

Resolution of the National Toshias Council 2019 Conference

Adopted at the National Toshias Conference, October 2019

Considering that the Constitution of Guyana, Art. 149G, mandates the “protection, preservation, and promulgation of indigenous peoples’ languages, cultural heritage, and way of life”;

Aware that indigenous peoples have rights to self-determination, free, prior, and informed consent (FPIC), participatory decision-making, and to our lands, territories, and resources, as stated in the United Nations Declaration on the Rights of Indigenous Peoples and other international treaties to which Guyana is bound;

Concerned about the lack of respect for our rights and the seeming de-prioritization of the protection and fulfilment of our rights, as evidenced by the continuing lack of a decision after 20 years in the land rights case filed by the Upper Mazaruni communities in the High Court;

Desiring that these rights should be adequately and effectively respected, protected, and fulfilled in Guyana’s national laws;

Concerned about the negative environmental, health, social, and economic impacts of non-consensual mining on our communities, as evidenced by the destruction of lands in the Upper Mazaruni and around the country and by the case of the destruction of Mamai Lucille Williams’ home in Karisparu in Region 8 (see Annex I: Statement by NPDC Regarding Destruction of Mamai Lucille Williams’ Home);

Concerned about the lack of respect for indigenous village councils and titled lands, as evidenced by unannounced visits to villages by various Government agencies and officials and, as a more troublingly example, by the invasion of Chinese Landing’s titled lands by a miner who does not have the consent of the village to conduct mining activities there;

Saddened by the disregard for human rights and for the environment, notably, the destruction of our earth and of indigenous peoples’ homes, all around the world, particularly by the unprecedented numbers of fires in the Amazon rainforest;

Determined to continue the struggle for the recognition of, respect for, and protection of our rights;

Seeking to effectively fulfil the NTC’s mandate as the representative organization comprising the toshaos of all indigenous villages in Guyana;

Considering the need for greater clarity about procedures and rules that apply to the NTC, its Executive Body and the annual NTC Conference;

Further considering the statutory functions of the NTC and its roles in relation to the Government, within the Constitutionally-mandated Indigenous Peoples Commission and otherwise;

Cognizant that the Amerindian Act 2006 provides in Section 43(1) that the NTC “may determine its own procedure and may, in consultation with the Minister, make rules governing such procedure” and in Section 40 that the NTC may “establish a Secretariat”;

Considering the potential of district councils and our peoples to collaborate and take joint action on such issues as environmental and resource management, monitoring, and cultural heritage protection and preservation, as evidenced by the example of the common border and collaborative agreement (see Annex II) between the Waiwais and the South Rupununi District Council (SRDC), which states that “the border between Waiwai territory and that of the Wapichan is the Kassikaityu River from its source to its mouth where it enters the Essequibo River. ... We know this from our ancestors, who traditionally owned these lands ..., and who lived in friendship and as good neighbours as we do now. We reaffirm and confirm this today for all to see and hear”, and which explains that “What happens in our territories can affect all of us and we will cooperate and support each other to enhance and guarantee the well-being of our present and future generations and all other living things in our lands and water”;

Welcoming the announcement by the Government that eight villages, including Mainstay/Whyaka, Mashabo, Capoey, Tassarene, Kangaruma, Parabara, and Rockstone, have had their titles or extensions of title approved by Cabinet and are to receive their title documents soon¹;

Welcoming the Government’s initiative to work towards the protection of important headwaters in Guyana, including the commitment by the Ministry of Natural Resources to working with the SRDC to develop and implement a joint headwaters protection plan to protect the Kwitaro and Kuyuwini Rivers and to reserve them from mining;

Welcoming the United Nations’ “Spotlight Initiative”, which commits US\$ 1 billion towards eliminating domestic violence and all forms of violence against women;

Welcoming the various commitments made by Government Ministers and other officials that they have heard our concerns and will work to find ways to address and resolve them –

¹ <https://dpi.gov.gy/8-indigenous-communities-to-receive-land-titles-extensions/>. We observe that although the DPI post states that 8 communities are soon to receive land titles or extensions, only 7 communities are named.

THE NTC CONFERENCE:

1. Reiterates the statement we made at the 2018 NTC Conference (see Annex III), calling for a new or revised Amerindian Act that protects the rights of indigenous peoples and meets our current and future needs, in keeping with the highest standards of human rights law. Although we are aware that no new law can be passed until after the next elections, we call upon the Government to ensure that the reports from the consultations are completed and we call upon every political party to commit to moving forward with the revision of the Amerindian Act, notably, to consultations with our peoples on a new draft adopting our recommendations, at the earliest possible stage;
2. Calls upon the Government of Guyana to issue those eight villages that have been approved for title with valid title documents as soon as possible, and to ensure that those titles are free of encumbrances, particularly free of mining and logging concessions;
3. Calls upon the Ministry of Indigenous Peoples Affairs (MoIPA) to expedite the processing and approval of pending land title and extension applications and inform the villages of the schedule for doing so;
4. Calls upon the Guyana Lands and Surveys Commission (GLSC) to work with indigenous communities and our representative institutions, including district councils and the NTC, to update its maps to include indigenous names of mountains, rivers, and other places, and to correct errors in its maps where those exist as a result of the mislocation of places;
5. Calls upon the Government to ensure that the GLSC, Guyana Geology and Mines Commission (GGMC), Guyana Forestry Commission (GFC), MoIPA, and any other government agencies are using the same maps of indigenous titled and proposed titled lands;
6. Calls upon all Government agencies to be completely transparent and to regularly provide updated information, such as maps of indigenous lands, mining concessions, and logging concessions, to village councils;
7. Calls upon the GGMC and GFC to stop issuing mining and logging concessions, respectively, in indigenous peoples' traditional lands, whether titled or untitled, without our FPIC, and to consult the NTC, the relevant district council, and the relevant villages and to seek FPIC prior to granting any mining or logging concessions in our traditional lands;
8. Calls upon the GGMC to immediately and effectively enforce mining laws and regulations to prevent such issues as the destruction of Mamai Lucille William's home a year ago and

the continuing failure to ensure that the responsible party compensate her and that the responsible miners and GGMC officers are penalized;

9. Calls upon the GFC to refrain from penalizing our communities and our peoples for taking logs or other forest products for traditional, non-commercial uses;
10. Calls upon the MoIPA, Ministry of Natural Resources (MNR), and the GGMC to ensure that Chinese Landing is given back full control over its titled lands and that the mining concessions that were granted in the village's titled lands without its FPIC are revoked;
11. Calls upon the MNR, the GGMC, the GFC, and the Environmental Protection Agency to follow the model being proposed for a joint headwaters protection plan between the MNR and the SRDC for the Kwitaro and Kuyuwini Rivers, and to work with other communities to establish and implement plans for the protection of our rivers and creeks, including, in particular, rivers that have not yet been polluted in mining areas, such as the Kako, Kukui, and Kamarang Rivers in the Upper Mazaruni;
12. Calls upon the MNR and GGMC to continue effective enforcement actions to remove the 14-inch cutterhead 'dragga' that has been denied permission to operate and yet still has not been removed from the vicinity of Parabara Village and the Kuyuwini River;
13. Encourages district councils and indigenous communities to conclude collaborative agreements with one another, modelled on the one concluded between the Waiwais and the SRDC, to take joint action and shared responsibility as it relates to common landscape, ecosystem, and resource management issues and concerns, and to share progress on implementing such joint agreements and joint measures with the NTC;
14. Calls upon the newly formed Indigenous Caucus to work to promote and protect indigenous peoples' rights;
15. Calls upon the Government to support initiatives by indigenous peoples on environment, resource, and cultural heritage protection and management, and to provide necessary support where so requested and via specific agreements with the indigenous peoples;
16. Calls upon the Government of Brazil to respect indigenous rights, to combat existing fires in the Amazon, and to stop granting permission for the extractive and large-scale agricultural industries to destroy the Amazon forest and the homes of indigenous peoples;
17. Calls upon the UN agencies and the Government to collaborate effectively with our communities in implementing the "Spotlight Initiative" to ensure the program's effectiveness in combating and eliminating all forms of violence against women, and calls

upon the UN and the Government to expand the program into all of our communities to address gender-based violence;

18. Calls upon all Government agencies to address all individual village issues raised during this NTC Conference², including issues not raised in this resolution, such as those relating to education, health, and security;
19. Calls upon the Government to increase the subvention given to the NTC so that it can more effectively fulfil its mandate and to increase the stipend given to toshaos to at least 80,000 GYD per month to enable them to more effectively fulfil their mandate;
20. Mandates the NTC Executive Body to convene a technical team in the short term and mandate it to draft the NTC's procedures and the rules governing that procedure; to consult the Minister in order to finalize and approve the procedures and rules and present the same to the 2020 NTC Conference for debate and ratification; and to convene a technical team to support the drafting of a plan for the operation and financing of its secretariat, ensuring that the secretariat shall be directly and solely accountable and responsive to the NTC and its Executive Body;
21. Requests that the Government compile a handbook listing the contact information and functions and responsibilities of each ministry and agency in the Government, to ensure that toshaos know to direct queries or issues to the correct department within the Government;
22. Requests that the MoIPA hand over the mandate and funding for the organization of the NTC Conference to the NTC Executive Body so that the NTC can organize future NTC Conferences itself; and
23. Requests that the Government of Guyana and all State agencies and commissions develop Memoranda of Cooperation with the NTC to establish clear working relationships and mechanisms for communication and sharing information and data.

² A final list of all issues raised is being compiled and will be made available later by the NTC.

Annex I: Statement by NPDC Regarding Destruction of Mamai Lucille Williams' Home

The NPDC villages once again demand that the government, and particularly the Ministry of Indigenous Peoples' Affairs, the GGMC, and the Ministry of Natural Resources, ensure that the Mamai Lucille Williams in Karisparu is compensated for the destruction of her house and farm by miners. We are angered to see the lack of government action on a clearly illegal act by miners in our territory.

Mamai Lucille Williams is about 87 years old and has lived in Karisparu and on the same plot of land since she was a little girl. In 2017, a miner named Andrew Stanlislaus, known as "Geese", started threatening her and telling her that he would destroy her house if she did not leave to allow him to mine in that plot of land. Mamai told us back then that she was fearful, because miners were already working all around her plot of land. Last year, in November 2018, the miner came to Mamai's house with two GGMC officers and forcibly evicted her off of her own land. In fact, it was the two GGMC officers who physically took up axes and tore down her home and destroyed her belongings.

Since that time, the NPDC had come out with a public statement urging the government to act to require the miner to compensate Mamai and to investigate the miners and those two GGMC officers. The staff of the Amerindian Peoples Association and members of the NTC executive had also made complaints to GGMC and posted about the situation on social media, urging immediate action. No action was taken until August of this year, when a team comprising representatives of the Ministry of Indigenous Peoples Affairs and the GGMC, along with the miner, went to visit Mamai, who is now living with one of her grandchildren. The team promised Mamai compensation. She asked for them to rebuild her a house on a plot of land she identified, to provide her with some foodstuffs, and to clear some land for her to build a new farm. Since that time, all that has happened is that the miner built Mamai what can only be described as a temporary camp, with a few poles and a tarpaulin.

We condemn the lack of government action to address this situation. The Constitution of Guyana protects every individual's right to property, as well as indigenous peoples' rights to our languages, cultural heritage, and way of life. We are also aware that the Mining Act specifically makes illegal the acts of the miner and the GGMC officers. Sec. 80(1)(b)(i) of the Mining Act states that "A licensee shall not exercise any of his rights under this Act or his licence except with the written consent of the lawful occupier thereof, in respect of any land which is the site of, or which is within two hundred metres ... of any inhabited, occupied or temporarily unoccupied house or building". Sec. 80(1)(b)(ii) states that "A licensee shall not exercise any of his rights under this Act or his licence except with the written consent of the lawful occupier thereof, in respect of any land within fifty metres ... of any land which has been cleared or ploughed or otherwise *bona fide* prepared for the growing of, or upon which there are growing, agricultural crops". We further note that Sec. 111 specifically notes that "all land occupied or used by Amerindian communities

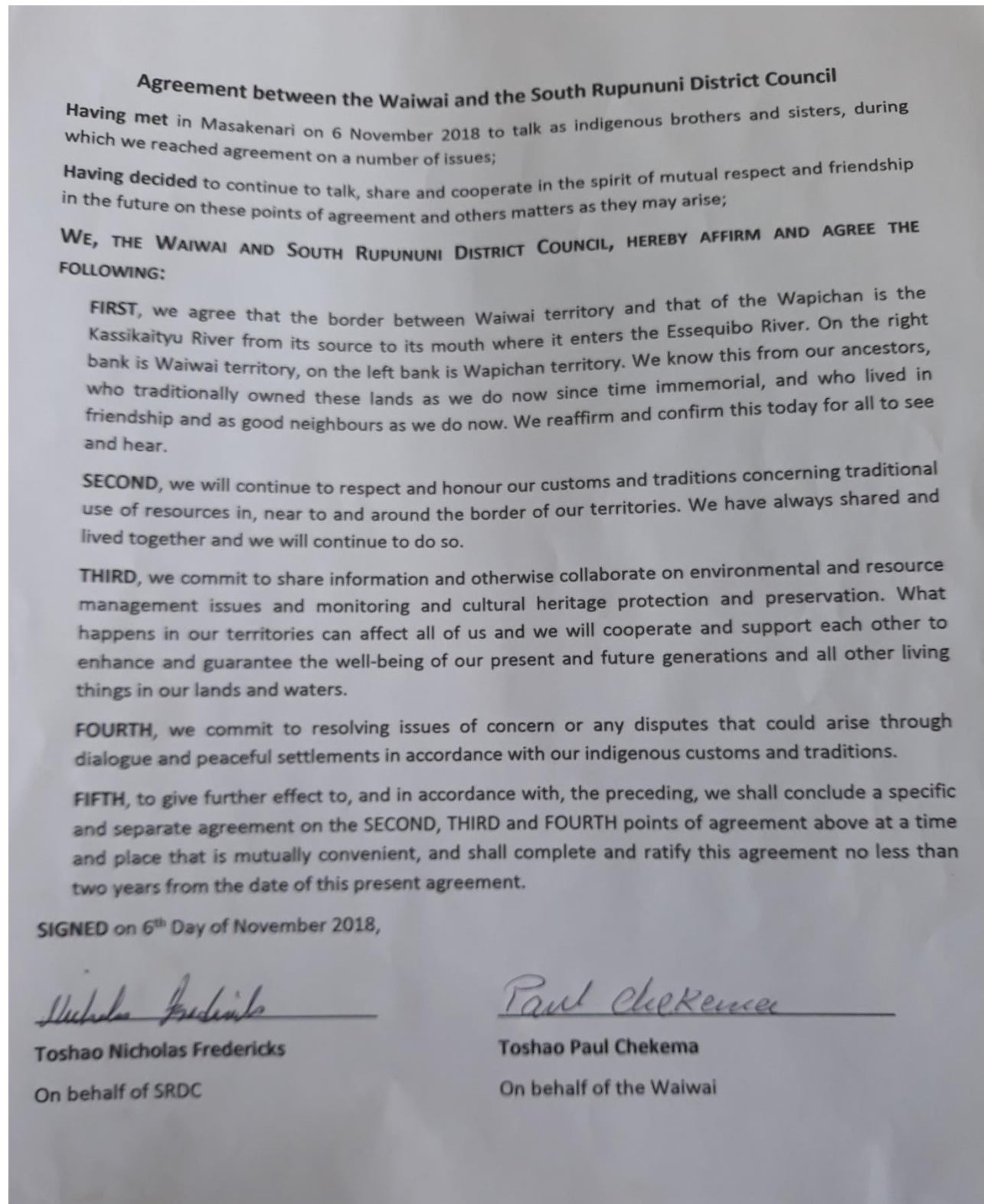
and all land necessary for the quiet enjoyment by the Amerindians of any Amerindian settlements, shall be deemed to be lawfully occupied by them”.

Offences under the Mining Act should be investigated and punished in accordance with the law. Once convicted, this includes fines and imprisonment. In addition, Sec. 84(1) requires that “Where, in the course of prospecting or mining operations ... any damage is caused or done to the surface of the parcel of land, or to any cultivation or building, thereon, as a result of those operations, the licensee shall be liable to pay fair and reasonable compensation to the holder of any right, title or interest in or over that parcel of land in accordance with his right, title or interest.” This compensation is to be determined in agreement between Mamai and the miner; or, if no agreement is reached, by a determination by the High Court.

When the government team visited in August of this year, Mamai already stated the compensation that she seeks – a new house, some foodstuffs, and a plot of land to rebuild her farm. She has not even asked for compensation for the trauma she suffered, though we believe that she deserves to be compensated for the same. We demand that the government act immediately to discipline and fire those GGMC officers who destroyed Mamai’s house; punish the miner; and to ensure that Mamai is compensated for the harm she has suffered.

We will not stand idly by and just watch as the rights of our people and of our elders are trampled. Mamai’s situation is not just one isolated incident – it is an example of a pattern of discrimination and violence against indigenous peoples and of disrespect for our internationally recognized and Constitutionally protected rights. We demand that the Government uphold its own laws, international human rights standards, and its Constitutional obligations to respect, protect, and fulfil our rights as indigenous peoples.

Annex II: Agreement between Waiwais and SRDC



Annex III: Statement on Amerindian Act Revision, NTC Conference 2018

STATEMENT ON THE REVISION OF THE AMERINDIAN ACT 2006

WE, THE INDIGENOUS PEOPLES OF GUYANA, commend the Government for undertaking to revising the Amerindian Act 2006 and bringing it in line with international law and standards. We appreciate the recognition that the Amerindian Act 2006 is deficient in several important ways and the commitment by H.E. President Granger that “after consultation with all the indigenous communities of our country, there will be a new or revised or reformed Indigenous Peoples’ Act under this administration.”³ We further welcome Government’s commitment to ensuring that the new or revised Act “is fully compliant with international law and standards which protect the rights of Indigenous peoples and that it adequately meets the current and future needs of the Indigenous Peoples’ of Guyana,”⁴ all “in keeping with the highest standards of human rights law.”⁵ The Caribbean Court of Justice ruled in 2015 that this is a matter of basic equality, holding that “the right to *protection of the law* encompasses the international obligations of the State to recognize and protect the rights of indigenous people....”⁶ Indigenous peoples deserve no less, our nation deserves no less.

OUR EFFECTIVE PARTICIPATION in all stages of the reform process is crucial to ensuring that a revised or new Act does in fact meet our current and future needs and respects our rights. We are best placed to gauge our current and future needs and, therefore, our agreement that these criteria have been met is equally essential and provides a measure by which we shall judge the success of the reforms. Likewise, the UN Declaration on the Rights of Indigenous Peoples, endorsed by Guyana, provides that rights recognized therein “constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.” As such it provides a base for recognizing and securing our rights in the law of Guyana, and we expect the revised or new Act will not only meet the “minimum standards,” but – as promised by the Government – the highest standards. We also observe in this regard that various international human rights bodies have highlighted the measures that are required to correct some of the deficiencies in the Amerindian Act 2006, and that this is also highly relevant to the reform process.⁷

IN LIGHT OF THE ABOVE, we urge and expect that the revised or new Act will include, but not be limited to, the following

- Be entitled the ‘Indigenous Peoples’ Rights Act’ and refer to us as **INDIGENOUS PEOPLES**, not Amerindians;

³ Address to Amerindian Heritage Village, Mainstay/Whyaka, Region 2 (2016).

⁴ ‘Ministry of Indigenous Peoples’ Affairs to begin consultative revision process of the Amerindian Act 2006’, *DPI*, 16 April 2018, <http://dpi.gov.gy/ministry-of-indigenous-peoples-affairs-to-begin-consultative-revision-process-of-the-amerindian-act-2006/>.

⁵ ‘Outstanding land, resource rights issues to be addressed — Minister Allcock’, *Guyana Chronicle*, 10 August 2015, <http://guyanachronicle.com/outstanding-land-resource-rights-issues-to-be-addressed-minister-allcock/>.

⁶ *Maya Leaders Alliance v. A.G. Belize*, [2015] CCJ 15 (AJ), at para. 52 (emphasis added).

⁷ See e.g., Concluding observations of the Committee on the Elimination of Racial Discrimination, Guyana, CERD/C/GUY/CO/14, 4 April 2006; and Concluding Observations of the Committee on Economic, Social and Cultural Rights: Guyana, UN Doc. E/C.12/GUY/CO/2-4, 28 October 2015.

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- Elaborate on our constitutionally entrenched rights, e.g., to the protection, preservation and promulgation of our languages, cultural heritage and ways of life, as well as affirm “the special place in our nation of the Indigenous Peoples and recognise their right as citizens to land and security and to their promulgation of policies for their communities”;
- Recognize and provide an effective and timely means of securing our rights to own, control, manage, freely use and develop our traditional lands, territories and resources, which are grounded in and derive from our customary land tenure systems, and ensure that decision making by the Minister conforms to those rights;
- Recognize, guarantee and respect our rights to autonomous control over our internal and local affairs through our own institutions and in accordance with our customs and traditions, and to participate fully in the political, economic, social and cultural life of the State, including with respect to legislative and administrative measures that may affect us and through defining respectful relationships between our institutions and those of the State, such as Local Democratic Organs;
- Remove the discriminatory distinction between titled and untitled indigenous village/communities, as has been repeatedly recommended by international human rights bodies, and recognize our right to freely associate for the purposes of collective action, including, where so desired, holding common title that is vested in a District Council;
- Remove the various discriminatory double-standards and vestiges of paternalism in the Act that continue to hamper the full recognition and effective exercise and enjoyment of our rights;
- Guarantee indigenous peoples’ right to free, prior and informed consent;
- Ensure that the revised or new Act effectively recognizes and guarantees , among others, our rights to development; to health, including the maintenance of our traditional health systems; to maintain, control, protect and develop our cultural heritage, traditional knowledge and traditional cultural expressions, and related intellectual property; our traditional systems of justice; to establish our own media, including radio stations, in our own languages; and the right to live in freedom, peace and security.

IN SHORT, we need and want an Act that effectively recognizes and protects, and provides for the free exercise and enjoyment of, our collective and individual rights and which clearly provides that such rights “shall be respected and upheld by the executive, legislature, judiciary and all organs and agencies of Government and, where applicable to them, by all natural and legal persons” (Const. Art. 154A(1)). If it does not include, inter alia, the above rights and other measures identified by the majority of indigenous peoples, the new or revised Act would have failed to meet the criteria of effectively guaranteeing our rights .

WE LOOK FORWARD TO collaborating in the spirit of mutual respect with the Government and the members of the National Assembly to develop, enact and implement a new or revised Act that protect the

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rights of indigenous peoples and meets our current and future needs, “in keeping with the highest standards of human rights law.”