

	INDIGENOUS AND TRIBAL PEOPLES' RIGHTS TO LANDS, TERRITORIES AND RESOURCES INTERNATIONAL INSTRUMENTS AND COMMITMENTS, 1989 - 2002	
THE COLLABORATING INSTITUTIONS		
THE POPULAR COALITION TO ERADICATE HUNGER AND POVERTY	THE FOREST PEOPLES PROGRAMME	

The Popular Coalition is a global consortium of intergovernmental, civil society and bilateral organisations committed to the empowerment of the rural poor. It believes that empowerment can best be achieved through increasing the access of the poor to productive assets, especially land, water and common property resources, and direct participation in decision-making processes at local, national, regional and international levels. Since the Eighth Session of the Commission on Sustainable Development (CSD 8) held in April 2000, the Popular Coalition has been working closely with Major Groups of the Multi-Stakeholder Dialogue (MSD) which led to an ongoing and active process of engaging key major group representatives from women, indigenous, farmers, agricultural workers, trade union and youth to work together to shape policies and practices on Access to Land. At the processes leading to the WSSD, the Popular Coalition is working closely with diverse development groups including civil society organisations, governments and inter-governmental organisations with the aim of building alliances to promote secure access to land. Toward this goal, the Popular Coalition is working with all stakeholders to establish a Common Platform on Access to Land and to launch the Land Alliances for National Development (LAND) Partnership Initiative to improve the secure access by the rural poor to land and related productive factors and assets. Those who wish to contribute to these processes can contact the Popular Coalition Secretariat.

Secretariat: International Fund for Agricultural Development (IFAD)
Contact: Bruce Moore, Executive Director
Via del Serafico, 107, 00142, Rome, ITALY
Tel: +39 06 5459 2445, Fax +39 06 5043 363
Email: WSSD.Coalition@ifad.org Website: www/ifad.org/popularcoalition

The Forest Peoples Programme (FPP) is an international NGO, founded in 1990. FPP exists to support the rights of peoples, who live in the forests and depend on them for their livelihoods, to control their lands and destinies. The programme seeks to create political space for forest peoples to exercise their right to self-determination and to practise sustainable forest management.

The Programme has six main aims:

1. To achieve widespread recognition of the human rights of Indigenous and other forest peoples.
2. To help forest peoples build their capacity to claim and exercise their human rights.
3. To facilitate and promote forest peoples' participation in all international policy making processes that may affect them.
4. To counter top down policies and projects that affect forest peoples.
5. To help link up forest peoples' movements at the regional and international level.
6. To support community-based, sustainable forest management.

FPP provides policy advice, technical support and capacity building programmes to indigenous peoples and other forest peoples at local, national and international levels for them to secure and sustainably manage their forests, lands and livelihoods. Over the past ten years of its work, the programme has emerged as an influential actor in international debates about forests and Indigenous rights. It has also developed field programmes supporting Indigenous peoples, their organizations and communities in Latin America, Africa and Asia.

Forest Peoples Programme
Contact: Dr. Marcus Colchester, Director
1c Fosseyway Business Centre, Stratford Road, Moreton-in-Marsh,
GL56 9NQ ENGLAND
Tel: + 44 1608 652893 Fax: +44 1608 652878
Email: info@fppwrm.gn.apc.org Website: www.forestpeoples.org

The preparation of this document is motivated by the belief that policy and decision makers concerned about access to land and indigenous peoples' rights to lands, territories and resources should be better informed by taking into account the commitments already made by governments resulting from the Rio Agenda 21, including the important summits of the 1990s and the Millenium Summit. The overwhelming conclusion that can be drawn from the various documents compiled here is that recognition of and respect for Indigenous peoples' rights to lands, territories and resources are fundamentally related to their physical, cultural, economic and spiritual well being and survival. Respect for these rights is inextricably tied to respect for Indigenous peoples' basic human rights to exist in peace and security, to maintain their unique worldviews, traditional knowledge and cultural integrity and, more generally, to environmentally and socially sustainable development. Development for Indigenous peoples is founded upon and derives from security of tenure over their traditional lands and resources. Discussing this point, United Nations High Commissioner for Human Rights, Mary Robinson, said that, for Indigenous peoples, "... economic improvements cannot be envisaged without protection of land and resource rights. Rights over land need to include recognition of the spiritual relation indigenous peoples have with their ancestral territories. And the economic base that land provides needs to be accompanied by a recognition of indigenous peoples' own political and legal institutions, cultural traditions and social organizations. Land and culture, development, spiritual values and knowledge are as one. To fail to recognize one is to fail on all." We hope that this conclusion will be fully incorporated into the text negotiated at Bali and that is ultimately adopted at Johannesburg.

The document is intended as a useful reference tool for Indigenous peoples, civil society groups, community leaders, decision makers in governments and lawmakers in parliaments, as well as officials in international organisations who work on the issues of access to land and indigenous peoples' rights to lands, territories and resources.

EVENTS & INSTRUMENTS	REFERENCE	COMMITMENTS MADE BY GOVERNMENTS IN REFERENCE TO INDIGENOUS PEOPLES' RIGHTS TO LAND AND RESOURCES
International Labour Conference Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries (1989)¹	<p>Art. 4(1)</p> <p>Art. 7(1)</p> <p>Art. 7(4)</p> <p>Arts. 13-19</p>	<p>Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.</p> <p>The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.</p> <p>Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.</p> <p>13(1) In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship. (2). The use of the term "lands" in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.</p> <p>14(1). The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic by definition peoples and shifting cultivators in this respect.</p> <p>2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.</p> <p>3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.</p> <p>15(1). The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.</p> <p>2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with</p>

¹ As of October 2001, the following 14 states have ratified ILO 169: Mexico, Norway, Costa Rica, Colombia, Denmark, Ecuador, Fiji, Guatemala, The Netherlands, Peru, Bolivia, Honduras, Argentina and Paraguay. Austria and Venezuela have ratified, but has yet to transmit their instruments of ratification to the ILO. The following states have submitted it to their national legislatures for ratification or are discussing ratification: Brazil, Chile, The Philippines, Finland, El Salvador, Russian Federation, Panama, and Sri Lanka.

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<p>Convention on the Rights of the Child 1990²</p> <p>Inter-American Development Bank, Strategies and Procedures on Socio-Cultural Issues as Related to the Environment. (1990)</p>	<p>Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989</p> <p>IDB Resource Book On Participation, Annex</p>	<p>normal existence, or for any possible increase in their numbers; (b) the provision of the means required to promote the development of the lands which these peoples already possess.</p> <p>Article 30. ¶ In those States in which ethnic, linguistic or religious minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right in community with other members of the group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language</p> <p>The general principles which will guide the Bank's activities with regard to tribal and other people inhabiting natural environment areas are: Recognition of the individual and collective rights of indigenous populations, [including]: (1) the right of indigenous people to decide their own priorities and to control[...] their own economic, cultural and social development; and (2) the right of possession and property of the lands they traditionally inhabit and the natural resources found there within. Bank actions: Design of project components aimed at protecting indigenous population groups, [including] depending on the specific needs and priorities of the groups concerned, measures to demarcate and title tribal lands, including relocation of non-tribal settlers, measures in the areas of health, education and support for productive activities.</p> <p>In general the IDB will not support projects that involve unnecessary or avoidable encroachment onto territories used or occupied by tribal groups or projects affecting tribal lands, unless the tribal society is in agreement, and unless it is ensured that the executing agencies have the capabilities of implementing effective measures to safeguard tribal populations and their lands.</p> <p>The recognition that indigenous people have a unique socio-cultural heritage that should be preserved for future generations; that they are a part of the biological diversity of the ecosystems they inhabit and are very valuable sources of knowledge on tropical species and on proven technologies for management of fragile ecosystems; that this body of knowledge should be preserved, understood and utilised; and that indigenous populations should be recognised as natural allies in the solutions to</p>

² The Convention on the Rights of the Child has been ratified by 191 states as of January 2001.

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<p>World Bank Operational Directive 4.20. September 1991</p>	<p>The World Bank Operational Manual Paras. 2 & 15(a) (c)</p>	<p>safeguard the environment.</p> <p>2. The directive provides policy guidelines to (a) ensure that indigenous peoples benefit from development projects, and (b) avoid or mitigate potentially adverse effects on indigenous peoples caused by Bank assisted activities. Special action is required where Bank investments affect indigenous peoples, tribes, ethnic minorities, or other groups whose social and economic status restricts their capacity to assert their interests and rights in land and other productive resources.</p> <p>15. The development plan should be prepared in tandem with the preparation of the main investment. In many cases, proper protection of the rights of indigenous peoples will require the implementation of special project components that may lie outside the primary project's objectives. These components can include activities related to health and nutrition, productive infrastructure, linguistic and cultural preservation, entitlement to natural resources and education. The project component for indigenous peoples development should include the following elements, as needed:</p> <p>(a) <i>Legal Framework.</i> The plan should contain an assessment of (i) the legal status of the groups covered by this OD, as reflected in the country's constitution, legislation, and subsidiary legislation (regulations, administrative orders, etc.); and (ii) the ability of such groups to obtain access to and effectively use the legal system to defend their rights. Particular attention should be given to the rights of indigenous peoples to use and develop the lands that they occupy, to be protected against illegal intruders, and to have access to natural resources (such as forests, wildlife, and water) vital to their subsistence and reproduction. [...]</p> <p>(c) <i>Land Tenure.</i> When local legislation needs strengthening, the Bank should offer to advise and assist the borrower in establishing legal recognition of the customary and traditional land tenure systems of indigenous peoples. Where the traditional lands of indigenous peoples have been brought by law into the domain of the state and where it is inappropriate to convert traditional rights into those of legal ownership, alternative arrangements should be implemented to grant long term, renewable rights of custodianship and use to indigenous peoples. These steps should be taken before the initiation of other planning steps that may be contingent on recognized land titles.</p>
<p>The Nuuk Conclusions and Recommendations on Indigenous Autonomy and Self-Government. Nuuk, Greenland, 28 September 1991.</p>	<p>E/CN.4/1992/42 (1992),Paras. 5-6, 8 & 12</p>	<p>5. 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. Where appropriate the foregoing should not be interpreted as restricting the development of self-government and self-management arrangements not tied to indigenous territory and resources.</p> <p>6. The autonomy and self-government of indigenous peoples are beneficial to the protection of the natural environment and the maintenance of ecological balance which helps to ensure sustainable development.</p> <p>8. Autonomy and self-government can be built on treaties, constitutional recognition or statutory provisions recognizing</p>

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<p>The Draft UN Declaration on the Rights of Indigenous Peoples as agreed upon by the members of the working group on Indigenous populations at its eleventh session.</p>	<p>E/CN.4/Sub.2 /1993/11, Add.1 Arts. 3, 7(b), 10, 13, 21, 25-31, 35-36</p>	<p>indigenous rights. Further, it is necessary for the treaties, conventions and other constructive arrangements entered into in various historical circumstances to be honoured, in so far as such instruments establish and confirm the institutional and territorial basis for guaranteeing the right of indigenous peoples to autonomy and self-government.</p> <p>12. Subject to the freely expressed desire of the indigenous peoples concerned, autonomy and self-government include, inter alia, jurisdiction over or active and effective participation in decision-making on matters concerning their land, resources, environment, development, justice, education, information, communications, culture, religion, health, housing, social welfare, trade, traditional economic systems, including hunting, fishing, herding, trapping and gathering, and other economic and management activities, as well as the right to guaranteed financial arrangements and, where applicable, to levy taxes for financing these functions.</p> <p>3. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.</p> <p>7. Indigenous Peoples have the collective and individual right not to be subjected to ethnocide or cultural genocide, including prevention of and redress for:</p> <p>b. Any action which has the aim or effect of dispossessing them of their lands, territories and natural resources;</p> <p>10. Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the Indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.</p> <p>13. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access in privacy to their religious and cultural sites; the right to the use and control of ceremonial objects; and the right to repatriation of human remains.</p> <p>States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.</p> <p>21. Indigenous peoples have the right to maintain and develop their political, economic and social systems, and to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. Indigenous peoples who have been deprived of their means of subsistence and development are entitled to just and fair compensation.</p> <p>25. Indigenous peoples have the right to maintain and strengthen their distinctive spiritual and material relationship with the lands, territories, waters and coastal seas and other resources which they have traditionally owned or otherwise occupied or used, and to uphold their responsibilities to future generations in this regard.</p> <p>26. Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal sea, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by states to prevent any interference with, alienation or encroachment upon these rights.</p> <p>27. Indigenous peoples have the right to the restitution of the lands and territories which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged without their free and informed</p>

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<p>UN Conference on Environment and Development</p>	<p>[(A/CONF.151/26), Agenda 21, Chapter</p>	<p>consent. Where this is not possible, they have the right to just and fair compensation. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status.</p> <p>28. Indigenous peoples have the right to the conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources, as well as to assistance for this purpose from States and through international cooperation. Military activities shall not take place in the lands and territories of Indigenous peoples, unless otherwise freely agreed upon by the peoples concerned.</p> <p>States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands and territories of Indigenous peoples.</p> <p>States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of Indigenous peoples affected by such materials, are duly implemented.</p> <p>29. Indigenous peoples are entitled to the recognition of the full ownership, control and protection of their cultural and intellectual property. They have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, medicines, knowledge of the properties of flora and fauna, oral traditions, literatures, designs and visual and performing arts.</p> <p>30. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that states obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources, compensation shall be provided for any such activities and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.</p> <p>31. Indigenous peoples, as a specific form of exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, including culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, environment and entry by non-members, as well as ways and means for financing these autonomous functions.</p> <p>35. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contact, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with other peoples across borders.</p> <p>States shall take effective measures to ensure the exercise and implementation of this right.</p> <p>36. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors, according to their original spirit and intent, and to have States honour and respect such treaties, agreements and other constructive arrangements. Conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies agreed to by all parties concerned.</p> <p>26.1 Indigenous people and their communities have an historical relationship with their lands and are general descendants of the original inhabitants of such lands. In the context of this chapter the term "lands" is understood to include the environment of the areas which the people concerned traditionally occupy. Indigenous peoples and their communities</p>

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<p>Rio de Janeiro 3-14 June 1992</p>	<p>26: Recognizing and strengthening the role of indigenous people and their communities. Paras. 26.1, 26.3-26.6</p>	<p>represent a significant percentage of the global population. They have developed over many generations a holistic traditional scientific knowledge of their lands, natural resources and their environment. Indigenous people and their communities shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. Their ability to participate fully in sustainable development practices on their lands has tended to be limited as a result of factors of an economic, social and historical nature. In view of the interrelationship between the natural environment and its sustainable development and the cultural, social, economic and physical well-being of indigenous people, national and international efforts to implement environmentally sound and sustainable development should recognize, accommodate, promote and strengthen the role of indigenous people and their communities.</p> <p>26.3 In full partnership with indigenous people and their communities, Governments and, where appropriate, intergovernmental organizations should aim at fulfilling the following objectives:</p> <p>(a) Establishment of a process to empower indigenous people and their communities through measures that include: (i) Adoption or strengthening of appropriate policies and/or legal instruments at the national level; (ii) Recognition that the lands of indigenous people and their communities should be protected from activities that are environmentally unsound or that the indigenous people concerned consider to be socially and culturally inappropriate; (iii) Recognition that their values, traditional knowledge and resource management practices with a view to promoting environmentally sound and sustainable development; (iv) Recognition that traditional and direct dependence on renewable resources and ecosystems, including sustainable harvesting, continues to be essential to the cultural, economic and physical well-being of indigenous people and their communities; (v) Development and strengthening of national dispute resolution arrangements in relation to the settlement of land and resource management concerns; (vi) Support for alternative environmentally sound means of production to ensure a range of choices on how to improve their quality of life so that they effectively participate in sustainable development; (vii) Enhancement of capacity-building for indigenous communities, based on the adaptation and exchange of traditional experience, knowledge and resource-management practices, to ensure their sustainable development;</p> <p>(b) Establishment, where appropriate, of arrangements to strengthen the active participation of indigenous people and their communities in the national formulation of policies, laws and programmes relating to resource management and other development processes that may affect them, and their initiation of proposals for such policies and programmes;</p> <p>(c) Involvement of indigenous people and their communities at the national and local levels in resource management and conservation strategies and other relevant programmes established to support and review sustainable development strategies, such as those suggested in other programme areas of Agenda 21.</p> <p>26.4 Some indigenous people and their communities may require, in accordance with national legislation, greater control over their lands, self-management of their resources, participation in development decisions affecting them, including, where appropriate, participation in the establishment or management of protected areas. The following are some of the specific measures which governments could take:</p> <p>(a) Consider the ratification and application of existing international conventions relevant to indigenous people and their communities (where not yet done) and provide support for the adoption by the General Assembly of a declaration on indigenous rights;</p>

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<p>UNGASS, Rio Plus 5, 23-28 June 1997</p>	<p><i>Programme for the Further Implementation of Agenda 21</i> (A/Res/S-19/2 (19 Sept. 1997)), Implementation of Agenda 21 in</p>	<p>(b) Adopt or strengthen appropriate policies and/or legal instruments that will protect indigenous intellectual and cultural property and the right to preserve customary and administrative systems and practices.</p> <p>26.5 United Nations organizations and other international development and finance organizations and Governments should, drawing on the active participation of indigenous people and their communities, as appropriate, take the following measures, <i>inter alia</i>, to incorporate their values, views and knowledge, including the unique contribution of indigenous women, in resource management and other policies and programmes that may affect them:</p> <p>(a) Appoint a special focal point within each international organization, and organize annual inter-organizational coordination meetings in consultation with Governments and indigenous organizations, as appropriate, and develop a procedure within and between operational agencies for assisting Governments in ensuring the coherent and coordinated incorporation of the views of indigenous people in the design and implementation of policies and programmes. Under this procedure, indigenous people and their communities should be informed and consulted and allowed to participate in national decision-making, in particular regarding regional and international cooperative efforts. In addition, these policies and programmes should take fully into account strategies based on local indigenous initiatives;</p> <p>(b) Provide technical and financial assistance for capacity-building programmes to support the sustainable self-development of indigenous people and their communities;</p> <p>(c) Strengthen research and education programmes aimed at: (i) Achieving a better understanding of indigenous people's knowledge and management experience related to the environment, and applying this to contemporary development challenges; (ii) Increasing the efficiency of indigenous people's resource management systems, for example, by promoting the adaptation and dissemination of suitable technological innovations;</p> <p>(d) Contribute to the endeavours of indigenous people and their communities in resource management and conservation strategies (such as those that may be developed under appropriate projects funded through the Global Environmental Facility and Tropical Forestry Action Plan) and other programme areas of Agenda 21, including programmes to collect, analyze and use data and other information in support of sustainable development projects.</p> <p>26.6 Governments, in full cooperation with indigenous people and their communities should, where appropriate:</p> <p>(a) Develop or strengthen national arrangements to consult with indigenous people and their communities with a view to reflecting their needs and incorporating their values and traditional and other knowledge and practices in national policies and programmes in the field of natural resource management and conservation and other development programmes affecting them;</p> <p>(b) Cooperate at the regional level, where appropriate, to address common indigenous issues with a view to recognizing and strengthening their participation in sustainable development.</p>

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<p>The Rio Declaration on Environment and Development</p>	<p>Areas Requiring Urgent Action III. B. 37, 62</p> <p>A/CONF.151/5, Principle 22</p>	<p>37. The management, conservation and sustainable development of all types of forests are a crucial factor in economic and social development, in environmental protection and in the planet's life-support system. Forests are one of the major reservoirs of biological diversity; they act as carbon sinks and reservoirs; and they are a significant source of renewable energy, particularly in the least developed countries. Forests are an integral part of sustainable development and are essential to many indigenous people and other forest-dependent people practising traditional lifestyles, forest owners and local communities, many of whom possess important traditional forest-related knowledge.</p> <p>62. Land degradation and soil loss threaten the livelihood of millions of people and future food security, with implications for water resources and the conservation of biodiversity. There is an urgent need to define ways to combat or reverse the worldwide accelerating trend of soil degradation, using an ecosystem approach, taking into account the needs of populations living in mountain ecosystems and recognizing the multiple functions of agriculture. The greatest challenge for humanity is to protect and sustainably manage the natural resource base on which food and fibre production depend, while feeding and housing a population that is still growing. The international community has recognized the need for an integrated approach to the protection and sustainable management of land and soil resources, as stated in decision III/11 of the Conference of the Parties to the Convention on Biological Diversity, 34/ including identification of land degradation, which involves all interested parties at the local as well as the national level, including farmers, small-scale food producers, indigenous people(s), non-governmental organizations and, in particular, women, who have a vital role in rural communities. This should include action to ensure secure land tenure and access to land, credit and training, as well as the removal of obstacles that inhibit farmers, especially small-scale farmers and peasants, from investing in and improving their lands and farms.</p>
<p>Non-Legally Binding Unauthoritative Statement of Principles for Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests</p>	<p>A/CONF.151/26 (Vol. III) Principle 5(a)</p>	<p>Indigenous people and their communities, and other local communities, have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.</p> <p>National forest policies should recognize and duly support the identity, culture and the rights of indigenous people, their communities and other communities and forest dwellers. Appropriate conditions should be promoted for these groups to enable them to have an economic stake in forest use, perform economic activities, and achieve and maintain cultural identity and social organization, as well as adequate levels of livelihood and well-being, through, inter alia, those land tenure arrangements which serve as incentives for the sustainable management of forests.</p>

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Convention on Biological Diversity	Arts. 8(j) & 10(c) (d)	<p>8(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;</p> <p>10 (c) protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements; and (d) support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced.</p>
World Conference on Human Rights Vienna, 14-25 June 1993	Vienna Declaration and Programme of Action A/CONF.157/24 (Part I) (1993), para. 20.	20. The World Conference on Human Rights recognizes the inherent dignity and the unique contribution of indigenous people to the development and plurality of society and strongly reaffirms the commitment of the international community to their economic, social and cultural well-being and their enjoyment of the fruits of sustainable development. States should ensure the full and free participation of indigenous people in all aspects of society, in particular in matters of concern to them. Considering the importance of the promotion and protection of the rights of indigenous people, and the contribution of such promotion and protection to the political and social stability of the States in which such people live, States should, in accordance with international law, take concerted positive steps to ensure respect for all human rights and fundamental freedoms of indigenous people, on the basis of equality and non-discrimination, and recognize the value and diversity of their distinct identities, cultures and social organization.
UN Draft Principles on Human Rights and the Environment (1994)	E/CN.4/Sub.2/1994/9, Annex I Principle 14	<p>Indigenous peoples have the right to control their lands, territories and natural resources and to maintain their traditional way of life. This includes the right to security in the enjoyment of their means of subsistence.</p> <p>Indigenous peoples have the right to the 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.</p>
UN Human Rights Committee, General Comment No. 23 (50) (art. 27) , adopted by the Human Rights Committee at its 1314th meeting (fiftieth session), 6 April 1994. ³	CCPR/C/21/R ev.1/Add.5	<p>One or other of the aspects of the rights of individuals protected [under Article 27 of the International Covenant on Civil and Political Rights] - 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</p>

³ The ICCPR has been ratified by 145 States as of January 2000.

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		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 . . .
International Conference on Population and Development Cairo, 5-13 September 1994	A/CONF. 171/13 (1994) Programme of Action, paras. 6.21-6.27, 9.9	<p>6.21. Indigenous people have a distinct and important perspective on population and development relationships, frequently quite different from those of the populations with which they interrelate within national boundaries. In some regions of the world, indigenous people, after long periods of population loss, are experiencing steady and in some places rapid population growth resulting from declining mortality, although morbidity and mortality are generally still much higher than for other sections of the national population. In other regions, however, they are still experiencing a steady population decline as a result of contact with external diseases, loss of land and resources, ecological destruction, displacement, resettlement and disruption of their families, communities and social systems.</p> <p>6.22. The situation of many indigenous groups is often characterized by discrimination and oppression, which are sometimes even institutionalized in national laws and structures of governance. In many cases, unsustainable patterns of production and consumption in the society at large are a key factor in the ongoing destruction of the ecological stability of their lands, as well as in an ongoing exertion of pressure to displace them from those lands. Indigenous people believe that recognition of their rights to their ancestral lands is inextricably linked to sustainable development. Indigenous people call for increased respect for indigenous culture, spirituality, lifestyles and sustainable development models, including traditional systems of land tenure, gender relations, use of resources and knowledge and practice of family planning. At national, regional and international levels, the perspectives of indigenous people have gained increasing recognition, as reflected, inter alia, in the presence of the Working Group on Indigenous Populations at the United Nations Conference on Environment and Development, and the proclamation by the General Assembly of the year 1993 as the International Year of the World's Indigenous People.</p> <p>6.23. The decision of the international community to proclaim an International Decade of the World's Indigenous People, to commence on 10 December 1994, represents a further important step towards fulfilment of the aspirations of indigenous people. The goal of the Decade, which is the strengthening of international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health, is acknowledged as directly related to the purpose of the International Conference on Population and Development and the present Programme of Action. Accordingly, the distinct perspectives of indigenous people are incorporated throughout the present Programme of Action within the context of its specific chapters.</p> <p>Objectives</p> <p>6.24. The objectives are:</p> <p>(a) To incorporate the perspectives and needs of indigenous communities into the design, implementation, monitoring and evaluation of the population, development and environment programmes that affect them;</p> <p>(b) To ensure that indigenous people receive population- and development- related services that they deem socially,</p>

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		<p>culturally and ecologically appropriate; (c) To address social and economic factors that act to disadvantage indigenous people.</p> <p>Actions</p> <p>6.25. Governments and other important institutions in society should recognize the distinct perspective of indigenous people on aspects of population and development and, in consultation with indigenous people and in collaboration with concerned non-governmental and intergovernmental organizations, should address their specific needs, including needs for primary health care and reproductive health services. All human rights violations and discrimination, especially all forms of coercion, must be eliminated.</p> <p>6.26. Within the context of the activities of the International Decade of the World's Indigenous People, the United Nations should, in full cooperation and collaboration with indigenous people and their relevant organizations, develop an enhanced understanding of indigenous people and compile data on their demographic characteristics, both current and historical, as a means of improving the understanding of the population status of indigenous people. Special efforts are necessary to integrate statistics pertaining to indigenous populations into the national data-collection system.</p> <p>6.27. Governments should respect the cultures of indigenous people and enable them to have tenure and manage their lands, protect and restore the natural resources and ecosystems on which indigenous communities depend for their survival and well-being and, in consultation with indigenous people, take this into account in the formulation of national population and development policies.</p> <p>9.9. Countries are urged to recognize that the lands of indigenous people and their communities should be protected from activities that are environmentally unsound or that the indigenous people concerned consider to be socially and culturally inappropriate. The term "lands" is understood to include the environment of the areas which the people concerned traditionally occupy.</p>
<p>World Summit for Social Development Copenhagen, 6-12 March 1995</p>	<p>Copenhagen Declaration on Social Development. Principles and Goals, 26(m), Commitments 3(c) & 4(f),</p>	<p>(m) Recognize and support indigenous people in their pursuit of economic and social development, with full respect for their identity, traditions, forms of social organization and cultural values; 3(c) Improve access to land, credit, information, infrastructure and other productive resources for small and micro-enterprises, including those in the informal sector, with particular emphasis on the disadvantaged sectors of society; 4(f) Recognize and respect the right of indigenous people to maintain and develop their identity, culture and interests, support their aspirations for social justice and provide an environment that enables them to participate in the social, economic and political life of their country;</p>

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	<p>Programme of Action, Ch. I A (12(i)), Ch. II, A. 27 (e)</p> <p>Ch. II, B 32 (f)</p> <p>Ch. II, B. 35 (e)</p>	<p>12. Making economic growth and the interaction of market forces more conducive to social development requires the following actions: ... (i) Supporting the economic activities of indigenous people, improving their conditions and development, and securing their safe interaction with larger economies;</p> <p>27. Governments are urged to integrate goals and targets for combating poverty into overall economic and social policies and planning at the local, national and, where appropriate, regional levels by: ...</p> <p>(e) Designing and implementing environmental protection and resource management measures that take into account the needs of people living in poverty and vulnerable groups [i.e., indigenous peoples] in accordance with Agenda 21 and the various consensus agreements, conventions and programmes of action adopted in the framework of the follow-up to the United Nations Conference on Environment and Development;</p> <p>32. Rural poverty should be addressed by: ... (f) Protecting, within the national context, the traditional rights to land and other resources of pastoralists, fishery workers and nomadic and indigenous people, and strengthening land management in the areas of pastoral or nomadic activity, building on traditional communal practices, controlling encroachment by others, and developing improved systems of range management and access to water, markets, credit, animal production, veterinary services, health including health services, education and information;</p> <p>35. Governments, in partnership with all other development actors, in particular with people living in poverty and their organizations, should cooperate to meet the basic human needs of all, including people living in poverty and vulnerable groups, by: ... (e) Taking particular actions to enhance the productive capacities of indigenous people, ensuring their full and equal access to social services and their participation in the elaboration and implementation of policies that affect their development, with full respect for their cultures, languages, traditions and forms of social organizations, as well as their own initiatives;</p>
<p>24th Special Session of the General Assembly “World Summit for Social Development and Beyond: Achieving Social Development for all in a globalized World” Geneva, 26 - 30 June 2000</p>	<p>A/Res/S-24/2 – Further Initiatives for Social Development 15 December 2000. Commitment 4 (62)</p>	<p>Commitment 4</p> <p>To promote social integration by fostering societies that are stable, safe and just and that are based on the promotion and protection of all human rights, as well as on non-discrimination, tolerance, respect for diversity, equality of opportunity, solidarity, security and participation of all people, including disadvantaged and vulnerable groups and persons:</p> <p>62. Recognize the contribution of indigenous people to society, promote ways of giving them greater responsibility for their own affairs, inter alia, by:</p> <p>(a) Seeking means of giving them effective voice in decisions directly affecting them;</p> <p>(b) Encouraging United Nations agencies within their respective mandates to take effective programmatic measures for engaging indigenous people in matters relevant to their interests and concerns.</p>

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<p>4th World Conference on Women Beijing 4-15 September 1995</p>	<p>Beijing Declaration, para. 32 Beijing Platform for Action: Ch. IV. Strategic Objectives, A.1 (Actions to be Taken), para. 58(q)</p>	<p>We are determined to: Intensify efforts to ensure equal enjoyment of all human rights and fundamental freedoms for all women and girls who face multiple barriers to their empowerment and advancement because of such factors as their race, age, language, ethnicity, culture, religion, or disability, or because they are indigenous people;</p> <p>Take particular measures to promote and strengthen policies and programmes for indigenous women with their full participation and respect for their cultural diversity, so that they have opportunities and the possibility of choice in the development process in order to eradicate the poverty that affects them.</p>
<p>World Food Summit, Food and Agriculture Organization of the United Nations, 13-17 November 1996</p>	<p>Rome Declaration on World Food Security, 13 November 1996</p> <p>World Food Summit Plan of Action, Commitments and Actions, Commitment 1, Objective 1.1 (Para. 14(d))</p>	<p>We recognise the need to adopt policies conducive to investment in human resource development, research and infrastructure for achieving food security. We must encourage generation of employment and incomes, and promote equitable access to productive and financial resources. We agree that trade is a key element in achieving food security. We agree to pursue food trade and overall trade policies that will encourage our producers and consumers to utilise available resources in an economically sound and sustainable manner. We recognise the importance for food security of sustainable agriculture, fisheries, forestry and rural development in low as well as high potential areas. We acknowledge the fundamental role of farmers, fishers, foresters, indigenous people and their communities, and all other people involved in the food sector, and of their organisations, supported by effective research and extension, in attaining food security. Our sustainable development policies will promote full participation and empowerment of people, especially women, an equitable distribution of income, access to health care and education, and opportunities for youth. Particular attention should be given to those who cannot produce or procure enough food for an adequate diet, including those affected by war, civil strife, natural disaster or climate related ecological changes. We are conscious of the need for urgent action to combat pests, drought, and natural resource degradation including desertification, overfishing and erosion of biological diversity.</p> <p>Objective 1.1 To prevent and resolve conflicts peacefully and create a stable political environment, through respect for all human rights and fundamental freedoms, democracy, a transparent and effective legal framework, transparent and accountable governance and administration in all public and private national and international institutions, and effective and equal participation of all people, at all levels, in decisions and actions that affect their food security. To this end, governments, in partnership, as appropriate, with all actors of civil society, will where not already accomplished: ... (d) Recognize and support indigenous people and their communities in their pursuit of economic and social development, with full respect for their identity, traditions, forms of social organization and cultural values.</p>

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	<p>Commitment 3, para. 26</p> <p>Objective 3.5, para. 36</p>	<p>Food security depends, inter alia, on sustainable management of fish, forests, and wildlife. In many indigenous communities, these resources are the principal sources of protein in the diet. The traditional knowledge within indigenous communities also plays an important role in the achievement of food security for these communities and others.</p> <p>To formulate and implement integrated rural development strategies, in low and high potential areas, that promote rural employment, skill formation, infrastructure, institutions and services, in support of rural development and household food security and that reinforce the local productive capacity of farmers, fishers and foresters and others actively involved in the food sector, including members of vulnerable and disadvantaged groups, women and indigenous people, and their representative organizations, and that ensure their effective participation.</p>
<p>Principles and Recommendations from the UN Experts Seminar on Indigenous Land Rights and Land Claims 24-28 March 1996</p>		<ol style="list-style-type: none"> 1. Indigenous peoples have a distinctive spiritual and material relationship with their lands, and with the air, waters, coastal sea, ice, flora, fauna and other resources. 2. The importance of the issue of the link between self-determination and the right to land is recognized. 3. The promotion and protection of rights over lands and resources of indigenous peoples are vital for their development and cultural survival. 4. Indigenous peoples continue to be affected by the consequences of colonialism and are often deprived of a land and resource base. 5. Government should recognize the lands rights and titles of indigenous peoples and implement effective and appropriate procedures and mechanisms, including constitutional, legal or treaty agreements. 6. Throughout the whole process, the procedures for the recognition of these rights should provide for the effective representation and informed participation of indigenous peoples as equal. Without this, whatever legislation or treaty on this matter constitutes an imposition and not an enduring agreement. 7. States should make best efforts to guarantee access to land of indigenous peoples deprived of land or who lack sufficient land and depend upon it for their survival, in order to guarantee their cultural and material development. Mechanisms such as land funds and a claim settlements process where they exist are encouraged. 8. The recognition of rights of indigenous peoples to specific lands which they occupy cannot be separated from the recognition of other rights, within larger areas necessary for their material and cultural development. 9. Governments should review their laws and policies in order to address the concept of the inherent rights to self-government and self-management of indigenous peoples. 10. The existence of a fair constitutional and legal system, including a fair judicial system, able to guarantee due process of law is an important framework for the success and implementation of land settlement processes. In some countries experiences has shown that the establishment of fair judicial processes for the implantation of treaties, agreements and other constructive arrangements with indigenous peoples has been a useful means towards the respect of such agreements and the education of the indigenous and non-indigenous communities. 11. Experience has shown that the equitable and fair conclusion and implementation of treaties, agreements and other constructive arrangements relating to land between states and indigenous peoples can contribute to environmentally sound

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		<p>and sustainable development for the benefit of all.</p> <p>12. The International Decade of the World's Indigenous Peoples is an important vehicle for substantive participation of indigenous peoples in the resolution of land settlements and for increasing constructive partnerships with states and non-indigenous communities.</p> <p>13. ILO. Convention 169 is regarded by indigenous peoples as articulating some minimum standards respecting indigenous land rights. "The United Nations draft Declaration on the Rights of Indigenous Peoples" as adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities could be considered an opportunity for States to adopt an instrument reflecting a broad consensus among indigenous peoples about their land resource rights.</p> <p>14. Land rights and compensation issues arising from the taking or use of indigenous lands for military and security purposes, whether in war or peacetime, can raise special problems, which need to be addressed by Governments and the international community.</p> <p>15. Where land agreements are intended to protect the way of life or cultural integrity of indigenous peoples, social issues should be given equal emphasis to economic and resource issue.</p> <p>16. Political will, in the form of a genuine commitment on the part of Governments to partnership in decision making is essential to the success of co-management regimes, and to the avoidance of adversarial relations between the parties to such regimes.</p> <p>17. Land rights settlements should be freely negotiated, in good faith and not imposed unilaterally by legislation or negotiated under duress or threat.</p> <p>18. Governments should renounce discriminatory legal doctrines and policies which deny human rights or limit indigenous land and resource rights. In particular, they should consider adopting corrective legislation and policies, within the International Decade, regarding the following:</p> <ul style="list-style-type: none"> (a) The doctrine of terra nullius. (b) The doctrine that indigenous communities do not have the capacity to own land or to own land in their collective capacity. (c) The doctrine that indigenous land, title or ownership may be taken or impaired by the state or third parties without due process of law and adequate and appropriate compensation. (d) Doctrines or policies that indigenous lands must be held in trust regardless of the will of the indigenous peoples concerned; (e) Doctrines and policies imposing an extinguishment of indigenous land rights, title or ownership. (f) Policies which exclude some indigenous peoples from the land claims processes established by the state. <p>19. Principles or guidelines for land selection or demarcation of indigenous lands should be jointly negotiated in a fair and equitable process and without the imposition of arbitrary criteria,</p> <p>20. Governments, with indigenous peoples, should establish fair procedures for reviewing situations and for taking corrective action in situations in which indigenous land or resources have been taken or extinguished through processes which are claimed or are found to be fundamentally unfair or discriminatory.</p>
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		<p>21. Governments have a responsibility to ensure indigenous peoples have access to adequate resources to research and negotiate their claims so that settlements are equitable, just and enduring.</p> <p>22. The structure, mandate, objectives, representation and accountability of members and mode of operation, including funding, of co-management structures should be determined through a process of negotiation with the indigenous parties to support the principal of equal participation.</p> <p>23. It is important that practical effect be given to the spirit and intent of treaties and land agreements. This requires a willingness by the parties to act as partners, not adversaries as well as a clear understanding of the spirit and intent of treaties and land agreements by all parties.</p> <p>24. Parties should negotiate on a basis of equality acknowledging indigenous leadership, structures, languages, social and legal systems in all aspects of the negotiations and implementation. For example, every effort must be made for agreements relating to land rights to be drafted in the language of the indigenous peoples concerned and for the indigenous language version to have equal status to the state language versions.</p> <p>25. Interim protection measures, such as moratoriums on land transfers and on implementation of proposed development projects, should be taken, as necessary to protect indigenous lands or lands claimed by indigenous peoples from environmental degradation and alienation to third parties. Such measures would contribute to an atmosphere of good faith and constructive spirit in the negotiation process.</p> <p>26. Effective measures for implementation, dispute resolution, amendment and enforcement of land settlements and agreements should be provided.</p> <p>27. There is serious need for training, education and the required resources so that indigenous peoples may enter negotiations processes fully informed and technically equipped about the whole spectrum of implications of land rights negotiations. Training and education should also figure prominently in settlements implementation.</p> <p>28. The equal participation of indigenous women should be reflected in all aspects of negotiation and implementation of land agreements.</p> <p>29. There is a need to inform the non-indigenous public about the significance of indigenous land rights for the very survival of indigenous peoples and the respect of their human rights. Land agreements are a way of building new constructive relationships between indigenous and non-indigenous communities.</p> <p>30. Government are urged to consider the establishment of impartial mechanisms to oversee and facilitate fair and equitable conclusions to land claims processes and the implementation of land agreements, including international mechanisms as necessary.</p> <p>31. In its consideration of the establishment of permanent forum of indigenous peoples, the United nations General Assembly should consider whether the forum could play a constructive role regarding problems pertaining to land rights.</p> <p>32. The United Nations should prepare a study involving the direct participation of indigenous experts on the issue of extinguishment of land rights and its implications with a view to recommending new approaches in this area particular regard to the recognition and implementation of rights.</p> <p>33. The United Nations and its specialize agencies should consider providing technical assistance to states and indigenous peoples to contribute to the resolution of land claims.</p>
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		<p>34. The World Bank should consider providing loans to indigenous peoples directly, in particular in relation to collectively owned land.</p> <p>35. The United Nations system, before funding demarcation projects, should have adequate consultative mechanisms at all stages of the planning and implementation of projects.</p> <p>36. The ILO. Committee of Experts should clarify the interpretation of Article 14 paragraph 1 of ILO. Convention No. 169.</p> <p>37. Military and occupation practices, carried out by government, individually or collectively, which have an impact on the ways of life of indigenous peoples, should be open to international consideration in accordance with international human rights standards. The impact on lands and the ways of the life of indigenous peoples should be subject to appropriate environmental review in conjunction with indigenous peoples.</p> <p>38. It should be recognized that indigenous resource management ensures the sustainability for future generations and is rich in practical applications of wildlife, fish and habitat conservation.</p> <p>39. Parties in land rights negotiations should make particular efforts to ascertain and act upon the views of elders in these matters.</p> <p>40. International cooperation in support of the administrative management of their lands and resources should be done in full cooperation with indigenous peoples.</p> <p>41. Indigenous Peoples should participate in decision making and policy regarding land, resources and development at international, regional, national and local levels, including UN processes such as the CSD and the Convention on Biological Diversity.</p> <p>42. The implementation of sustainable development should take fully into account Indigenous Peoples' values, knowledge and technologies, in order to ensure resources for future generations.</p> <p>43. The United Nations, its Specialized Agencies and other Inter-governmental organizations should assure that indigenous peoples' cultural diversity, traditional values and ways of life are protected in terms of Agenda 21 and the institutions established for its follow up.</p> <p>44. Where the division of indigenous lands and attempts to divide these lands through individual titles as well as the existence of land privatization policies menace the material and cultural survival of indigenous peoples this is a matter of grave concern.</p> <p>45. Governments should welcome, encourage and open up trade among indigenous peoples and other parties from different countries and facilitate such trade.</p> <p>46. For the purpose of developing resources of indigenous peoples and communities, States and Inter-governmental organizations which provide international aid for such purposes, should make best efforts to provide development assistance through organizations of indigenous peoples.</p>
<p>UN Conference on Human Settlements (HABITAT II) Istanbul, 3-14 June</p>	<p>The Habitat Agenda (A/CONF.165/14)</p>	<p>43. We further commit ourselves to the objectives of: (r) Protecting and maintaining the historical, cultural and natural heritage, including traditional shelter and settlement patterns, as appropriate, of indigenous and other people, as well as landscapes and urban flora and fauna in open and green spaces;</p>

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1996	Ch. III - Commitments , B. 43(r) Ch. III - C 44, 45(h)	<p>44. We commit ourselves to the strategy of enabling all key actors in the public, private and community sectors to play an effective role - at the national, state/provincial, metropolitan and local levels - in human settlements and shelter development.</p> <p>45. We further commit ourselves to the objectives of:</p> <p>(h) Institutionalizing a participatory approach to sustainable human settlements development and management, based on a continuing dialogue among all actors involved in urban development (the public sector, the private sector and communities), especially women, persons with disabilities and indigenous people, including the interests of children and youth</p>
Proposed American Declaration on the Rights of Indigenous Peoples 1997	OEA/Ser/L/V/I I.95 Doc. 6, Feb. 26, 1997. Preambl. Para. 5 & Arts. VII, VIII(3), XIII, XV(1), XVIII, XXI and XXII.	<p>Preambular para. 5. Recognizing that in many indigenous cultures, traditional collective systems for the control and use of land, territory and resources, including bodies of water and coastal areas, are a necessary condition for their survival, social organization, development and their individual and collective well-being, and that the form of such control and ownership is varied and distinctive and does not necessarily coincide with the systems protected by the domestic laws of the states in which they live.</p> <p>VII(1) Indigenous peoples have the right to their cultural integrity and their historical and archeological heritage, which are important both for their survival as well as for the identity of their members.</p> <p>2. Indigenous peoples are entitled to restitution in respect of property of which they have been dispossessed, and where this is not possible, compensation on a basis not less favorable than the standard of international law.</p> <p>VIII(3) In collaboration with the indigenous peoples concerned, the states shall adopt effective measures to ensure that their sacred sites, including burial sites, are preserved, respected and protected. When sacred graves and relics have been appropriated by state institutions, they shall be returned.</p> <p>XIII(1) Indigenous peoples have the right to a safe and healthy environment, which is an essential condition for the enjoyment of the right to life and collective well-being.</p> <p>2. Indigenous peoples have the right to be informed of measures which will affect their environment, including information that ensures their effective participation in actions and policies that might affect it.</p> <p>3. Indigenous peoples shall have the right to conserve, restore and protect their environment, and the productive capacity of their lands, territories and resources.</p> <p>4. Indigenous peoples have the right to participate fully in formulating, planning and applying governmental programmes of conservation of their lands, territories and resources.</p> <p>5. Indigenous peoples have the right to assistance from their states for purposes of environmental protection, and may request assistance from international organizations.</p> <p>6. The states shall prohibit and punish, and shall impede jointly with the indigenous peoples, the introduction, abandonment, or deposit of radioactive materials or residues, toxic substances and garbage in contravention of legal provisions; as well as the production, introduction, transportation, possession or use of chemical, biological and nuclear weapons in indigenous areas.</p>

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		<p>7. When a state declares an indigenous territory as a protected area, any lands, territories and resources under potential or actual claim by indigenous peoples, conservation areas shall not be subject to any natural resource development without the informed consent and participation of the peoples concerned.</p> <p>XV(1) Indigenous peoples have the right to freely determine their political status and freely pursue their economic, social, spiritual and cultural development, and accordingly, they have the right to autonomy and self-government with regard to <u>inter alia</u> culture, religion, education, information, media, health, housing, employment, social welfare, economic activities, land and resources management, the environment and entry by non-members; and to determine ways and means for financing these autonomous functions.</p> <p>XVIII(1) Indigenous peoples have the right to the legal recognition of their varied and specific forms and modalities of their control, ownership, use and enjoyment of territories.</p> <p>2. Indigenous peoples have the right to the recognition of their property and ownership rights with respect to lands, territories and resources they have historically occupied, as well as to the use of those to which they have historically had access for their traditional activities and livelihood.</p> <p>3. i) Subject to 3.ii.), where property and user rights of indigenous peoples arise from rights existing prior to the creation of those States, the States shall recognize the titles of indigenous peoples relative thereto as permanent, exclusive, inalienable, imprescriptible and inalienable.</p> <p>ii) Such titles may only be changed by mutual consent between the state and respective indigenous peoples when they have full knowledge and appreciation of the nature or attributes of such property.</p> <p>iii) Nothing in 3.i.) shall be construed as limiting the right of indigenous peoples to attribute ownership within the community in accordance with their customs, traditions, uses and traditional practices, nor shall it affect any collective community rights over them.</p> <p>4. Indigenous peoples have the right to an effective legal framework for the protection of their rights with respect to the natural resources on their lands, including the ability to use, manage, and conserve such resources; and with respect to traditional uses of their lands, interests in lands, and resources, such as subsistence.</p> <p>5. In the event that ownership of the minerals or resources of the subsoil pertains to the state or that the state has rights over other resources on the lands, the governments must establish or maintain procedures for the participation of the peoples concerned in determining whether the interests of these people would be adversely affected and to what extent, before undertaking or authorizing any program for planning, prospecting or exploiting existing resources on their lands. The peoples concerned shall participate in the benefits of such activities, and shall receive compensation, on a basis not less favorable than the standard of international law for any loss which they may sustain as a result of such activities.</p> <p>6. Unless exceptional and justified circumstances so warrant in the public interest, the states shall not transfer or relocate indigenous peoples, without the free, genuine, public and informed consent of those peoples, but in all cases with prior compensation and prompt replacement of lands taken, which must be of similar or better quality and which must have the same legal status; and with the guarantee of the right to return if the causes that gave rise to the displacement cease to</p>
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		<p>exist.</p> <p>7. Indigenous peoples have the right to the restitution of the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, occupied, used or damaged, or when restitution is not possible the right to compensation in on a basis not less favorable than the standard of international law.</p> <p>8. The states shall take all measures, including the use of law enforcement mechanisms, to avert, prevent and punish, if applicable, any intrusion or use of those lands by unauthorized persons to take possession or make use of them. The states shall give maximum priority to the demarcation and recognition of properties and areas of indigenous use.</p> <p>XXI(1) The states recognize the right of indigenous peoples to decide democratically what values, objectives, priorities and strategies will govern and steer their development course, even where they are different from those adopted by the national government and other segments of society. Indigenous peoples shall be entitled to obtain on a non-discriminatory basis appropriate means for their own development according to their preferences and values, and to contribute by their own means, as distinct societies, to national development and international cooperation.</p> <p>2. Unless exceptional circumstances so warrant in the public interest the states shall take necessary measures to ensure that decisions regarding any plan, program or proposal affecting the rights or living conditions of indigenous people are not made without the free and informed consent and participation of those peoples, that their preferences are recognized and that no such plan, program or proposal that could have harmful effects on those peoples is adopted.</p> <p>3. Indigenous peoples have the right to restitution or compensation no less favorable than the standards of international law for any loss which, despite the foregoing precautions, the execution of those plans or proposals may have caused them; and measures taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.</p> <p>XXII Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements that may have been concluded with states or their successors, according to their spirit and intent, and to have states honor and respect such treaties, agreements and other constructive arrangements as well as rights emanating from those historical instruments. Conflicts and disputes which cannot be settled otherwise should be submitted to competent bodies.</p>
<p>UN Inter-Government Panel on Forests, Proposals for Action 1997 (endorsed by UNGASS 1997)</p>	<p>Proposal IA.17.a</p> <p>IB.29.c</p>	<p><i>Encouraged</i> countries, according to their national sovereignty...to develop, implement, monitor and evaluate national forest programmes, which include a wide range of approaches to sustainable forest management, taking into consideration the following:...recognition and respect for the customary and traditional rights of, <i>inter alia</i>, indigenous people and local communities; secure land tenure arrangements; holistic intersectoral and iterative approaches; ecosystem approaches that integrate the conservation of biological diversity with sustainable use of biological resources.</p> <p><i>Encouraged</i> countries...to formulate policies aiming at securing land tenure for local communities and indigenous people, including policies, as appropriate, aimed at the fair and equitable sharing of benefits of forests.</p>

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UN 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	CERD/C/51/Misc.13/Rev.4 Paras. 3 & 5	3. The Committee is conscious of the fact that in many regions of the world indigenous peoples have been, and are still being, discriminated against, deprived of their human rights and fundamental freedoms and in particular that they have lost their land and resources to colonists, commercial companies and State enterprises. Consequently the preservation of their culture and their historical identity has been and still is jeopardized. 5. The Committee especially calls upon States parties to recognise 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 territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return these lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.
Inter-American Commission on Human Rights 1997.	<i>Report on the Situation of Human Rights in Ecuador</i> , OEA/Ser.L/V/II.96 doc.10, rev.1., at p. 115	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.'
European Union, Council of Ministers Resolution 1998	Indigenous Peoples within the framework of the development cooperation of the Community and Member States	Indigenous peoples have the right to choose their own development paths, which includes the right to object to projects, in particular in their traditional areas.
Inter-American Development Bank 1998	<i>Operational Policy 710 on Involuntary</i>	Those indigenous and other low-income ethnic minority communities whose identity is based on the territory they have traditionally occupied are particularly vulnerable to the disruptive and impoverishing effects of resettlement. They often lack formal property rights to the areas on which they depend for their subsistence, and find themselves at a disadvantage in

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INTERNATIONAL INSTRUMENTS AND COMMITMENTS, 1989 – 2002**

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	<i>Resettlement</i> (1998), at Section IV, para. 4.	pressing their claims for compensation and rehabilitation. The Bank will, therefore, only support operations that involve the displacement of indigenous communities or other low-income ethnic minority communities in rural areas, if the Bank can ascertain that: the resettlement component will result in direct benefits to the affected community relative to their prior situation; customary rights will be fully recognized and fairly compensated; compensation options will include land-based resettlement; and the people affected have given their informed consent to the resettlement and compensation measures.
UN Human Rights Committee 1999	<i>Concluding observations of the Human Rights Committee: Canada.</i> 07/04/99, at para. 8. UN Doc. CCPR/C/79/Add.105. (1999)	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.
Inter-American Commission on Human Rights, 2000.	<i>Second Report on the Situation of Human Rights in Peru,</i> OEA/Ser.L/V/II.106, Doc 59 rev., at Ch. X, para. 16.	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.
UN Human Rights Committee, 2000.	<i>Concluding observations of the Human Rights Committee: Australia.</i>	... necessary steps should be taken to restore and protect the titles and interests of indigenous persons in their native lands...

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	<p>28/07/2000. CCPR/CO/69/ AUS. (Concluding Observations/ Comments), at paras. 10 and 11.</p>	<p>... 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....</p>
<p>UN Inter-Government Forum on Forests 2000.</p>	<p>Proposals for Action, II.D.1.8c., II.D.1.8.d II.D1.10</p> <p>II.D.6.8.d</p>	<p>Encouraged countries...to support appropriate land tenure law and/or arrangements as a means to define clearly land ownership, as well as the rights of indigenous and local communities and forest owners, for sustainable use of forest resources, taking into account the sovereign right of each country and its legal framework. Invited countries...to use national forest programmes...to involve indigenous and local communities and women to participate in the formulation and implementation of measures that aim to protect their rights and privileges in relation to forest lands, TFRK and forest biological resources (as defined by the CBD).</p> <p>Encouraged countries, within their respective legal frameworks...to support land tenure policies that recognize and respect legitimate access and use, and property rights in order to support SFM and investment, recognizing that institutionalizing tenure is a long-term and complex process which requires interim measures to address urgent needs, in particular of local and/or indigenous communities.</p>
<p>Judgment of the Inter-American Court of Human Rights in the case of The Mayagna (Sumo) Indigenous Community of Awas Tingni v. the Republic of Nicaragua Issued 31 August 2001</p>	<p>Series C No. 79 (2001), Paras. 149, 151.</p>	<p>149. Given the characteristics of the instant case, it is necessary to understand the concept of property in indigenous communities. Among 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. 151. 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 164. [Pursuant to the right to property set forth in Article 21 of the American Convention on Human Rights] the State must adopt measures of a legislative, administrative, and whatever other character necessary to create an effective mechanism</p>

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	Para. 41-44	<p>poverty-reduction strategies that include indigenous peoples is vital.</p> <p>Special attention is needed on issues of resettlement, especially those that involve any form of population transfer that has the aim or effect of undermining indigenous peoples' rights; and any form of assimilation or integration by other cultures or ways of life imposed on them without free, prior informed consent.</p> <p>Environment and sustainable development UNDP has played a role in the preservation of natural resources and environmental conservation: through the recovery, consolidation and dissemination of traditional knowledge in the use and maintenance of natural habitats and resources and through the participation of indigenous communities in resource management and conservation strategies and practices. Indigenous knowledge, practices and systems are often of invaluable importance to the sustainable management of the environment. UNDP continues to play a role in promoting and enhancing indigenous knowledge as well as in protecting the knowledge, innovations and practices in agriculture and biodiversity conservation as intellectual property.</p> <p>In the spirit of General Assembly resolutions, UNDP recognizes the profound relationship indigenous peoples have to their environment, land and resources. Indigenous lands are increasingly under threat by development and the introduction of new policies and laws that do not acknowledge indigenous customary rights. UNDP also respects livelihoods based on pastoralism, hunting and gathering, and shifting cultivation lifestyles.</p> <p>Consistent with its work on trade and sustainable human development, UNDP will support a multilateral trade system that is sensitive to the rights of indigenous peoples to continue practicing their indigenous sustainable agriculture, resource management practices, traditional livelihoods, especially with regard to food security.</p>
<p>World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. 31 August-8 September 2001</p>	<p>A/CONF.189/12, Declaration of the WCAR, September 2001.</p>	<p>23. We fully recognize the rights of indigenous peoples consistent with the principles of sovereignty and territorial integrity of States, and therefore stress the need to adopt the appropriate constitutional, administrative, legislative and judicial measures, including those derived from applicable international instruments;</p> <p>39. We recognize that the indigenous peoples have been victims of discrimination for centuries and affirm that they are free and equal in dignity and rights and should not suffer any discrimination, particularly on the basis of their indigenous origin and identity, and we stress the continuing need for action to overcome the persistent racism, racial discrimination, xenophobia and related intolerance that affect them;</p> <p>41. We reiterate our conviction that the full realization by indigenous peoples of their human rights and fundamental freedoms is indispensable for eliminating racism, racial discrimination, xenophobia and related intolerance. We firmly reiterate our determination to promote their full and equal enjoyment of civil, political, economic, social and cultural rights, as well as the benefits of sustainable development, while fully respecting their distinctive characteristics and their own initiatives;</p> <p>43. We also recognize the special relationship that indigenous peoples have with the land as the basis for their spiritual,</p>

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	<p>Programme of Action, paras. 15-20, 208-09.</p>	<p>physical and cultural existence and encourage States, wherever possible, to ensure that indigenous peoples are able to retain ownership of their lands and of those natural resources to which they are entitled under domestic law;</p> <p>15. Urges States: (a) To adopt or continue to apply, in concert with them, constitutional, administrative, legislative, judicial and all necessary measures to promote, protect and ensure the enjoyment by indigenous peoples of their rights, as well as to guarantee them the exercise of their human rights and fundamental freedoms on the basis of equality, non-discrimination and full and free participation in all areas of society, in particular in matters affecting or concerning their interests; (b) To promote better knowledge of and respect for indigenous cultures and heritage; and welcomes measures already taken by States in these respects;</p> <p>16. Urges States to work with indigenous peoples to stimulate their access to economic activities and increase their level of employment, where appropriate, through the establishment, acquisition or expansion by indigenous peoples of enterprises, and the implementation of measures such as training, the provision of technical assistance and credit facilities;</p> <p>17. Urges States to work with indigenous peoples to establish and implement programmes that provide access to training and services that could benefit the development of their communities;</p> <p>18. Requests States to adopt public policies and give impetus to programmes on behalf of and in concert with indigenous women and girls, with a view to promoting their civil, political, economic, social and cultural rights; to putting an end to their situation of disadvantage for reasons of gender and ethnicity; to dealing with urgent problems affecting them in regard to education, their physical and mental health, economic life and in the matter of violence against them, including domestic violence; and to eliminating the situation of aggravated discrimination suffered by indigenous women and girls on multiple grounds of racism and gender discrimination;</p> <p>19. Recommends that States examine, in conformity with relevant international human rights instruments, norms and standards, their Constitutions, laws, legal systems and policies in order to identify and eradicate racism, racial discrimination, xenophobia and related intolerance towards indigenous peoples and individuals, whether implicit, explicit or inherent;</p> <p>20. Calls upon concerned States to honour and respect their treaties and agreements with indigenous peoples and to accord them due recognition and observance;</p> <p>208. Urges States and international financial and development institutions to mitigate any negative effects of globalization by examining, inter alia, how their policies and practices affect national populations in general and indigenous peoples in particular; by ensuring that their policies and practices contribute to the eradication of racism through the participation of national populations and, in particular, indigenous peoples in development projects; by further democratizing international</p>

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		<p>financial institutions; and by consulting with indigenous peoples on any matter that may affect their physical, spiritual or cultural integrity;</p> <p>209. Invites financial and development institutions and the operational programmes and specialized agencies of the United Nations, in accordance with their regular budgets and the procedures of their governing bodies:</p> <p>(a) To assign particular priority to and allocate sufficient funding, within their areas of competence, to the improvement of the status of indigenous peoples, with special attention to the needs of these populations in developing countries, including the preparation of specific programmes with a view to achieving the objectives of the International Decade of the World's Indigenous People;</p> <p>(b) To carry out special projects, through appropriate channels and in collaboration with indigenous peoples, to support their initiatives at the community level and to facilitate the exchange of information and technical know-how between indigenous peoples and experts in these areas;</p>