principle elaborates up the Special-Rapporteur's conclusion in her preliminary report that, given indigenous and tribal peoples' unique relationship with their lands and territories, "all environmental degradation has a direct impact on the human rights of the indigenous peoples dependent on that environment."<sup>138</sup>

## **V. Conclusion and Request**

133. The rights of indigenous and tribal peoples in Suriname to practice, enjoy and maintain their cultures, to be secure in their means of subsistence, to freely dispose of their natural wealth, to property and to participate in and consent to decisions and activities affecting them are neither recognized nor respected at present in Suriname. This is especially the case for rights to lands, territories and resources. Indigenous and tribal culture and identity are fundamentally tied to their relationship with their ancestral lands, territories and resources. Without strong, effective and enforceable rights to these lands, territories and resources, their cultural integrity is seriously undermined and denied.

134. In 1997, the UN Commission on Human Rights authorized the appointment of a Special Rapporteur on indigenous land rights.<sup>139</sup> In her first report, Special Rapporteur Daes identified a series of problem areas relating to indigenous land rights, the most fundamental of which is 'the failure of States to recognize the existence of indigenous use, occupancy and ownership, and the failure of States to accord appropriate legal status,

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<sup>137</sup> *Human Rights and the Environment. Final report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur.* E/CN.4/Sub.2/1994/9 (1994), Annex, draft principle 14.

<sup>138</sup> *Human Rights and the Environment. Preliminary report prepared by Mrs. Fatma Zohra Ksentini, Special Rapporteur.* E/CN.4/Sub.2/1991/8 (1991), at para. 27.

<sup>139</sup> Commission on Human Rights, Decision 1997/114 of 13 April 1997.

juridical capacity and other legal rights in connection with indigenous peoples' ownership of land.'<sup>140</sup> With regard to the former, she states that

Countries in many parts of the world are unaware or ignore the fact that communities, tribes or nations of indigenous peoples inhabit and use areas of land and sea and have done so, in many cases, since time immemorial. These areas are typically far from the capitals and other urban areas of the country and, typically, countries regard these lands and resources as public or "crown" lands. Although the indigenous people concerned regard themselves, with good reason, as owning the land and resources they occupy and use, the country itself disposes of the land and resources as if the indigenous people were not there.<sup>141</sup>

135. In connection with the second aspect, the failure to accord legal status to indigenous lands, she states that 'In some countries, indigenous communities do not have legal capacity to own land, or do not have the capacity to own land collectively. Where the indigenous peoples or group is not recognized as having juridical status or existence, it cannot hold title to lands or resources nor take legal action to protect those property interests.'<sup>142</sup>

136. The other problem areas are listed as follows: 1) discriminatory laws and policies affecting indigenous land rights, including according indigenous land rights second class or inferior status and unilateral abrogation of treaty rights; 2) failure to demarcate and failure to enforce or implement laws protecting indigenous lands; 3) problems concerning land claims settlements or return of lands; 4) expropriation of indigenous lands in the national interest, particularly in the name of development; 5) removal and relocation; 6) other policies or programmes including: allotment of lands to individuals and State control of sacred or cultural sites; 7) failure to protect the integrity of indigenous territories, and; 8) the failure to recognize and respect indigenous control of their territories as part of the right to self-determination.<sup>143</sup>

137. Comparing the preceding to the situation in Suriname, both legal and factual, it is clear that all of the problems areas identified by Daes are highly relevant and exist in Suriname. While all the categories are apparent, in recent years the expropriation of indigenous and tribal lands in the name of development has been a severe problem. On this subject Daes observes that

The legacy of colonialism is probably most acute in the area of expropriation of indigenous lands, territories and resources for national economic and development interests. In every sector of the globe, indigenous peoples are being impeded in every conceivable way from proceeding with their own forms of development, consistent with their own values, perspectives and interests.<sup>144</sup>

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<sup>140</sup> Daes, *Indigenous people and their relationship to land. Preliminary working paper prepared by Mrs. Erica-Irene Daes, Special Rapporteur*, UN Doc E/CN.4/Sub.2/1997/17. See, also, for a repetition of these points as well as updated conclusions, Daes, E-I., 2001. *Indigenous people and their relationship to land. Final working paper prepared by Mrs. Erica-Irene A. Daes, Special Rapporteur*. UN Doc. E/CN.4/Sub.2/2001/21, 11 June 2001.

<sup>141</sup> *Ibid.*, at para. 27.

<sup>142</sup> *Ibid.*, at para. 30.

<sup>143</sup> *Ibid.*, at paras. 25-67.

<sup>144</sup> *Ibid.*, at para. 49

Much large-scale economic and industrial development has taken place without recognition of and respect for indigenous peoples' rights to lands, territories and resources. Economic development has been largely imposed from outside, with complete disregard for the right of indigenous peoples to participate in the control, implementation and benefits of development.<sup>145</sup>

138. International standards state that indigenous and tribal peoples have the collective right to own, use and peacefully enjoy their traditional lands, territories and resources, to freely dispose of their natural resources and to be secure in their means of subsistence. States have a corresponding duty to recognize these rights by, among others, titling, demarcating and ensuring the integrity of these lands and territories. In Suriname, this has not been done and these rights are routinely violated both by act and omission. In the case of the former, by issuing permits to logging and mining companies and small-scale miners, who operate on indigenous and maroon lands with impunity, normally cause severe environmental degradation and destroy vital subsistence resources; by converting indigenous and tribal lands into protected areas without their consent, and; by granting indigenous and maroon lands to outsiders. In the latter, by failing to title, demarcate and guarantee indigenous and maroon land rights. Not only are indigenous and maroon resource rights not recognized in the law, the 1987 Constitution explicitly states that all resources belong to the State, which has the inalienable right to exploit those resources.

139. Subsistence rights (hunting, fishing, agriculture, gathering) are especially vulnerable in areas issued to mining and logging interests. Some communities have reported that they have to import water in mining areas due to pollution and can no longer catch fish or frequently catch fish that are unfit for human consumption. Others report that river water makes them sick. Farming areas are frequently destroyed and game animals are depleted in these areas because of human disturbances, habitat loss and over hunting by miners and loggers.

140. Environmental degradation and the attendant loss of subsistence resources cause serious health problems, especially affecting the young and elderly. Diseases like malaria have reached epidemic proportions due to a substantial increase of mining activities and mobile miners. The vast amounts of mercury that are routinely dumped throughout the interior have reportedly caused neurological diseases among the Wayana and can be expected to have affected others as well. The State has done nothing to regulate or mitigate the impact of these activities. To the contrary by licensing Brazilian miners and others to work in the interior without supervision, it has actively facilitated these impacts and the attendant human rights violations. In severe cases, this may amount to violations of the right to life.

141. Finally, Daes' last point is perhaps the most relevant. Indigenous and tribal property rights cannot be viewed as separate and distinct from cultural rights, from political rights, from economic rights and from religious and spiritual rights. These rights are inextricably connected, fundamental to a full appreciation of indigenous and tribal peoples' territorial rights and, most importantly, part and parcel of the right to self-determination. In this vein, the 1996 UN Expert's Seminar on Indigenous Land Rights and Claims recommended that "Governments should review their laws and policies in order to address the concept of the inherent rights to self-government and self-management of

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<sup>145</sup> *Ibid.*, at para. 50.

indigenous peoples.”<sup>146</sup> Another UN Expert’s meeting, this time on indigenous autonomy and self-government, concluded that “Indigenous territory and the resources that it contains are essential to the physical, cultural and spiritual existence of indigenous peoples and to the construction and effective exercise of indigenous autonomy and self-government. This territorial and resource base must be guaranteed to these peoples for their subsistence and the ongoing development of indigenous societies and cultures.”<sup>147</sup>

142. The right to self-determination is a framework right that has both substantive and procedural aspects. It encompasses land and resource rights, cultural rights and political rights and recognizes the right of the holder to freely pursue their economic, social and cultural development and to freely determine their political status. It also requires that the collective be recognized before the law. As we have seen, neither indigenous nor tribal peoples or their communities have legal personality in Suriname. This is a gross violation of fundamental human rights as the communities/peoples are legally incapable of holding and defending their rights. It also fails to recognize indigenous and tribal peoples’ distinct forms of socio-cultural and political organization and forces them to adopt alien organizational structures in order to obtain title to their lands.

143. The political and administrative division of the State makes no attempt to account for indigenous and tribal governmental institutions and legal systems and neither are otherwise formally recognized by the law. These institutions also have no formal say over or input in deciding the nature and extent of development activities in their territories and activities classified as development frequently have detrimental effects.

144. There is no mechanism in Surinamese law to provide for the informed participation and consent of indigenous and tribal peoples in decisions that affect them. This is especially the case concerning decisions about their lands and resources and whether concessions are issued thereon or nearby.

145. Neither bi-lingual or bi-cultural education are available for indigenous and tribal children in Suriname. This places these children at a substantial disadvantage to their non-indigenous and tribal peers and has the effect of substantially undermining indigenous and tribal cultural identity and continuity.

146. Indigenous and tribal peoples suffer from discrimination that is particularly pervasive in connection with land rights, education and health. Disparities between the quantity and quality of health and education services in the interior vis-à-vis the coast cannot be justified nor can this disparity be explained by incremental implementation considerations. Simply stated indigenous and tribal peoples receive less and worse services than their coastal counterparts without valid reason. In some cases, indigenous and tribal peoples receive no services at all.

147. In light of the preceding, we respectfully request the following:

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<sup>146</sup> *Report of the United Nations Expert Seminar on Practical Experiences regarding Indigenous Land Rights and Claims, held at Whitehorse, Canada, from 24 to 28 March 1996.* UN Doc. E/CN.4/Sub.2/AC.4/1996/6, at para. 9.

<sup>147</sup> *Report of the United Nations Expert Seminar on Indigenous Autonomy and Self-Government* 28 September 1991. UN Doc. E/CN.4/1992/42, at para. 5.

1. That the Special Rapporteur, as an urgent matter, contact the State of Suriname to seek its views on the issues raised herein and to commence dialogue with the state directed towards securing respect for the rights of indigenous and tribal peoples;
2. That the Special Rapporteur, or his representative(s), conduct an on-site visit to Suriname to view the situation first hand and to hear the views of indigenous and tribal peoples, government officials and other interested parties;
3. That the Special Rapporteur write a report of his on-site visit to Suriname, including the relevant facts, observations of the State and indigenous and tribal peoples, the points of law and rights implicated, and his proposals and recommendations to the State on immediate/urgent actions and follow up measures required to prevent and remedy violations of the human rights and fundamental freedoms of indigenous and tribal peoples;
4. That the Special Rapporteur act as or appoint a representative to act as a facilitator of a settlement securing the rights and fundamental freedoms of indigenous and tribal peoples in Suriname;
5. Should Suriname fail to respond to the Special Rapporteur's requests for information or for an on-site visit:
  - (a) that the Special Rapporteur inform the Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights and the Permanent Forum on Indigenous Issues and;
  - (b) that the Special Rapporteur seek to have Suriname included as part of the Commission on Human Rights Country mandate proposing that the Commission adopt a resolution appoint a country rapporteur to examine and report on the situation of indigenous and tribal peoples in Suriname.

## **VI. Signature**

Signed on this the 15th day of June 2002.

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**Fergus MacKay J.D.**  
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## VII. Annexes

### Annex A – Mercury Contamination

#### 1. Summary of the Proceedings of a Conference on Mercury and Small-Scale Mining<sup>148</sup>

**Workshop Proceedings GFCEP05:  
Kwik en Kleinschalige Goudwinning Mercury and Artisanal Gold Mining  
March 30, 2000  
Hotel Stardust, Leonsberg, Paramaribo  
Executive Summary**

In 1998 and 1999 the research project *Water Quality Monitoring In The Commewijne Watershed Suriname*, was conducted by the Environmental Research Center of the Anton de Kom University of Suriname. In connection with concluding this project, the Environmental Research Center has organized a workshop about the subject Mercury and artisanal gold mining. Through lectures about several aspects around the use of mercury in artisanal gold mining and through discussions in working groups it was attempted to achieve recommendations regarding mitigation of the negative effects of mercury use.

It is estimated that about 20.000 to 25.000 artisanal miners are involved in gold mining in the interior of Suriname, producing annually about 20 to 30 tons gold, along with using 20 to 30 tons mercury. Simple technologies are employed, characterized by landscape and ecosystem destruction (like soil destruction and deforestation), insufficient exploration, unknown efficiency, rudimentary extraction techniques with ample and careless use of mercury as gold extraction medium. Gold is mainly illegally mined by gold miners from Brazilian descent, exploited by certain parts of the middle class from Paramaribo and other sections of society controlling the gold sector. All these factors cause social, cultural and moral disruption in the indigenous and Maroon communities in the interior, influencing negatively the health and the environment.

Problems with mercury pollution are characterized by a large geographical distribution and a prolonged presence in the environment. The form in which mercury occur determines strongly its behavior and certainly its mobility. In gold mining metallic mercury ends up in the environment by evaporation in the air and by washing by water into creeks and rivers, where by chemical processes it may be bound to sediment in other forms. Workers in gold mining and gold buying are exposed to vapors of metallic mercury, when heating the amalgam (gold-mercury mixture). Classical mercury poisoning symptoms (like tremors, emotional instability, loss of memory) occur when exposure values exceed 100 microgram metallic mercury per gram creatinin in the human urine. Below that value subtle effects occur. In water, especially with low pH and with dissolved organic materials, metallic mercury is easily converted into other forms, like very poisonous methylmercury, which is easily taken into the food chain, causing bioaccumulation. At the top of the food chain are organisms like predator fishes, caimans and raptors. The local population is mainly exposed to methylmercury by the consumption of fish with accumulated methylmercury. It causes symptoms like disturbances in the central nervous system and it is teratogenic. The preliminary (1999) WHO standard for the admissible weekly intake of methylmercury is 3.3 µg/kg body weight. The most important risk groups for methylmercury poisoning are pregnant women, unborn fetus and young children.

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<sup>148</sup> Available at: <http://www.wwfguianas.org/gfcep05.htm>

Research was done in establishing mercury contents in different freshwater and estuarine fishes from six rivers, one reservoir and one lagoon. Predator fishes proved to contain higher contents of mercury than fishes from other trophic levels, like detritivorous and herbivorous fishes. About 30% of the investigated predator fishes show higher values than the general accepted standard of 0.5 mg/kg wet weight.

Mercury content of water and sediment were also investigated in the Commewijne River besides those of fish. The values in sediment and fish correlate and they decrease downstream. This points to a local contamination source of mercury upstream. The water shows a reversed trend, for which several theories are possible, but should be investigated further. The aquaculture activities downstream of the Commewijne River are as yet not threatened by mercury pollution. Continuous monitoring is important as long as gold mining activities occur with use of mercury upstream of the Commewijne River basin.

It was noted that it is important to offer training facilities to the mostly poor skilled gold miners. They are captured in a vicious circle of poverty by the use of inefficient and hardly profitable methods, poor management and poor administration. This can be broken through by offering training and technical assistance, to learn management skills and environment friendly mining techniques. For this goal the establishment of a Foundation for Experimental Mining is recommended, with at its disposal training mines in order to offer practical training under realistic conditions and to operate partly self-sustaining.

All concessions in the Greenstone Belt are issued, mainly to the middle class in Paramaribo and not to inhabitants of the interior. Only a few concessionaires have an exploitation permit, the remainder is only meant for exploration. Only one company works legally and it can serve as an example for environment friendly mining operations, because mercury is not used for gold extraction. The applied method, from Brazilian-Chinese origin, is technologically rather simple, but a good and appropriate organization and management are required. It is doubted if the government is able to solve the mercury problem because of entanglement of interests. Initiatives from non-governmental organizations and from the private sector are probably more effective.

The objectives of the environmental policy of the government are: Sustainable use and conservation, promoting of economic and social developments, and preservation and improvement of the quality of the life of each Surinamese. The government is responsible for the policy and the ministries execute the policy assisted by advisory institutions. The environmental policy, seeking an integrated solution, will be effected after identifying all relevant government institutions and stakeholders, collection of data about legislation, about the actual situation concerning the physical, chemical and social effects, about existing policy notes and other relevant information, and after consultation with all stakeholders.

The recommendations from the Workshop include issues like cooperation between all parties involved and coordination of stakeholders, national planning of several aspects like legislation, training, education, information, research and monitoring, initiation of a national platform for mercury monitoring, and the identification of socio-economic problems around artisanal gold mining urgently to be dealt with.

## 2. Abstract of an Article on Mercury Contamination in Fish in Suriname

**Mercury Contamination in Freshwater, Estuarine, and Marine Fishes in Relation to Small-Scale Gold Mining in Suriname, South America. Mol, J. H.; Ramlal, J. S.; Lietar, C.; Verloo, M. *Environmental Research*, 86:183-197, 2001**

### Abstract

Mercury contamination of fishes due to small-scale gold mining was investigated by determination of the total mercury concentration in 318 freshwater fishes, 109 estuarine fishes, and 110 fishes from the Atlantic Ocean. High background levels were found in the piranha *Serrasalmus rhombeus* (0.35  $\mu\text{g Hg g}^{-1}$  muscle tissue, wet mass basis) and the peacock cichlid *Cichla ocellaris* (0.39  $\mu\text{g g}^{-1}$ ) from the Central Suriname Nature Reserve. Average mercury levels in freshwater fishes were higher in piscivorous species than in nonpiscivorous species, both in potentially contaminated water bodies (0.71 and 0.19  $\mu\text{g g}^{-1}$ , respectively) and in the control site (0.25 and 0.04  $\mu\text{g g}^{-1}$ , respectively). Mercury concentrations in piscivorous freshwater fishes were significantly higher in rivers potentially affected by gold mining than in the control site. In 57% of 269 piscivorous freshwater fishes from potentially contaminated sites, mercury levels exceeded the maximum permissible concentration of 0.5  $\mu\text{g Hg g}^{-1}$ . The highest mercury concentrations (3.13 and 4.26  $\mu\text{g g}^{-1}$ ) were found in two piranhas *S. rhombeus* from the hydroelectric reservoir Lake Brokopondo. The high mercury levels in fishes from Lake Brokopondo were to some extent related to gold mining because fishes collected at eastern sites (i.e., close to the gold fields) showed significantly higher mercury concentrations than fishes from western localities. In the estuaries, mercury levels in ariid catfish (0.22  $\mu\text{g g}^{-1}$ ) and croakers (0.04-0.33  $\mu\text{g g}^{-1}$ ) were distinctly lower than those in piscivorous fishes from contaminated freshwater sites. In the isolated Bigi Pan Lagoon, the piscivores snook *Centropomus undecimalis* (0.04  $\mu\text{g g}^{-1}$ ) and tarpon *Megalops atlanticus* (0.03  $\mu\text{g g}^{-1}$ ) showed low mercury levels. Mercury levels were significantly higher in marine fishes than in estuarine fishes, even with the Bigi Pan fishes excluded. High mercury concentrations were found in the shark *Mustelus higmani* (0.71  $\mu\text{g g}^{-1}$ ), the crevalle jack *Caranx hippos* (1.17  $\mu\text{g g}^{-1}$ ), and the barracuda *Sphyraena guachancho* (0.39  $\mu\text{g g}^{-1}$ ), but also in nonpiscivorous species such as *Calamus bajonado* (0.54  $\mu\text{g g}^{-1}$ ), *haemulon plumieri* (0.47  $\mu\text{g g}^{-1}$ ), and *Isopisthus parvipinnis* (0.48  $\mu\text{g g}^{-1}$ ). Mercury levels were positively correlated with the length of the fish in populations of the freshwater piscivores *S. rhombeus*, *Hoplias malabaricus*, and *Plagioscion squamosissimus*, in estuarine species (*Arius couma*, *Cynoscion virescens*, and *Macrodon ancylodon*), and in *S. guachancho* from the Atlantic Ocean. (C) 2001 Academic Press.

## **Annex B - Selected Press Reports<sup>149</sup>**

### **1. DWT 16 May 2002**

#### **Garimpeiros settling in district Brokopondo again.**

A few years ago the southern district of Brokopondo was confronted with a large numbers of brazilian goldminers ( garimpeiros). These garimpeiros actually invaded the area and were engaged in small scale mining. Their mining activities did not have any limits, even a nature park “the Brownsberg Nature Park” was not excluded. To mention a few consequences of their activities during that time: clearance of large areas of forest, destruction of the environment; pollution of creeks etc. Their presence in the area also caused a real disturbance of social life of the surrounding communities, increased crime and conflicts with community members. At least one community member was reported killed by the garimpeiros. The government of Suriname did not take appropriate measures to address the situation. Due to pressure by the communities the garimpeiros left. Most of them went to the area of the Matawai maroons (which borders with district Brokopondo), where they continued their activities.

In matawai most of the garimpeiros work on concessions belonging to private persons and companies. To be mention in this regard is the concession of the paramount chief of the Matawai maroons, the concession of Mr. Janasch who has strong ties with the army an that of a mining company named Sarafinna, which has a reputation to ignore maroon rights on their territory. Some garimpeiros also work in collaboration with maroons in the area.

Currently district Brokopondo is facing an invasion of garimpeiros again, probably the same group that was forced to leave the area a few years ago.

The garimpeiros are moving in large numbers from the Matawai area to Brokopondo.

Travel between the two areas is not a problem. Currently there is a road that connect t the Matawai and the Saramakka. This road allows the garimpeiros to travel and trade freely between, Matawai and Brokopondo.

Its to be expected that the district Brokopondo will face the same situation again, this time maybe worse.

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### **2. DWT Nov 30, 2001**

#### **GOVERNMENT CONCERNED ABOUT ILLEGAL GOLD MINING**

Natural Sources (NH)-Minister Franco Demon is very concerned about the situation in the gold sector, particularly illegal gold mining. The use of mercury, which causes immense pollution, is undermining the community’s health. Efforts are made to shift people from the illegal to the legal sphere in order to teach them to use safer methods during the gold mining process. Together with the National Institute for Environment and Development in Suriname (Nimos) and the Health Ministry, the NH-Ministry is studying how to put a stop to the consequences of mercury pollution. The issue is partly complicated because the great number of garimpeiros (Brazilian gold miners). With regard to this, Demon told Parliament Thursday evening during the debates about the Long Range Development Program (MOP) 2001-2005, that the Foreign Ministry and the Brazilian Embassy are trying to solve the matter of the garimpeiros. He also said that during the last term of the New Front (NF) government, agreements were made with Golden Star to start the exploitation of gold in New Koffiekamp. These activities were put on hold for some time. Shortly after the current government took office, the Minister has told the company to restart the exploitation. Together with Gambior and a task force of the Ministry, Golden Star has reconsidered this. Some proposals have already been made, but, they have to be studied yet. According to Demon, the government is serious about starting the activities at Gross Rosebel. The aim is to start the activities in the first half of 2002.

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<sup>149</sup> Throughout DWT refers to the national newspaper of Suriname, De Ware Tijd. These articles are taken from the web site of De Ware Tijd in the original translation from Dutch to English. Web site is located at: <http://www.dwt.net/>

### **FEASIBILITY STUDIES WEST-SURINAME COMPLETED BY NEXT YEAR**

Both Billiton and Suralco must complete their feasibility studies about bauxite reserves in West-Suriname by the first quarter next year. Then, they will be able to give the government more clarity. Alcoa, Suralco's parent company, wants to work in three phases in west-Suriname: the building of a mine, the Kabalebo hydro-power station and a refinery, while Billiton considers exploring and using West-Suriname's bauxite for the mine at Paranam. Natural Resources (NH)-Minister Franco Demon, who informed Parliament about this on Thursday night during the debates about the Long Range Development Program (MOP), assured that the government will keep in mind how Suriname's interests can be managed optimally. With regard to West-Suriname, the utmost will be done to exploit it. The Minister said that, shortly after this government took office, Billiton wanted to conduct important exploration activities in West-Suriname. With regard to this, the company has submitted a request to the government. This area also seemed to be of importance to the Suralco. In the meantime, top delegations of both companies have already informed President Ronald Venetiaan about their plans during separate visits. Demon remarked that development aid eventually dries up. If the nation has the option of these natural resources, it is necessary to have a common vision, if we want to manage Suriname's interests optimally. Parliamentarian Frank Playfair (DNP 2000) asked the Minister when Billiton and Suralco want to invest. Demon said not to have a clear answer yet because, as he had stated earlier, there will be more clarity about this in the first quarter of 2002. According to Playfair, Suralco has asked the government permission to explore until 2005. If permission is granted, it means that activities to put a complete alumina-industry in West-Suriname will start at the end of 2005. Playfair said the government should realize that there is not much time to think about what must happen as this matter has to take place around 2005/2006. He asked the Minister what is holding up the request of the bauxite giant, with which Suriname has absolutely positive experiences with. New Front party leader Otmar Rodgers (NF/NPS) said that the matter is urgent, however, we should be careful. Demon replied that it is not true that the government does not want to hurry the matter, but, a very important aspect during the activities in West-Suriname is energy. Suralco is busy updating the Kabalebo-project in such away as to determine how to carry out matters in the total picture of the operations in West-Suriname. That is why the bauxite company has asked room to carry out studies. "The decision is not only for the government to make," said the Minister.

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### **3. DWT 18 Oct. 2001**

#### **BILLITON ALSO INTERESTED IN WEST SURINAME BAUXITE RESERVES**

A high-level delegation of the bauxite company BHP Billiton arrived in Suriname yesterday to apply for the concession rights for the bauxite reserves in West Suriname. Rick Leysner, Human Resource and General Affairs Manager of the Billiton Company Suriname (BMS), would only say that BHP Billiton Aluminum President David Munro and Deputy President Paul Everard are here with concrete proposals. Together with BMS' President of the Board of Commissioners, Hans Lim A Po and General manager Frank Plantenberg, they will present the plans to President Ronald Venetiaan. "We have shown our interest in mining bauxite in the Bakhuis Mountains by applying for the concession rights," Leysner says. BHP Billiton is one of three companies that has shown an interest in the Bakhuis area. A high-level Alcoa delegation led by CEO Alain Belda visited Suriname two weeks ago to apply for the concession, while the French Pechiney company is conducting a feasibility study for mining bauxite in the area. DWT has learned that Alcoa is willing to invest between US\$ 2 and 3 billion in integrated operations in West Suriname and renovation and modernization of the plant in Paranam. Leysner refuses to mention the amount of money Billiton is willing to invest. In 2006, both companies, - BMS and Suralco - which have a joint venture cooperation, will have depleted current bauxite reserves in the Para area. If they wish to continue their operations in Suriname, they must look for other options. The bauxite reserves in the Bakhuis Mountains area seem to be the best option. Both companies are lobbying aggressively to obtain concessions for that area.

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**4. DWT 21 Sept. 2001**

**NO PLACE FOR PEOPLE WHO WANT SOLUTIONS THROUGH VIOLENCE**

There is no place for people who want to enforce solutions with weapons. The only point of contact of the government with the Indigenous community is the Association of Indigenous Village Chiefs in Suriname (VIDS). In this way, the government is ensured of broad support of the total Indigenous community. Regional Development Minister Romeo van Russel made these remarks yesterday evening at the opening of the three-day conference of Indigenous chiefs in the village of Powakka. In this way, the Minister replied to the open letter of 20 former members of the Tukayana Amazonas. They threatened to close off West Suriname if the government does not take measures against uncontrolled logging near Indigenous villages by next Tuesday. The group wants the 1992 Peace Treaty between the government and armed groups to be honored. The treaty establishes so-called economic zones around Maroon and Indigenous communities. Van Russel asked the chiefs to warn the group, as they are clearly serving other interests. He referred to the interior civil war, which has inflicted enormous damage. The Minister also called on the entire Indigenous community to help maintain the VIDS as a stable organization. The chief should also not avoid their responsibilities in this. The chiefs' conference, which is held every year, will be closed tomorrow. Some 21 chiefs and sub-chiefs (basjas) are attending this, the fourth conference of its kind. Some of the issues to be discussed include social-economic problems, land rights, nature reserves and bio-diversity.

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**5. DWT 20 Sept 2001**

**FORMER TUKAYANAS TERRORISTS THREATEN TO CLOSE OFF WESTERN SURINAME**

A group of twenty people who have signed an open letter to the government, threaten to close off West Suriname if the government does not take measures to put a stop to unlimited logging near Indigenous villages. They want enforcement of the 1992 Peace Treaty, which assigns economic zones to tribal communities. The twenty people claim to be former members of the Tukayana Amazonas, which was led by Thomas Sabajo. He has not signed the letter. When asked for comment, Sabajo says he was approached some time ago by some people who were dissatisfied about certain matters. He knew these people would try to express their displeasure, but he does not know about the letter and its contents. Sabajo says he understands the anger of the letter writers. "Many things are happening in the villages that are unacceptable," the former Tukayana leader says, yet he refuses to elaborate for now. These issues will certainly be discussed at the meeting of the Association of Indigenous Village Chiefs in Suriname (VIDS), which will be held this weekend.

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**6. DWT 08 Sept. 2001**

**GOVERNMENT'S VISION SHOULD BE BASED ON DEVELOPMENT OF HUMAN BEINGS**

Failure to find solutions to the land rights problem is due to the fact that Surinamese legislation was not drawn up on the basis of modification of custom laws. If the government wants to solve this problem, it should base its views on the development of the Surinamese citizen. That is why the custom laws of local communities should be included in the Constitution. Those are the words of Raymond Landveld, project coordinator of the Development program of the United Nations Global Environment Facility Small Grant Program, which is managed by Conservation International. Earlier this week, Landveld participated in a two-day workshop about the Central Suriname Nature Reserve in the working group 'Partnerships' and presented the points of attention, suggestions, and recommendations of the group concerning the Central Suriname Nature Reserve (CSNR) management plan, which is to be formalized. During the workshop, representatives of the local communities within and around the CSNR have stated that the

government should recognize international law. Landveld observes, with regard to the land rights problems, that the government and other groups in Paramaribo refuse to recognize what happens in real life. There would be no problem if the realization situation of the government were different. In the past, Suriname was given laws, *nota bene* from the viewpoint to protect a certain group against other groups in the community. “The sense of justice of the Indigenous and Maroons, what they regard as justice or not, has not been included in the Constitution. The law has oppressed other groups to the benefit of one group.” The land rights problem still cannot be solved because of the fact that the custom law, the sense of justice, that what the Maroons and Indigenous think right, fair, or unjust, has not been included in the Constitution. “Therefore, we have this problem.” He wonders how a community, owning land for decades and passing it to various generations, can lose it to an outsider. “Because of the fact that a king once said that it belonged to him, as he once colonized the land?” That is the source of the problem, according to him.

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## **7. DWT 10 August 2001**

### **INDIGENOUS RIGHTS AND SUSTAINABLE USE OF FORESTS ARE OF NATIONAL INTEREST**

At the commemoration of the International Day of the Indigenous Peoples yesterday, Nardo Aluman, chairman of the Organization of Indigenous Peoples in Suriname (OIS) emphasized that the epidemic occurrence of malaria, dengue and mercury pollution in the interior and their spread to the coastal areas due to gold mining activities is a growing health concern that needs to be dealt with on national level. Jocelyn Therese from French Guyana, vice chairperson of the COICA, the coordinating body of Indigenous peoples in the Amazone Basin area, urged Suriname’s government to respect the communal land rights of Suriname’s tribal peoples. Internal Affairs Minister Urmilla Sewnandun Joella, who was the only Minister present of the three invited by the OIS, recognized that the Indigenous peoples have specific problems and expressed the wish that the role and contribution of Indigenous women will be more visible in the light of the gender aspect. The Minister also said that commemorating the International Day of the Indigenous Peoples is very appropriate, but when asked whether the government will make it an official national day, she replied, “Perhaps next year.” Although Indigenous organizations such as the OIS have been calling the government’s attention to the situation and rights of Indigenous peoples for years, Suriname’s progress in that area has been rated zero per cent by the COICA. OIS board member Max Ooft said that the OIS’s priorities start with the laying down of the special position of tribal peoples in Suriname’s Constitution, resulting in a law which guarantees their land rights, good education and health care in the interior, and better transportation and communication.

#### ***EDITORIAL***

At the commemoration of the International Day of the Indigenous Peoples yesterday, organizations of Indigenous peoples in Suriname asked more for attention to their rights. Along with the Maroons, they are among the most disadvantaged groups in the community. Development, production and investments are still concentrated in the coastal areas. If something happens in the interior, it often happens that the advantages do not come to the interior’s inhabitants. Solving the problems of these groups is very difficult, yet those must be dealt with soon. The Indigenous peoples and Maroons constitute barely 15% of Suriname’s total population, yet they take a special position. They are the country’s only tribal peoples, who live and work in the interior. Nature is their home, pharmacy and food source. Solving their problems has a special character because of this, and needs special attention. In spite of the complexity of this issue, we need not re-invent the wheel. Suriname is one of the nine countries that have signed the Amazon Pact, and which all have communities of Indigenous peoples, the continent’s native inhabitants. In Brazil, for example, extensive arrangements have been made to protect the rights of these peoples. The Indigenous peoples have been asking for a special day for them for years. The government would do good to consider this, and state what it thinks about this matter. Land rights have also been discussed for years without any concrete results. Guyana and French Guyana have instituted special territories in which many activities cannot be carried out without the Indigenous peoples’ permission. Because

of the current gold rush in parts of the interior, the tribal communities in those areas have been disrupted. They face many diseases and epidemics, such as malaria. Education in the interior is of much lower quality than in the coastal areas. Due to all this, the gap between interior and coast is widening, while the intention has always been to close it.

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#### **8. DWT 22 July 2001**

##### **RE- LOCATION VILLAGES OF NIEUW KOFFIEKAMP AND MARCHALL KREEK**

The government intends to re locate the villages of Nieuw Koffiekamp and Krakka until Laiza. This was revealed at a closed meeting of the branch of the National Party of Suriname (NPS) at Klaaskreek. Nieuw Koffiekamp is said to be located on top of a lucrative gold reserve and the other villages belonging to the Marchallkreek resort would have to be brought together to enable the government to efficiently provide them with safe drinking water and electricity. On Saturday, the Ministers Franco Demon (Natural Resources), Romeo van Russel (Regional Development) and Humphrey Hildenberg (Finances) paid a working visit to Nieuw Koffiekamp in the Brokopondo district. During the meeting held at Nieuw Koffiekamp, Minister Demon hinted at the fact that if a mineral is found in a certain region, the inhabitants would have to move so that the proceeds of this could be used for the well-being of the whole country. Just as Regional Development Minister Romeo van Russel had done, he also pointed to the fact that before gold was found around the village, the government had paid for education, healthcare and electricity from among others proceeds from the bauxite industry in the districts of Marowijne and Para. Now it is Koffiekamp's turn to contribute in this. The irresponsible use of mercury which pollutes the drinking water and makes animals in the area sick was also mentioned. That is why Golden Star/Cambior would have been hired to support the country in the correct exploitation of the gold. The guarantee for this is included in the 1994 Mineral Agreement with this multi national.

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#### **9. DWT 02 June 2001**

##### **ONLY 20% OF INTERIOR INHABITANTS HAVE ACCESS TO CLEAN POTABLE WATER**

Only 20% of the interior's inhabitants have access to safe and clean potable water. This is in contrast to the country's urban areas, where this percentage is 92.6, and the rural areas with 66.6%. While barely 30% of the interior's communities have access to good sanitary facilities, this is 98% in urban and rural areas. Throughout the country, 73% of the population has access to clean potable water, and 80% have good sanitary facilities. These data are from the Multiple Indicator Cluster Survey 2000 (MICS-2000) report, which Social Affairs Minister Paul Somohardjo presented to President Ronald Venetiaan and Deputy Assembly Speaker Ruth Wijdenbosch yesterday. MICS-2000 is a national survey among households, women and children carried out under the supervision of Social Affairs, with institutional and academic support by the Foundation for Scientific Information (SWI). Its purpose is to provide the most recent information to assess the situation of children and women in Suriname in the past ten years. The President promised that the report will certainly be used when deciding policies in this area. Eventually, this should lead to an improvement in the situation of children in particular. He emphasized that the position of children has a special place in the government's plans for the country's development in the coming years. "We are critical, and focused on points where the state of children is not good," the President said. The survey, which cost around US\$ 100,000, was financed by UNICEF and UNDP. Heidi Wirjosentono, head of the Research and Planning Department of Social Affairs, said the survey has revealed that 86.2% of the population older than 15 can read and write. This percentage drops from 91.7% for ages 15-25 to 62.8% for age 65 and over. Of the children who start first grade of elementary school, 84% eventually reach the fifth grade. This percentage is 64.5% in the interior, 82.5% for urban areas and 92.8% for rural areas. "For the survey, we have used samples in urban, rural and interior areas. These areas have been compared with each other in our analysis," Wirjosentono said. Compared to urban and rural areas, the interior shows unfavorable results in a number of indicators. President Venetiaan said he

realizes the difficult situation many children face, and that he believes the people should be given the development they are entitled to.

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**10. DWT 30 May 2001**

**GOLD SECTOR PROBLEM IS VERY COMPLICATED**

Natural Resources (NH) Minister Franco Demon, is of the opinion that regulation of the unstructured gold exploitation in the interior of Suriname is not a simple task. A large number of garimpeiros have entered the country without any regulations. The problem now is that many of these people are found in almost all areas in the interior of the country. This makes it extremely difficult to remove them. Besides that, the country has a certain relationship with Brazil which means that this problem should be approached on a Ministerial level. Due to this, structuring of several areas is not going smoothly. The Ministry of NH in cooperation with the Ministry of Justice and Police (JP), is working on the establishment of police stations in the interior to decrease the activities of illegal Brazilians. Minister Demon remarked that at this moment, his Ministry is not equipped to work at the structuring of the sector alone. This, because the central government should still establish its power in the interior by means of police and military forces. If this is done, Ministry personnel will be able to assume its inspection activities without the threat of danger. The Minister ascribes the poorly organized situation in the gold sector to the policy of the former government. The fact that the Foundation for the Preservation of Nature in Suriname (STINASU) wants to dispose of 1,000 acres of land of the Brownsberg nature park shows the enormous problem which are caused by the gold exploitation activities. At this moment, the Ministry is giving information about the negative effects of unregulated mercury use in cooperation with the Ministry of Regional Development (RO). Demons warns the porknokers to stick to the rules of government authorities with regard to the use of mercury. The present policy is that the Geological Mining Division (GMD) is seeing to it that people stick to government laws and rules.

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**11. Philadelphia Inquirer, Sunday, May 20, 2001<sup>150</sup>**

**Raiding the Rain Forest**

**For a global treasure, a new threat: Asian companies in weakly regulated countries tamper with the ecosystem to fill a growing demand for hardwood. First of three parts.**

**By Mark Jaffe**

**INQUIRER STAFF WRITER**

**PARAMARIBO, Suriname** - The world's beleaguered tropical rain forests - a band of woodland covering just six percent of the planet but holding two-thirds of its species - face a new threat: Asian commercial logging.

Fueled by a growing economy at home and falling trade barriers abroad, big Asian timber companies have fanned out across the globe.

Here, on South America's eastern coast, trucks piled high with logs come rumbling out of the rain forest almost daily on the first leg of a voyage halfway around the world - to China.

Barely on the scene a decade ago, Chinese and other Asian companies now control 90 percent of the \$10 billion tropical timber trade, according to a European Commission study. This timber scramble threatens forests that are home to life as diverse as the red howler monkey and the korup

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<sup>150</sup> [http://philly.com/content/inquirer/2001/05/20/front\\_page/LOGGING20.htm](http://philly.com/content/inquirer/2001/05/20/front_page/LOGGING20.htm)

tree, whose bark some scientists say may provide a drug to fight AIDS. In the last 50 years, more than half of this habitat - about four billion acres - has been obliterated by subsistence agriculture, mining and development. Now, the commercial loggers are compounding those problems.

“The most dramatic shift in the tropical timber trade has been away from Europe and America and toward Asia,” said Harold Wisdom, a professor of forestry at Virginia Polytechnic Institute. These Asian companies - according to forestry, environmental and economic-development officials - tend to cut more intensively and more rapidly than the European companies that once dominated the trade. They also have tended to focus on the smaller, more remote countries - such as Suriname or Equatorial Guinea - where regulation is weak and corruption rampant.

Tropical loggers do not clear-cut the forest. They take only the most valuable trees. Still, logging degrades the forest, opens it to hunters and farmers, and contributes to soil erosion and water pollution. “This has, in a global sense, led to a downward trend in forest management,” Wisdom said.

International aid officials also voice concern that one of the most valuable natural resources of these poor nations is being exported without adequate compensation. “The wood is being exported to Asian factories, and little is left behind,” said Giuseppe Topa, a World Bank forestry official. Eighty percent of all tropical timber exports go to China, Japan, Malaysia, Indonesia, Taiwan and South Korea, according to the International Tropical Timber Organization. China and Japan alone account for two-thirds of all tropical wood imports.

And the Asian loggers girdle the globe:

In Liberia, on Africa’s west coast, the Oriental Timber Co., a subsidiary of an Indonesian conglomerate, is logging a four-million-acre concession - an area larger than the state of Delaware. In Equatorial Guinea, the Malaysian timber giant Rimbunan Haijau has boosted annual exports from 100,000 cubic meters of wood to nearly one million in the last decade. In Cambodia’s Kong Province, logging is so widespread that three foreign timber companies control more than half a million acres - 14 percent of the country. In Belize, an offshore corporation backed by Malaysian interests is logging mahogany on 200,000 acres that includes the land of traditional Maya Indian villages.

Here in Suriname, Indonesian, Malaysian and Chinese companies have all set up operations in the last five years. The Surinamese government is hoping its forests will lure investment, increase exports, and help boost its faltering economy. It is, however, a gamble - one being played out in Suriname’s thick interior forests.

### **Natives of the forest**

The forests here are part of the Guyana Shield - 100 million acres of almost solid tropical woods stretching from Venezuela to Brazil’s Amazon. With more than 1,000 species of trees, 8,000 species of plants, 674 species of birds, and thousands of animals, including jaguars, howler monkeys and giant armadillos, the Guyana Shield is one of the most diverse and complete rain forests left in the world. The trees reach heights of more than 120 feet, and the green canopy is sprinkled with flowers in yellow and purple. Flocks of parrots, daubed with bright greens and blues, soar over the treetops, while neon-blue morpho butterflies dance along the river banks.

It is also home to the Maroons - the descendants of slaves who escaped from coastal plantations and fled to the interior more than 300 years ago. For nearly a century, the Maroons, whose name comes from the Spanish cimarron - “wild” or “savage,” - waged a running war with Dutch and English colonists. The war ended in 1762 with the Sara Creek peace treaty - a blood oath in which each signatory, white colonist and Maroon, cut his arm and shed a few drops of

blood into a calabash gourd. The blood was mixed with the earth and forest spring water, and each participant drank from the gourd.

Under the treaty, the Maroons were given the Suriname interior for as long as they stayed there. And so, the Maroons have depended upon the forest for everything - food, water, building materials, medicine and their spiritual nourishment. "You cannot live without the forest," explained Ceasar Adjako, the chief or "captain" of Kaayapati - one of the Maroon villages hardest hit by the logging. "The forest is our life. The forest is everything we have. Our houses. Our water. Our food. Our medicine. First comes the forest, then comes God."

So it was a shock when Jin Lin Wood Industries - a Chinese logging company - showed up last fall and bulldozed both trees and villagers' forest plots. "We were stunned," Adjako said. "None of us knew what to do, what to say."

His niece, Silvi Adjako, complained to the manager of the logging camp, who said that if she filed an official complaint, he would give her 15,000 Suriname guilders - about \$6.50 - in compensation. The manager of the Jin Lin concession, who identified himself as Jackson Wang, said that if locals had complaints, they had to take them to the government. "We have all the required papers from the government," Wang said. That wasn't good enough for the Maroons. "The government is opening [Maroon] land to foreign loggers and miners without asking us, without consulting us . . . even though we've had a treaty for 200 years," said Ceasar Adjako, a small, wiry 60-year-old who has led Kaayapati for 17 years.

Surinamese officials point out that only eight million of the nation's 32 million acres of rain forest will be opened to logging. Unfortunately for the Saramaka Maroons, the acres being offered to foreign loggers happen to be right where the Maroons live. "This is a problem," conceded Rene Somopawiro, deputy director of the government's Foundation for Forest Management and Production Control. "Every time we talk about forest development, this question of indigenous people comes up," Somopawiro said. "And so far we really don't have a good solution."

### **Inviting the loggers**

Suriname became a Dutch colony in the late 17th century as part of a land swap with the English. The Dutch got Suriname, and the English got New Amsterdam and Manhattan. Since gaining its independence from the Netherlands in 1975, Suriname has had a tumultuous political life. In 1993, after years of political ferment, which included a military coup and a civil war, the country was desperate for foreign investment. "Suriname had managed to alienate all the major international agencies and was in terrible economic shape," said Adrian Whitman, a forestry officer with the U.N. Food and Agricultural Organization.

Then-president Ronald Venetiaan invited Asian logging companies to bid on concessions, and within a year Chinese, Malaysian and Indonesian companies had proposed five concessions covering nearly 12 million acres or 40 percent of the entire country. The companies were promising to invest \$26 million. Still, the size and number of the bids raised concern both in Suriname and among international environmental organizations, so the brakes were put on logging plans. Two large companies - Berjaya from Malaysia and MUSA, back by Indonesia interests - did receive concessions totaling about a quarter of a million acres. Two years ago, a major Chinese operation, Tacoba Forestry Products, also began operations.

Tacoba, according to Forest Monitor - a group based in Cambridge, England, that tracks international corporate timber operations - is in turn owned by Jin Lin, a major Chinese timber company. Jin Lin has operations and joint ventures with Malaysian and European timber companies and is exploring logging concessions in Cameroon and Guyana, according to Forest Monitor. Last year, Finestyle, another Chinese company, began logging there.

The Chinese companies are relative newcomers to an international scene that has been dominated by Malaysian, Indonesian and European companies. The Chinese have been more active abroad since a ban on logging in China was imposed two years ago, after devastating floods on the Yangtze River. And foreign governments have been welcoming. "If a company wants to come in and invest, provide jobs and is willing to obey the laws, we think they ought to be given a chance," said Somopawiro, of Suriname's Foundation for Forest Management.

### **Little regulation**

At the heart of the dispute in the Suriname interior are the forces of a growing global economy and the \$10 billion-a-year international tropical timber trade. A drop in tariff barriers fostered by the World Trade Organization and easier movement of money around the globe has promoted investment, trade and market demand. The large Asian timber companies have been able to quickly move hundreds of workers and millions of dollars' worth of equipment around the world. In many cases they have moved more quickly than government regulators who oversee their activities. This is especially true in poor, tropical countries.

"These corporations prefer to operate in countries where laws regulating the exploitation of forest resources are weak, poorly enforced or nonexistent," said Victor Minotti, director of environmental programs at the International Forum on Globalization, a San Francisco advocacy group. The push into the forests has been relentless, and the demand for wood is apparently insatiable. The World Bank estimates that by 2010, annual demand for wood is expected to grow by nearly 25 percent, to 1.8 billion cubic meters. After years of insisting that subsistence agriculture was the main cause of tropical forest loss, the World Bank reported that international logging has become "a much greater factor" in the problem.

In some cases, the revenues of the companies eclipse the resources of the countries in which they operate. Shimmer International, a subsidiary of the Malaysian timber giant Rimbunan Haijau, has a major logging concession in Africa's Equatorial Guinea. Rimbunan's annual revenues are estimated at \$1 billion by the South China Morning Post. Equatorial Guinea's 1999 gross domestic product was \$960 million.

"The result is these companies are laws unto themselves," said Filip Verbelen, head of Greenpeace International's tropical-forest campaign based in Brussels, Belgium.

Barney Chan, general manager of the Sarawak Timber Association, which represents some of the big logging operators including Rimbunan, said his members were improving the forestry and environmental parts of their operations. "The big timber companies in Sarawak are adopting more realistic production programs and are now seriously looking at how to do sustainable forest management," Chan said.

### **'Selective cutting'**

The Suriname government and the foreign timber companies here say they too want the forest to be a lasting resource. Jin Lin's Wang said his company was obeying the rules, doing "selective cutting under commercial specifications." He also noted that his company had invested in a new saw mill and was hiring local people. The environmental group Conservation International estimates that although perhaps only 10 percent of the trees are cut, 20 percent to 30 percent more of the forest is chewed up by roads and other logging activities.

This was all too clear walking through the Jin Lin concession. The company had plowed large, muddy roads about 45 feet wide into the forest, churned up huge piles of earth, and created

fetid pools of green and brown water. Upended and broken trees were everywhere and what were once plots of sweet potatoes, peanuts, ginger, cassava, palm and banana crops - planted in the forest by Maroon villagers - were muddy pits.

As for the government oversight, Suriname's forest foundation was created two years ago with Dutch aid to better promote and monitor logging activity. The foundation has upgraded the planning and permitting process, and this summer the newly elected president - Ronald Venetiaan, the same president who invited the Asians to Suriname in 1993 - raised the taxes on gasoline in part to better finance forest management and regulation. Still, the forest foundation doesn't have enough inspectors to check the 245 logging concessions on 4.7 million acres. "We won't be able to inspect every concession, but if we do the big ones, we will have some impact," Somopawiro said. But they will be playing catch up. In the last four years, the area allocated to logging in Suriname has grown 41 percent, "largely due to expansive concessions granted to foreign investors," according to an Inter-American Development Bank study.

In Kaayapati Village, the change has clearly been felt. "It used to be that we cut the timber we needed and then a little to sell," Ceasar Adjako said. "But now there's the pressure from the city, from the Chinese." "You have to cut when and what the log traders want. If you don't, you don't get a contract," he said. "The only thing limiting the cutting is manpower and machines. If it was possible to take all the wood in one swoop, they'd take it."

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## **12. DWT 24 February 2001**

### **SURINAME HAS HIGHEST MALARIA INCIDENCE IN AMERICAS**

The incidence of malaria per capita in Suriname is the highest in the Americas. Eight out of 1,000 persons have this illness, which amounts to 10 to 15 thousand a year. The risk of contracting this disease is greater in the Upper Marowijne region as almost every inhabitant of that area contracts the disease at least once. Good treatment and timely doctor visits reduce the number of fatalities nationwide. Malaria is ranked number two in the world for deadly diseases behind tuberculosis. This disease causes approximately one million deaths among children in the world. Marthelise Eersel, director of the Medical Mission, states that though the incidence is high, there is no shortage of medicine. Malaria is regularly treated with quinine. Although the disease has a devastating impact which must be prevented, patients can get effective treatment if they are diagnosed at an early stage. Eersel presented these facts at a news conference yesterday, held by Rotary International, which has concluded a three-week mission in Suriname. During its stay, the mission participated in and supported the National Malaria Program. It appears that in Suriname, too many organizations work along side each other instead of with each other. It was proposed to bring together all interested parties in order to get a efficient approach in this matter. Health Minister Rakieb Khudabux is convinced that a coordinated and structured approach to the malaria issue will lead to permanent control within a short time. Resolving this issue will contribute positively to the increase of eco-tourism, a potential and important economic source for Suriname.

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## **13. DWT 3 Februari 2001**

### **Wim Bakker: 'Surinam's Environment is a Time Bomb.' Over 150,000 kg mercury dumped in eco-systems.**

According to Wim Bakker, director of the Bureau for Public Health, the Surinamese environment is a time bomb which has already exploded. Between 1993 and 1998 the gold sector has dumped over 150,000 kg of mercury in eco-systems. The immensurable damage this has caused, is exacerbated because the overflow from almost 80,000 latrines and septic tanks which is full of human excrements, through open sewerages also ends up in the groundwaters.

Added to this is the water that flows from illegal garbage dumps. This comes in the canals which affects the ground water. Bakker did these alarming remarks yesterday in Parliament and explained to the newspaper that it doesn't look good for the public health if there will not be a

national discussion soon, about how to address these issues. The presented data comes from research carried out with Dutch experts in relation to putting together a master sewerage plan for Paramaribo. This research showed that the three heavy metals: mercury, lead and cadmium occur in concentrations that are above the international standards.

Of seven fish species that are consumed by the community, four had an exceptionally high level of mercury, again above set standards. According to Bakker there must be information provided when giving out lands and concessions. He repeatedly stressed that the coastal area should be left alone and that no shells should be mined because they have to protect the land against the sea.

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#### **14. NRC Handelsblad 4 November 2000**<sup>151</sup>

##### **Goldmine creates unrest in Suriname.**

Among the Matawai Maroons in the Interior of Suriname, unrest was created as a result of two concessionaires who obtained mining concessions in their area by the former Surinamese government headed by ex-President Wijdenbosch. Ten villages that held a gran krutu (big meeting) at the 20<sup>th</sup> of October, have written the government to temporarily halt the mining activities and review the rights of the concessionaires. One village head threatened to take up arms. The Matawai live in the Coppename area and number about 1,000 persons. The mining companies Sarafina N.V. with a concession of over 29,000 hectares and the Surinam Diamond Company, 7,200 hectares have angered the Matawai by prohibiting them to enter the concessions, which the maroons regards as theirs. Diamond even employs armed men who go in and out the Matawai villages. The situation is complicated because Matawai Granman Oscar Lafanti also has a concession of 15,500 hectares which borders that of Sarafina. He confiscated gold from workers of the mine because according to him they were working in his concession. However, he also angered his tribal members because he works for himself and not for his people. Village head Exon Tweeling declared in the newspaper 'De West': 'We will fight to death for our rights.' Member of the resort council Alexander Flink declares: 'Sarafina has to go. They obtained a mining right until our door step, so we don't have to say anything anymore. We don't take it'. The interior dwellers are upset that 'people from the city' obtain concessions to take away the natural resources, gold and timber, from their traditional areas. In addition, they need the area for their subsistence and hunting and fishing. Sarafina wants to co-operate with the Matawai. But they are not interested. The Venetiaan government will have to pass a Solomon's sentence to let the peace return.

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#### **15. DWT 7 Oct. 2000**

##### **MALARIA MOVING WITH MIGRATING BRAZILIANS**

There are currently some shifts in the malaria epidemic. According to reports that have reached the Bureau of Public Health, this has to do with the move of mostly Brazilian gold miners from the Marowijne area to the Upper Suriname River area. The result is a new move of the malaria parasite, independent of the existing situation in that area. As many gold miners travel through Pikin Saron [an indigenous community] to reach Paramaribo, malaria is also spreading in that area, with as a result an increase in the number of cases among the area's inhabitants. This information is stated in a press release by the Health Ministry. This statement also reports that a new National Malaria Council was installed on Thursday by Health Minister Rakieb Khudabux. This council is headed by Rinia Kranenburg Codfried, who is also Permanent Secretary of the Health Ministry. This action effectively disbands the old council.

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<sup>151</sup> Dutch newspaper (original in Dutch).

## **16. DWT 20 Sept. 2000**

### **EDITORIAL**

It is time for immediate deeds to order the gold sector. Natural Resources Minister Franco Demon assured poknockers or small-scale gold miners from the Brokopondo area yesterday that measures will be taken. Fortunately, Demon set a deadline of two weeks for the filling in of the open positions on the board of the Inter- Departmental Unit Foundation for the gold sector. The military officers in the foundation's board headed by Etienne Boereveen will be replaced. In any case, Demon has set a time limit. In this way, the government's promises can be measured. It is a fact that the gold mining areas have turned into a kind of wild west. The state does not profit from most of the sector's revenues. The government must act so it can increase its revenues without bleeding the average taxpayer dry. It is good that Demon wants an investigation into gold mining in STINASU's nature park Brownsberg. It now turns out that this was done with STINASU's permission. Journalists who went to Brokopondo last week have receipts from STINASU in their possession. The Minister rightly wants to investigate whether this permission to mine is in accordance with STINASU's license conditions. Earlier reports did not indicate clearly that poknockers were active in the area with permission from STINASU director Harold Sijlbing under certain conditions. This mining has seriously upset the environmental and ecological balance of the Brownsberg area. It is unimaginable that this situation has been allowed, while the previous Wijdenbosch government proclaimed its heart for the environment throughout the world. One-tenth of Suriname's area was even turned into a nature reserve. This nature reserve is a good thing, but consequent action is in order. Large parts of the country have been seriously polluted by mercury. There is irresponsible gold mining in many areas, which does serious damage to the environment and the inhabitants of the interior in particular. The government should give high priority to ordering this sector. Legislation needs to be amended as soon as possible, while it should be strictly enforced as well.

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## **17. DWT 19 August 2000**

### **TAX DEPARTMENT LOSES NEARLY \$300 MILLION FROM INFORMAL SECTOR**

Local gold mining activities generate \$200 million. The total revenues from the informal sector account for two thirds of this amount. Nearly 90% of the revenues from the gold sector remains out of the tax department's sight and is being smuggled out of the country. According to the director of the tax department, Roy May, ignoring this information could have a devastating effect on the State. He made this remark during the final meeting of the Caribbean Organization of Tax Administrations(COTA) which was held at the Krasnapolsky Hotel this week. Of the total \$900 million national production, the government loses nearly 30-35%. Although May mentioned timber and food processing, agriculture and fishery, paintings and street vendors as examples within the Surinamese informal sector, he dwelt for quite some time on the gold mining activities which have been taking place in the Surinamese interior for about twenty years . At the meeting, Suriname and Guyana turned out to be the only countries in the region which experience problems within this sector. More than 30,000 Brazilians are active within the gold sector in Suriname. Of the nearly 40,000 kg of gold which is exploited, only 5,000 kg is brought on the local market. The remaining 35,000 kg or \$350 millions in gold is being smuggled to Europe, the US and other neighboring countries. In order to generate more from this sector, several Ministries, including the Ministry of Finance, have decided to station up Interdepartmental Units(IDU) in the mining areas. The aim is to increase the efficiency and accuracy by levying taxes on the metal at those locations where it will be tested, processed and sold. The levying percentage will be increased to 12.5%. The IDU project is still in a pilot phase because the legal regulations have not yet been adjusted or developed. The poor tax revenues from the gold sector are blamed on the inadequate infrastructure in the interior, poor logistic possibilities of the service and reluctance and little motivation of those active in the sector to pay taxes because the government does not provide clarity regarding the spendings.

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## **18. DWT, Friday, August 18, 2000**

### **Matawai-Youth, Granman Lafanti and NV Sarafina**

Last week, the issue regarding Granman Lafanti, the Matawai people (especially those that have an interest in the gold mining) and the NV Sarafina, was discussed in the news. In relation to this, a group of Matawai youth decided to, in name of the Matawai community, further inform the society and at the same time protest against certain issues that are taking place in the Upper Saramaka.

1. That the NV Sarafina obtained permission from the central government to carry out gold mining activities in an area that borders the community within less than 3 km.

2. That the request/the investigation/report/acceptance of the request of Sarafina was legal, there is no doubt about that. But the fact that the Granman of the Matawai was not informed is shameful. This shows how indifference can lead to endangering the safety, freedom and peace of a population.

3. That the government (the Commissariat Sipaliwini) who has carried out field research and sent a report with recommendations to the district-commissioner without at least informing the village leaders about the request of this NV Sarafina is to be condemned.

4. The fact that our Granman takes far reaching decisions regarding the Matawai area, without feedback is known to us all and we have learned to live with it. That what is taking place now could have been prevented. If the Granman had held a gran krutu with his people, before entering into negotiations with the central government, he would have had at least one finished item on the agenda, before starting talks about recognition of the collective rights to our territories which have been inhabited for centuries. It should be demanded from the government that all issued concessions in the territories are taken back. Now this has not happened, the government has to make up for it. Because the government issued the same piece of land to two parties. In 2000 it is more than wise that we all start to understand that internal conflicts about land/territory/forest and possible escalations must be prevented. We are hopeful that the parties will sit round the table and discuss how they can work together on a responsible exploitation and development of the territory. What is really frustrating the people is that when they want to carry out economic activities in the area, they are hindered and threatened by men with machine guns who have to guard the area of NV Sarafina. The legality of these armed men is doubtful.

We insist that without mutual respect and understanding for each other's opinions, traditions, customs and culture, we cannot truly develop this country and in particular these territories and we cannot reach the welfare that we all long for so much. Talking, and more talking is always better than waging war. In the end you have to talk anyhow, but what about the inflicted wounds?

With regards,

Matawai Youth,

R. Asaf, K. Samuel, N. Flink

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## **19. Brazilian gold miners flood Suriname in search of fortune**

**August 9, 2000**

**Web posted at: 12:02 AM EDT (0402 GMT)**

PARAMARIBO, Suriname (Associated Press) -- Samba blares from outdoor speakers. Off-duty miners shout for beer in Portuguese. People sway in the muggy evening heat as the click and clatter of billiards and dominoes meld with the music into an unmistakably Brazilian percussion. This is Paramaribo, the capital of Suriname, a Dutch-speaking nation on the northern coast of South America.

But the city's Tourtome district is one of numerous areas that have been largely taken over by Brazilians who have abandoned the poor northern areas of their own colossal country for the lure of gold mining in this sparsely populated land.

"I need to work. I need to have money to send for my family," says Paulo Barbosa, 31, who came eight years ago early in the "Brazilian invasion."

Nearly every house in Tourtome is rented to a Brazilian, and taxi drivers have nicknamed the area "Belem" after the capital of Brazil's neighboring Para state. Suriname Airways flies there several times a week to ferry in new groups of fortune seekers.

There are now as many as 40,000 Brazilians here -- a tenth of the population. Many are settling, marrying local women and planning to stay.

Though most work in gold, others have opened Brazilian restaurants, liquor stores and pawn shops. And some brought U.S. dollars to invest in the gold industry that is a key source of foreign revenue for Suriname, second only to long-dominant bauxite mining.

Brazilians also have flocked in recent years to neighboring Guyana and French Guiana, where they are not made as welcome.

An estimated 17,000 Brazilians live in French Guiana -- half of them illegally -- making up more than 10 percent of the population in Cayenne, the capital, and Kourou, home to the European Space Agency's Ariane rocket-launching base. Locals accuse them of taking jobs in a territory suffering 30 percent unemployment.

Three years ago, Venezuela's military chased thousands of illegal Brazilian miners -- called "garimpeiros" -- from its border area, and many crossed into Suriname and Guyana.

Across Suriname's western border in Guyana, an enclave of Brazilian miners has grown to an estimated 12,000 people. Some Brazilians have also moved to the capital, Georgetown, taking over cheap hotels and guesthouses. In town, they openly trade in gold even though they don't have residence or work permits.

Guyana's army mounted an expensive operation trying to oust the Brazilians in 1993, seizing planes, arresting miners and confiscating equipment. But it was so costly it hurt the army's budget for the rest of the year, and there have been no more efforts to chase them while the Brazilian population grows.

In Suriname, government officials recognize that most gold mined here is smuggled out of the country, but they estimate smuggling is down from about 90 percent of gold mined five years ago to about 80 percent. They're vaguer about what Suriname's gold industry is worth, giving figures ranging from \$150 million a year to \$300 million.

After years of inaction, Suriname's government is trying to control the tide.

"We are moving to regulate the stream of Brazilians coming across the border," says Erroll Alibux, the natural resources minister. "We have been doing so in the last year or so."

Authorities now sell work permits for up to 12 months for \$200 each and Alibux estimates perhaps 70 percent of the Brazilians in the country have registered.

The \$200 is twice the monthly salary of a Surinamese sales clerk. But for the Brazilians, the fee can easily be made in a six-week spell of panning in one of numerous jungle rivers and creeks that dot the country.

The gold rush is a sign of the recovery of the industry in Suriname, where mining was hurt by the 1986-1991 war fought by the army against groups of blacks and Indians living in the interior who resist government control.

In the past, gold was searched for by only a few hundred people from the inland peoples, Suriname's traditional miners who inhabit jungles reachable only by light planes or canoe. After the war ended with a peace treaty and gold prices surged to \$ 400 an ounce, the rush began. The traditional inhabitants of the interior view the Brazilians warily. Many of the longtime miners still use pick ax and shovel to dig alluvial pits to recover small amounts of gold. The Brazilians use jet-powered hoses to wash away topsoil hiding gold deposits or mechanical dredges on river pontoons.

Elsewhere, the Brazilians are generally welcomed in Suriname -- especially by those who benefit from the flourishing real estate market.

Many Surinamese have moved out of pretty homes in upscale north Paramaribo to rent them to Brazilians for up to \$1,200 a month, a small fortune in a country where the salary of a midlevel government worker averages \$100 a month.

"They take the houses and rent beds to other Brazilian miners who need somewhere to live. The money is not a problem," says Max Paulo, a consultant to a Brazilian gold-mining company who has a Surinamese father and Brazilian mother.

Not everyone is happy with the mining boom. Environmentalists contend increased mining is polluting major waterways through excessive use of mercury to free gold embedded in ore. "The Marowijne River in the east near French Guiana is already polluted," says Jan Quik, a professor of chemistry and environmental technology at the University of Suriname. "We have much evidence of that and that is because of the way they use mercury. The locals do, too, and we see that it is getting into the atmosphere, into the waterways and into the soil." <http://www.cnn.com/2000/WORLD/americas/08/08/suriname.littlebrazil.ap/>

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**20. Fri, 14 Jul 2000 21:06:36 -0700 (PDT)**  
**POPULATION-SURINAME: Gold Rush Pose Problems for Residents and Environment**  
**By Bert Wilkinson**

PARAMARIBO, Jul 14 (IPS) - Paulo Barbosa, 31 was panning for gold in French Guiana when he heard about a gold find across the border in Suriname. That was about eight years ago. The Brazilian from the northeastern state of Para quickly packed up his things and came here, seeking to rake in a fortune he couldn't seem to make back in Brazil or the interior of French Guiana. French authorities hardly grant work permits for foreigners, Brazilian gold miners in particular.

"I need to work. I need to have money to send for my family back in Brazil, but this year has not been as good as last year. I made lots of money in '99," he said, in between playing a game of pool in Tourtone, a northern Paramaribo district where many Brazilians live and hang out. Barbosa is just one of many thousands of poor Brazilian miners, some from thousands of kilometres away in Sao Paulo, who have streamed across the border into Suriname, hoping to make a fortune in interior gold fields.

They have come with their own women, soccer skills, Samba music, restaurants, and liquor stores and the more industrious among them, with piles of US dollars to invest in the gold industry. Brazilian music blare from loudspeakers as off-duty miners enjoy themselves in their adopted home.

Official estimates put their numbers at up to 35,000, or nearly 10 percent of the population of this former Dutch colony on South American's north-eastern shoulder.

Authorities acknowledge these days that the Brazilian brigade is fast becoming the dominant force in an industry estimated to be worth between 150 million and 300 million dollars a year to the country's struggling economy.

The time has now come to ensure that they are controlled, the government says.

"We are moving to regulate the stream of Brazilians coming across the border to Suriname," says Erroll Alibux, the country's Natural Resources Minister. "We would have problems if we don't, but we have been doing so in the last year or so and it is working out ok so far," he said in a recent interview.

Rather than have them wander around interior gold fields as they wish, the government is now handing out six to 12-month work permits for a fee of 200 dollars per head, twice the monthly salary of a Surinamese sales clerk.

For many Garimpeiros or wildcat miners as they are called, the fee is not a problem since they can easily make it back working a six-week spell on a land claim or in one of numerous jungle rivers and creeks that dot the country.

Some of the big companies like the Sao Paulo-based Ourominas have also followed the gold trail that leads to Paramaribo. On a good day, the firm with branches in major local towns, can buy up to eight kilos of gold.

It is one of at least six Brazilian companies registered to buy gold, a percentage of which must be turned over to the state.

Many Surinamese have welcomed the influx of the Brazilians, those with real estate in particular. Dozens have moved out of homes in upscale north Paramaribo, renting them to Brazilians for up to 1,200 dollars per month, a fortune in a country where a single dollar is exchanged for about 1,850 local guilders. Suppliers and taxi operators also make a decent living from growing Brazilian

patronage.

“Such a high fee is no problem for some Brazilians. They take the houses and rent beds to other Brazilian miners who need somewhere to live. They could charge 10 to 20 dollars per night. The money is not a problem,” says Max Paulo, 31 whose mother is Brazilian and father Surinamese. Paulo is a consultant at Ourominas.

But not all Surinamese welcome them. Interior Bush Negroes and indigenous Indians, who have for years peacefully worked land claims all over the country, are not too pleased that they are slowly being pushed out by Brazilians with big bucks to spend.

Others like Professor Jan Quik, of the University of Suriname, object on the basis of the harm being done to the environment by increased gold mining. Quik says the increased activity in the industry is leading to pollution of major waterways in the country because of excessive use of mercury to trap gold hidden in ore.

“For example the Marowijne River in the east near French Guiana is already polluted. We have much evidence of that and that is because of the way they use mercury. The locals do too and we see that it is getting into the atmosphere, into the waterways and into the soil. That is dangerous,” says Quik, a professor of chemistry and environmental technology.

The gold rush in Suriname started after the end of a 1986-91 bush war between government soldiers and disgruntled Bush Negroes and Amerindians.

The war claimed more than 500 lives. Miners stayed away by the thousands from gold fields, fearful of being caught in the crossfire. Today miners from all over the northern South American region are flocking to Suriname, forcing government to use army special forces to register them and keep order in the sector. (END/IPS/EF/PO/bw/da/00)

Origin: Rome/POPULATION-SURINAME/

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## **21. DWT EDITORIAL April 1, 2000**

President Jules Wijdenbosch has experienced for himself that the issue of land rights for the inhabitants of the interior is not that easy to solve. This endeavor of the government should be appreciated. The inhabitants of the interior are totally involved in this effort. During the krutu or meeting held yesterday, it was pretty clear that the interior's dignitaries had done their homework. They are no longer willing to accept vague promises. The representatives of the interior clearly stated that they are not satisfied with the government's offer. There were heated discussions at the krutu and things nearly went out of hand. Yesterday, parties separated without having produced a peaceful solution. Today, parties will again tackle the problem. In order to reach an agreement, parties will have to compromise. The inhabitants of the interior do not think that the government has presented an acceptable solution. After all, they have been using the land they live on for centuries. The establishment of a foundation offers insufficient guarantees that this matter will be solved. It will take some time before the matter will be operational. The President told the krutu that concessionaires will be asked to take into consideration the decisions made. The interior's main problem is poaching, particularly illegal chopping of wood. Wijdenbosch stressed that it is a 'basic orientation agreement.' The dignitaries disagreed. They demand concrete legal guarantees. It will not be easy for the government to get this proposal approved. The interior's dignitaries are very united and they will act jointly. Yesterday, they were very determined and they do not intend to agree with the government.

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**22. DWT 1 April 2000**

**DIGNITARIES INTERIOR REJECT GOVERNMENT PROPOSAL**

Yesterday, the dignitaries of the interior rejected the government's proposal on land rights during the second Gran Krutu or big meeting held in Theater Unique. According to the Association of Indigenous Village Chiefs in Suriname (VIDS), the issue of land rights cannot be solved without amending the Constitution. According to the Constitution, the state has far reaching authority over natural resources, and therefore it can easily take decisions. Although the final word has not been said yet, this issue will be further discussed today. The government's decision is that the inhabitants of the interior are free to use the territory which they inhabit within the natural borders. The government will decide, based on its constitutional responsibilities, which are economically of national importance in cooperation with the region's inhabitants. A fund will be established, of which a certain percentage will be used for the development of the area in which the activities take place. The concessionaires will be made aware of all these facts. President Jules Wijdenbosch called this decision a "Basic Orientation Agreement," which offers sufficient room for change and brings order in the issue of land rights, which has been problematic for years. According to VIDS chairman Ricardo Pane, this is a 'weak decision' which does not say much. He does not see anything new in the first two points and calls the third 'vague'. The VIDS will see to it that land rights policy is well considered and brings a real solution. Granman Lafanti of the Matawai tribe called on the President not to give the interior something, while keeping all authority in the other hand. According to the President, the village chiefs did not understand him because this proposal offers them much more advantages. The Maroons, however, showed a rather moderate attitude.

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**23. DWT 21 Feb 2000**

**DEFINITE DECISION ON LAND RIGHTS POSTPONED UNTIL END MARCH**

A definite decision about granting land rights to the Indigenous and Maroon Peoples and the borders of economic zones of 5 to 10 kilometers around every village in the interior has been postponed until the end of March. The government has decided by state resolution, however, to set aside every third weekend of February as Buskondre Dey (Day of the Interior). The government made this decision on Saturday at the request of representatives of these communities, which must discuss this matter first. President Jules Wijdenbosch, who agreed with this request, agreed that when making decisions, it is important to consult the people. However, the government has decided to put an end to the many controversies surrounding this issue. The President expressed his appreciation for the way the two-day Buskondre Dey activities had been organized. According to him, debates were held rationally in an atmosphere of mutual respect. He also appreciated the fact that the paramount chiefs of the different tribes wanted to consult their peoples first, as they did not feel authorized to make decisions concerning land rights by themselves. The Indigenous Peoples in particular have difficulties with economic zones of between 5 and 10 kilometers, as this would threaten their survival.

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**24. DWT 19 Feb. 2000**

**VIOLENT CRIME AND LAND RIGHTS IMPORTANT ISSUES ON BUSKONDRE DEY**

Combatting violent crime, and particularly the drug trade, and land rights for Indigenous Peoples and Maroons are the most important issues of the two-day celebration of Buskondre Dey (Day of the Interior), which started yesterday. There are suspicions that inhabitants of the interior, and even their traditional authorities are involved in growing marihuana. Yvonne Raveles, Minister of Regional Development and Justice, says that this matter, which is also a big problem in the country, will be discussed on Monday with relevant authorities in order to come up with a structural approach. The interior's traditional authorities have asked the Minister to give them handcuffs so they can make arrests themselves and turn criminals over to the authorities in Paramaribo. Another proposal for building cell blocks in the interior is still being studied, as it is more difficult to do this soon. Concerning land rights, President Jules Wijdenbosch promised that

he would make a decision this weekend in order to clarify this issue. He cannot believe that those who have lived in the areas for centuries still have no land rights. According to him, the government's decision to discuss this issue with the local population is in accordance with the Constitution.

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**25. De West 4 Jan 2000**

**River fish shows too high mercury level**

The Fishery Service has detected a mercury level that is too high in *koebie*, *anjoemara* and *piren* fish. Sub-director Rene Lieveld of the Ministry of Agriculture, Husbandry and Fishery advises therefore that children and pregnant women should not consume these fish, while other adults should do so in limited quantities. He announced that there will be an extended investigation of the mercury problem, after which the community will be informed adequately.

## Annex C – Malaria Infection Rates for Indigenous and Tribal areas in Suriname (2000) <sup>152</sup>

The API (Annual Parasitic Index – column 7) is the defined as the number of positive cases per year per 1000 people living in the risk area.

1	2	3	4	5	6	7
Region	Policlinic	Village	People in Risk Area	# People in Risk Area	Malaria Cases in 2000	API (1)
<b>Upper Saramacca</b>	Poesoegroenoe	Vertrouwen	45	333	13	39
		Wanhatti	9			
		Pniel	33			
		Boslanti	56			
		Padua	28			
		Piejeti	70			
		Soekibaka	25			
		Tevreden	15			
		Poesoegroenoe	18			
		Bethel	34			
	Nj Jacob Kondre	Pakapaka	8	553	529	957
		Makajapingo	16			
		Kwattahede	7			
		Bilawatra	36			
		Baleng	167			
		Njoeng Jacob Kondre	130			
		Misalibi	184			
	Kwakoegron	Kwakoegron	76	255	42	165
		Commissariskondre	125			
Makakriki		54				
Witagron	Kaimanston			0	0	
	Witagron					
<b>Western Suriname</b>	Apoera	Apoera	740	738	36	49
		Section \Washabo	552			
	Tapoeripa	Tapoeripa			0	0
	Donderskamp	Donderskamp			0	0
		Brometville				
	Corneliskondre	Corneliskondre			0	0
	Kalebaskreek	Kalebaskreek				

<sup>152</sup> Available at: <http://www.parbo.com/rotary/ram/annex2.htm>

		Batavia					
		Goede Hoop					
	Washabo	Washabo			0	0	
<b>Djoemoe</b>	Djoemoe	Kampoe	535	5,562	196	35	
		Godo	1,292				
		Djoemoe	187				
		Kajana					
		Dangogo	362				
		Njoekondre	1				
		Akisiamau	419				
		Asidonopo	492				
		Paloeloebasoe	1				
		Bendekondre	642				
		Bofokoele	265				
		Granslee	665				
		Dahomey	667				
		Akwaukondre	8				
	Kajana	Stonhoekoe	431	1,371	12	9	
		Godowatra	234				
		Kajana	342				
		Ligorio	233				
		Bendewatra	131				
	Semoisie	Penpen	386	1,418	56	39	
		Semoisie	1,032				
	<b>Debiki</b>	Hekoenoenoe	Toemariipa	53	791	42	53
			Hekoenoenoe	327			
Masiakriki			217				
Malobi			194				
Kambaloe		Lafanti	480	2,130	34	16	
		Granpada	2				
		Dang	626				
		Kambaloe	1,022				
		Konoi	1				
Debike		Botopasi	849	1,180	64	54	
		Foetoenakaba	332				
Pikien Slee		Pikien Slee	1,246	1,570	27	17	
		Bendikwai / Grantatai	324				
<b>Ladoani</b>		Goejaba	Goejaba	2,211	2,211	24	11
		Ladoeani	Nieuw Aurora	965	1,373	113	82
	Tjalikondre		245				

		Goensi	92			
		Adawai	70			
	Jaw Jaw	Lesipalansi	205	1,090	17	16
		Jaw Jaw	447			
	Soekoenale	Kajapati	1,098	1,548	47	30
		Abenaston	569			
		Makakondre	317			
		Doewatra	250			
		Baikoetoe / Banafoekondre / Pikiempada / Mamadam	280			
	Pokigron	Pamboko	229	1,572	180	115
		Gingiston / Njoe Kondre/ Ganagkondre	301			
		Atjoniweg	123			
		Pokigron / Bekiokondre	389			
	Duatra					
<b>Brokopondo Brokopondo</b>	Brownsweg	Nieuw Ganzee	610	3,170	175	55
		Wakibasoe 1	450			
		Wakibasoe 2	556			
		Birihoedoematoe	232			
		Kadjoe	684			
		Djankakondre	136			
		Makambi	502			
	Klaaskreek	Klaaskreek	657	1,220	18	15
		Kapasikele	47			
		Obelikondre	58			
		Nw Lombe	297			
		Witsanti	55			
		Laizangkondre	1			
		Baboehol	1			
		Rama	3			
		Moejekreek	57			
		Marchall Kreek	26			
		Santo Domingo	1			
	Nw Lombe					
	Lebidoti	Lebidoti	795	1,022	22	22
		Bakoe	215			
		Pisjan	12			

	Victoria	Victoria	119	119	0	0
	Phedra	Phedra			*	
	Brokopondo	Brokopondo	326	2,373	196	83
		Compagnikreek	307			
		Balingsoela	577			
		Boslanti	149			
		Tapoeripa	471			
		Drepada	314			
			117			
	Afobaka	103				
	Nw Koffiekamp	Kofikamp			0	0
	Marchalkreek					
	Balingsoela					
<b>Stoelmans Eiland</b>	Cottica	Cottica			0	0
	Agaigoni	Manlobi	888	686	188	686
		Niki	142			
		Wanfinga	850			
		Benanoë	958			
		Tabiki	1,189			
		Vandaki	413			
	Stoelmanseiland	Poeloegoedoe	182	3,020	660	219
		Stoelmanseiland	9			
	Apoema	Gakaba	3	1,156	1,095	947
		Apoema	3			
	Nason	Lokaloka	216	956	393	411
		Atemsa	151			
		Skintabiki	138			
		Pakiratabiki	41			
		Tabikihede	103			
		Nason	245			
	Langatabiki	Badatabiki	39	992	901	908
		Bonidoro	62			
		Pikientabiki	21			
Langatabiki		751				
Akati		34				
Gakaba	Gakaba	842	842	970	1,152	
<b>Drietabbetje</b>	Godoro	Granbori	260	1,507	59	39
		Godoro	987			
		Pikien Saniki	205			
		Visiti	2			

		Kisai	105	2,619	772	295
		Pikienkondre	10			
	Drietabiki	Sanbendoemi	343			
		Loabi	251			
		Prodokaba	174			
		Drietabiki	863			
		Mainsi	215			
		Jausa	206			
		Moitaki	560			
<b>Upcountry Indians</b>	Kwamalasamutu	Kwamalasamutu	1,032	1,037	87	84
		Paroe	3			
	Pelele Tepoe	Pelele Tepoe	412	412	60	146
	Puleowime	Puleowime	285	285	85	298
	Kawemhakan	Kawemhakan	108	108	46	426
	Palumeu	Palumeu	166	166	52	313
	Sipaliwini	Sipaliwini	84	84		
			45,646	45,469	7,211	149

*Last Updated on 31-Jan-02  
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**Annex D – An Excerpt from UN FAO, *Strengthening National Capacity for Sustainable Development of Forests on Public Lands; Report of the Legal Consultant, Cormac Cullinan, FAO Project TCP/SUR/4551 (1996)***

**4.6 Rights of tribal peoples**

**4.6.1 The significance of the issue**

One of the central legal issues affecting the development of forestry in Suriname relates to the legal recognition of the rights of tribal peoples (the Maroons and Amerindians) in respect of the land, forests and other resources of the areas they inhabit. The potential significance of this issue was noted twenty-two years ago in an FAO report on Forest Legislation which commented that:

“In connection with the urgent need to classify the permanent forest estate of the country and with the spreading of forest concessions to the Interior, the question of tribal rights might become very important to forestry. The lack of provisions in this field may then prove to be a major obstacle to forest management and wood exploitation.” (Schmithüsen, 1974, p.3.)

This potential obstacle is now becoming real as large-scale forestry in the interior becomes a reality. Furthermore, since 1974 there has been a significant shift of international law and opinion towards greater recognition of the rights of tribal and indigenous peoples.

This issue is of crucial importance to the development of the forestry sector for a number of reasons including the following:

1. tribal people are virtually the only people living in the interior where the major part of the forest resource is located and parts of the forest have special cultural, social, and religious significance to them in addition to subsistence and economic value;
2. the HKV system previously used to grant timber rights to tribal groups is being abused by commercial interests to mine the forest resource in tribal forest areas;
3. enforcement and proper management of the forests in the interior will be extremely difficult and costly without the co-operation of the local people;
4. a very real danger exists that if an acceptable compromise is not reached between the government and the tribal people regarding the use of the forests and the allocation of the benefits from such use, they will resist the extension of forestry operations in the interior;
5. timber concessionaires are unlikely to be able to obtain certification under various voluntary green label type schemes if the certifiers concluded that the legitimate rights claimed by the local communities in respect of the forest resources have not been recognised or observed;<sup>153</sup>
6. in view of the current international focus on the rights of indigenous peoples (the United Nations has declared the 1990s as the decade of indigenous peoples), if this issue were to escalate and be taken up by the international NGO community it could result in consumers in developed countries being pressurised not to buy Surinamese timber.

The main elements of the issue which are relevant from a legal perspective are that:

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<sup>153</sup> The Forest Stewardship Council (an international body which accredits certification organisations) has published Principles and Criteria for Natural Forest Management (approved in June 1994 at Oaxaca, Mexico) which require long-term tenure and use rights to the land and forest resources to be clearly defined, documented and legally established (Principle 2). Even the existence of substantial disputes in this regard will usually disqualify an operation from being certified. Similarly the Generic Guidelines for Assessing Natural Forest Management, a component of the Rainforest Alliance’s Smart Wood program, requires formal recognition of local communities’ traditional rights to own, manage or use forest resources (Criterion 6.3).

1. the legal system of Suriname does not have a mechanism for recognising the customary laws or institutions of tribal people;
2. the jurisprudential basis (*rechtsfilosofie*) of the land tenure system does not recognise that tribal people can have acquired rights over their land by virtue of historical occupation; and
3. the previous pragmatic approach of allowing the national legal system to coexist more or less peacefully with the customary law systems which prevailed in the interior, is no longer viable as the government is seeking to promote development (particularly large-scale timber concessions) in the interior.

#### 4.6.2. Legal obstacles to recognising customary law rights

The European colonists of Suriname in the 17th Century brought with them the legal principle that the source of all land rights was the sovereign power (*Landsheer*) and that all private land rights could only be derived from the sovereign. One of the implications of this theory was that all land over which no private ownership rights existed, belonged to the sovereign power and therefore the land in the interior is classified as public land (*domeingrond*). Thus a principle which reflected the historical reality of Western Europe when transplanted to South America had the effect of legally dispossessing the indigenous people and Maroons.

Surinamese (and Dutch) legal theory establishes a hierarchy of sources of law with international treaties taking precedence over other laws, followed by the Constitution, ordinary laws and finally custom. Right of land tenure and rights to use natural resources on state land are dealt with explicitly in the Constitution<sup>154</sup> and laws of Suriname. Accordingly a court dealing with such questions would not be required to consider any rules of customary law.

Use rights in respect of public land must be granted by the state and registered at the Public Land Registry (*Domeinkantoor*) of the Ministry of Natural Resources. The content of customary laws has not been officially recorded nor have any such rights been registered. One of the consequences of this is that such rights are not legally enforceable. If a “right” cannot be enforced in court it is not generally considered to be a legal right and accordingly references to “customary rights” which appear in the Forest Management Act and in various concession agreements are probably unenforceable.

Another obstacle to the recognition of customary rights is that many of the rights of use or “ownership” of natural resources under customary law are conceived of as communal rather than individual rights. Since the legal system currently has no way of recognising traditional tribal groups and institutions as legal entities, they are effectively invisible to the legal system and incapable of holding rights.<sup>155</sup> This means that even if use rights are recognised the legal system would not be able to recognise them as communal rights. This question has arisen in relation to the granting of tribal cutting permits (HKVs) which were granted in the name of the tribal leader (the *kaptein* or *granman*) on behalf of the tribe but legally speaking, this does not protect the tribe against the named holder of the HKV exploiting it for personal gain.

#### 4.6.3. Customary law rights relevant to forestry

Article 41 of the Forest Management Act which provides that:

“1.a. The customary law rights of the tribal inhabitants of the interior, in respect of their villages and settlements as well as their agricultural plots, will be respected as much as possible.

<sup>154</sup> See in particular article 41 of the Constitution which is quoted in section 3.3.2.

<sup>155</sup> In some villages foundations (*stichtings*) have been established but these suffer from a number of problems, for example any group of people can establish a foundation and claim to represent the village.

b. In case of violations of the customary law rights as mentioned under a, an appeal in writing may be made to the President, which appeal is to be drawn up by the relevant traditional authority of the tribal inhabitants of the interior stating the reasons for the appeal. The President will appoint a committee to advise him on the matter.

2. Upon consultation with the minister responsible for regional development, the Minister will declare certain forestry areas to be communal forest for the benefit of the tribal inhabitants of the interior. The utilisation and management of the communal forest are to be further established by state decree.”

It should be noted that paragraph 1:

- only concerns the customary law relevant to villages, settlements and agricultural plots and does not apply to customary laws relevant to forests; and
- does not afford legal recognition to such rights but only requires that they be “respected as much as possible” - a phrase so vague that it is almost certainly legally unenforceable.
- is more restrictive than the relevant provision in the previous 1947 Timber Law which provided in article 5 that customary law rights in respect of villages, settlements and agricultural plots, must be respected, and does not include the qualifying phrase “as far as possible”.

The communal forest concept referred to in Article 41(2) provides a mechanism for replacing the unsustainable HKV system. It could also provide an opportunity to make progress on this difficult issue and of improving relations with people in the interior.

#### **4.6.4. Initiatives to address the issue.**

The land rights issue was a central issue in the negotiations leading to the signature of the 1992 Peace Accord. The Peace Accord specifically quotes Article 41 of the Constitution in the Article devoted to fundamental provisions (article 1 (4)). The land rights issue is addressed in article 10 which provides that:

“ Right to Land

1. The Government shall endeavour to ensure that the citizens who live in tribes acquire a real title to the land for which they have applied in the areas in which they live.
2. The demarcation and size of the areas mentioned in the first paragraph shall also be determined on the basis of a study carried out with respect thereto by the Council for the Development of the Interior.
3. The traditional authorities of the citizens living in tribes or a body appointed thereto, will indicate a procedure on the basis of which individual members of a community can be considered for real title to a plot of land in the area referred to in paragraph 2.
4. Around the area mentioned in paragraph 2, the Government will establish an economic zone where the communities and citizens living in tribes can perform economic activities, including forestry, small mining, fisheries and hunting.”

The economic zones concept was an attempt to reconcile claims that the people of the interior owned the mineral and other rights in the interior, with Article 41 of the Constitution (see section 3.3.2) In essence the intention was that individuals who remain living in a tribal setting will be entitled to

priority in obtaining licences to exploit the natural resources of an area designated as the economic zone of that tribe or group.

In addition Article 11 of the Peace Accord provides that:

“The government shall encourage the commencement of a national discussion on I.L.O. Convention No. 169 to thus learn about the feelings of the community on the contents of that convention”.<sup>156</sup>

After the conclusion of the Peace Accord, a Council for the Development of the Interior was established in accordance with Article 4(1). The Council was established as an advisory body to the Minister of Regional Development and is composed of five government representatives and ten representatives of the people of the interior. However it has only met once and is currently being boycotted by Amerindian representatives.

In addition a Land Rights Commission was established to advise the Minister of Natural Resources on the designation of economic zones. This body is comprised of five members drawn from the departments of geology, mining, forestry, land titles and soil survey. In a period of two months the Commission visited 22 villages out of an estimated 200 villages in order to make recommendations regarding the boundaries of an economic zone for each village. However the Commission is apparently dormant at present.

The resolution of the tribal rights issue is of critical importance to the long-term development of forestry in Suriname since it is concerned with who has the power to allocate the resource and to benefit from it. In the light of the recent history of unrest in Suriname, there is every reason to anticipate serious disruption of the operations of the Forest Service and of private enterprises operating in the interior if further steps are not taken to address these issues.

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<sup>156</sup> Convention concerning Indigenous and Tribal Peoples in Independent Countries, adopted by the Conference at its seventy-sixth session, Geneva, 27 June, 1989.

**Annex E – Map of Indigenous and Tribal Territories in Suriname**

