



**Association of Indigenous
Village Leaders in Suriname**



Stichting Sanomaro Esa



**Association of Saramaka
Authorities**



**Forest Peoples
Programme**

06 June 2006

Ms. Nathalie Prouvez
Secretary,
United Nations Committee on the Elimination of Racial Discrimination
UNOG-OHCHR
1211 Geneva 10
Switzerland

RE: Request for Additional Follow-Up and Urgent Action Concerning the Situation of Indigenous and Tribal Peoples in Suriname

Dear Ms. Prouvez:

1. On behalf of the Association of Indigenous Village Leaders in Suriname, Stichting Sanomaro Esa, the Association of Saramaka Authorities and the Forest Peoples Programme ('the submitting organizations'), I have the honour of again addressing the United Nations Committee on the Elimination of Racial Discrimination ('the Committee') with regard to the situation of indigenous and tribal peoples in Suriname. This present communication provides additional and updated information and again emphasizes the pressing need for sustained attention to the situation in Suriname.

2. Sustained and increased attention to the situation in Suriname is urgently needed due to Suriname's ongoing failure to give effect to the Committee's 2004 Concluding Observations and two subsequent decisions adopted in 2005 pursuant to its Follow Up and Early Warning and Urgent Action procedures; and due to Suriname's authorization of additional, highly prejudicial resource extraction and infrastructure projects that contravene the Committee's recommendations and Suriname's obligations under the Convention on the Elimination of All Forms of Racial Discrimination. Given this ongoing and deteriorating situation, the submitting organizations hereby respectfully request that the Committee again consider the situation of indigenous and tribal peoples under its Early Warning and Urgent Action procedures, and reiterate and amplify its prior recommendations and decisions (see paragraph 31 *infra* for the precise request).

3. Since December 2002, the submitting organizations have transmitted five reports to the Committee concerning the situation of indigenous and tribal peoples in Suriname, the most recent in July 2005.¹ The Committee has formally commented on the situation in Suriname on four occasions:

¹ *Request to Initiate an Urgent Procedure to Avoid Immediate and Irreparable Harm*, 15 December 2002; *Additional Information*, 21 May 2003; *Comments on Suriname's State Party Report (CERD/C/446/Add.1)*, 26 January 2004; *Request for the Initiation of an Urgent Action and a Follow Up Procedure in Relation to the Imminent Adoption of Racially*

the first in March 2003 and the last in August 2005. At its 62nd session, the Committee adopted Decision 3(62), which states that “serious violations of the rights of indigenous communities, particularly the Maroons and the Amerindians, are being committed in Suriname....”² At its 64th session, the Committee adopted Concluding Observations on Suriname, which emphasize both *de jure* and *de facto* discrimination.³ In March 2005, the Committee adopted Decision 3(66) under its Follow-Up procedure, observing that a “revised version of the draft Mining Act ... may not be in conformity with the Committee’s recommendations.”⁴

4. Most recently, at its 67th session, the Committee adopted Decision 1(67) under its Early Warning and Urgent Action procedures, wherein it expressed its “deep concern about information alleging that Suriname is actively disregarding the Committee’s recommendations by authorizing additional resource exploitation and associated infrastructure projects that pose substantial threats of irreparable harm to indigenous and tribal peoples, without any formal notification to the affected communities and without seeking their prior agreement or informed consent.”⁵

5. This submission focuses on these resource exploitation and infrastructure projects, which are increasing beyond the level reported in our last submission. Indeed, new concessions and permits have been granted since the Committee’s latest decision in August 2005, and Suriname has intensified its efforts to construct a hydroelectric dam and a separate river diversion project that will forcibly displace numerous indigenous and tribal communities. It concludes in Section II by explaining a number of recent developments, including the creation of a Presidential Commission on Land Rights in January 2006, and provides a brief update on the draft revised Mining Act.

I. Suriname has authorized new, highly prejudicial resource exploitation operations

6. In addition to failing to implement the Committee’s 2004 recommendations and its decisions of March and August 2005, Suriname is actively disregarding those recommendations and decisions by authorizing a series of additional resource exploitation and associated infrastructure projects that pose substantial threats of irreparable harm to indigenous and tribal peoples. In our last submission, we highlighted two of these operations: the Bakhuis bauxite mining project and associated hydroelectric dam and the Nassau Mountains gold exploration project in east Suriname. In addition to these ongoing and highly prejudicial operations, Suriname is now also pursuing the Tapanahony River Diversion project that threatens to inundate the traditional lands of numerous indigenous and maroon communities, including some of those previously forced from their lands when the Afobaka dam was constructed in the mid-1960s. It has also, over the objections of the affected communities, authorized the creation of a palm oil plantation on lands traditionally owned and used by indigenous and maroon communities in north east Suriname.⁶ While some amount of basic consultation has taken place after the concessions were granted in Nassau and Bakhuis, there has been no meaningful attempt to seek the informed participation and consent of indigenous and tribal peoples in relation to any of the above activities to date.

Discriminatory Legislation by the Republic of Suriname, 06 January 2005; *Request for Follow Up and Urgent Action Concerning the Situation of Indigenous and Tribal Peoples in Suriname*, 08 July 2005.

² *Decision 3(62), Suriname*. UN Doc. CERD/C/62/CO/Dec.3, 21 March 2003, at para. 3.

³ *Concluding Observations: Suriname*. CERD/C/64/CO/9/Rev.2, 12 March 2004.

⁴ *Follow-Up Procedure, Decision 3(66), Suriname*. UN Doc. CERD/C/66/SUR/Dec.3, 9 March 2005, at para. 4.

⁵ *Decision 1(67), Suriname*. UN Doc. CERD/C/DEC/SUR/2, 18 August 2005.

⁶ See, Annex F, ‘Action Committee against the Patamacca deal’, *De Ware Tijd*, 22 April 2006.

A. Bakuys Bauxite Mining

7. Imminent bauxite mining operations in the west Suriname Bakuys concession are of serious concern, particularly as the companies involved also intend to construct a hydroelectric dam that will displace at least two Trio indigenous communities (Amotopo and Lucie) and flood the traditional lands of four Lokono communities (Wanapan, Section, Washabo and Apura).⁷ Cumulatively, the mining plans will directly and indirectly affect around 20 indigenous communities.⁸ The companies involved, BHP/Billiton and Suralco/Alcoa, have concluded their exploration work at Bakuys, which was undertaken pursuant to a 2003 Memorandum of Understanding with the State.⁹ A separate Memorandum of Understanding concerning the hydroelectric dam was also concluded with Suralco/Alcoa in 2003.¹⁰ Both MOUs grant the companies, subject to the approval of permits, the right to both mine bauxite and construct a hydroelectric dam in west Suriname.¹¹ The new hydroelectric dam that will accompany the bauxite mining will provide power for a new alumina smelter.

8. The 2,800 square kilometer concession and exploration permit were issued without any prior consultation with, participation by or agreement of the affected communities, and without any form of environmental impact assessment.¹² Moreover, indigenous people have been physically excluded from the concession area and may no longer conduct traditional subsistence activities therein: “Carlo Lewis, village chief of Apura, mentions that because of the developments in their territory they are forced to change their way of living. ‘We are not against the developments, but our way of living has to be taking into account. We are already no longer allowed to hunt in the Bakuys territory and we cannot go to the supermarket like the people in the city, because we live from the forest.’”¹³

9. It was recently announced that the companies and Government will try to reach an agreement on the granting of permits for mining and dam construction by the end of 2006 and the companies commenced an Environmental and Social Impact Assessment on the mining operations in September 2005.¹⁴ Robert Goodland, the former head of the World Bank’s Environment Department, has strongly criticized both the impact assessment plan, for failing to adequately account for indigenous peoples’ issues and participation, and the process leading to bauxite mining itself, for failing to respect the rights of indigenous peoples.¹⁵ In an extensive 2006 report, he states in general that

⁷ See, Annex B, ‘Implementation of the Kabalebo Project: Land Rights capture the attention of Indigenous Peoples in Southern Suriname’, *De Ware Tijd*, 05 July 2005.

⁸ See, note 15, *infra*.

⁹ World Trade Organization, *Trade Policy Review: Suriname. Report by the Secretariat*. Doc. WT/TPR/S/135, 14 June 2004, p. 73. Available at: http://www.wto.org/english/tratop_e/tpr_e/tp234_e.htm

¹⁰ *Id.*

¹¹ See Annex D, ‘Government considers construction of new hydroelectric power plant’, *De Ware Tijd*, 26 April 2006.

¹² R. Goodland, *Environmental and Social Reconnaissance: The Bakuys Bauxite Mine Project. A report prepared for The Association of Indigenous Village Leaders of Suriname and The North-South Institute*, 2006, p. 6 – “BHP/Billiton are to be commended for publicly apologizing in August 2005 for failing to assess the environmental and social impacts of their exploration or pre-feasibility phase which was scheduled to end in October 2005.” Available at: http://www.nsi-ins.ca/english/pdf/Robert_Goodland_Suriname_ESA_Report.pdf

¹³ See, Annex A, ‘Indigenous maps should help solve the land rights issue’, *De Ware Tijd*, 26 February 2005. See, also, *id.*, p. 6 – “The companies also prohibit indigenous peoples from accessing the exploration areas for traditional activities such as hunting in violation of company policies and international human rights standards.”

¹⁴ See, Annex E, ‘Bauxite negotiations this month: New bauxite deal to improve on the Brokopondo agreement’, *De Ware Tijd*, 02/05/2006.

¹⁵ R. Goodland, *supra*. One important criticism is found on p. 9-10, which states that “SRK’s [the company contracted to conduct the ESIA] repeated but unsubstantiated claims that there are no Indigenous Peoples living in the bauxite concession, is moot, misleading and risky. ... As there are at least four distinct vulnerable ethnic minorities (Arawak, Warau, Trio, Karinya/Carib) in the indigenous communities likely to be impacted by Bakuys, this gap in SRK’s Plan of

The Bakhuis bauxite mine project is a classic case of asymmetric power. Unsustainable mining confronts sustainable traditional societies. Rich and powerful multinationals will impose potentially severe impacts on inexperienced, weak, largely illiterate and poor Indigenous Peoples. Multinationals have great difficulty even in communicating with the affected people. Practically all the benefits will accrue to two stakeholders, namely the multinationals as they will reap a saleable commodity (bauxite) and the government as they will reap taxes and royalties. These two stakeholders will gain substantial benefits, but bear no adverse impacts. The Indigenous Peoples, on the contrary, will bear practically all the negative impacts and few, if any, of the benefits, unless the suggestions here outlined are implemented.¹⁶

10. With regard to the dam, Dr. Goodland, who helped to create the World Commission on Dams, and was the chief technical advisor to the World Bank's Extractive Industry Review, observes that

Current plans suggest three reservoirs totaling 2,460sq km in area – Corantijn-Lucie, Tiger & Avanavero – thus exceeding the size of Brokopondo [reservoir], which is nominally 1600 sq kms. ... Most of the area to be impounded is fairly intact Rain Forest, which is also the traditional territory of Indigenous Peoples on which they depend for their livelihoods. Loss of at least 2,460sq km of forest means that much less habitat from which the forest dwellers can harvest.¹⁷

11. Suriname has failed to respond in anyway to a number of formal complaints submitted by indigenous peoples focused on the mining and hydropower plans. Similarly, the State has made no attempt to meet with the directly and indirectly affected communities to discuss their concerns. This disregard for basic due process and participation rights must also be viewed in light of the fact that indigenous peoples' rights are in no way recognized in the laws of Suriname and there are no available and effective remedies for them to seek protection for their rights domestically.

B. The Tapanahony River Diversion Project

12. On 23 November 2005, the President of Suriname officially announced in the Surinamese Parliament, as part of the Government Declaration 2005-2010, that by 2010 the Government intends to increase electricity production, including through “the expansion of hydropower from the Brokopondo reservoir.”¹⁸ This is part of the Tapanahony River Diversion project, which, if completed as planned, will involve the forced displacement of numerous indigenous and N'djuka maroon communities living along the Tapanahony River.¹⁹

Study needs to be rectified. Affected Amerindian communities would include: downstream of the Nickerie, Tapoeripa, Post, Utrecht and Cupido; downstream of the Wayambo, Donderskamp and Corneliskondre; downstream of the Kabalebo and Corantijn, Apoera, Section, Washabo, Zandlanding and several Guyanese villages including Orealla and Siperuta.”

¹⁶ *Id.* at p. 4.

¹⁷ *Id.* at p. 21.

¹⁸ *Government Declaration 2005-2010*, Presented by President R.R. Venetiaan to the National Assembly of Suriname, 23 November 2005, at 24. Available at: <http://www.kabinet.sr.org/pdf/2006/jan/REGERINGSVERKLARING-23nov2005.pdf>

¹⁹ *Tapanahony River Diversion Project, Phase I Study Report*. Alcoa-Kvaener Alliance, August 2000, at 157 – “The issue that is potentially most sensitive is that of physical and economic displacement of residents in both the reservoir area and downstream communities. ... The impacts of the filling and operation of the reservoir will adversely affect both the upstream Amerindian Trio and peoples (Paloemeu, Tepoe and their hinterlands) but also downstream Wayana people in the area of Apetina and numerous downstream Ndjuka Maroon peoples and their communities.”

13. According to a feasibility study conducted in 2000 by the operating company, water levels in the reservoir will be increased by one to two meters²⁰ and will “result in a zone around the edge of the reservoir that would be periodically flooded and provide poor habitat for the inhabitants of either terrestrial or aquatic environments.”²¹ The study continues that the “effects could include flooding of homes and productive or infrastructure assets as well as disruption of economic activities.”²² It concludes by observing that

... the impacts of the project on the directly affected people of the region in which the project is located could also be significant and are likely to be negative on balance unless vigorous pro-active impact mitigation actions are taken. Even if mitigation measures that would be consistent with international best practice were implemented ... the project is likely to be very controversial, especially among residents of the impact region, and will be highly scrutinized by environmentalists. This is true not only because the project location is currently isolated and relatively undisturbed primary tropical forest, but also because it will affect indigenous people, their rights, land, culture and livelihood.²³

14. These observations were confirmed in the above-quoted 2006 report by Dr. Robert Goodland.²⁴ While he notes that the exact details of the diversion project have yet to be formalized, he nonetheless concludes that, “Suffice to say at this stage that displacement of Indigenous Peoples and maroons may well be by far the biggest impact of the proposed diversions.”²⁵ He also concludes that the

diversion looks likely to provoke major involuntary displacement of Indigenous Peoples, including the sizeable town of Palumeu, at the confluence of the Palumeu River with the Tapanahoni. The Wayana and Trio ethnic minorities may be severely impacted, as may N’djuka maroon communities on the Tapanahoni River. The canal and construction road planned to connect Jai Kreek also will provoke major impacts. Raising the water level of Afobaka reservoir itself may impact lake-side Saramaka maroon communities, including those that previously lost their lands when the Afobaka dam was constructed in the 1960s.²⁶

15. Expansion of the reservoir will almost certainly affect five Saramaka villages with a population of around 1000 persons.²⁷ These villages are located on the Upper Suriname River at the southern edge of the reservoir. These communities were forced to flee their lands in the 1960s when the Afobaka dam and Brokopondo reservoir were constructed – also to provide power for a bauxite refinery. This dam flooded approximately 50 percent (some 1,600 square kilometers) of traditional Saramaka territory and caused the forced expulsion of approximately 6000 mostly Saramaka persons from 28 communities. Only a few persons received compensation, which was set in the amount of 3 Surinamese guilders (roughly equivalent to US\$3). Only a few of these villages today have access to electricity.

16. In 2003, the five Saramaka villages likely to be affected by the project submitted a formal petition to the Office of the President pursuant to Article 22 of the 1987 Constitution in which they expressed their disagreement with the diversion project and requested additional information. No

²⁰ *Id.* at 149.

²¹ *Id.* at 153.

²² *Id.* at 161.

²³ *Id.* at 163.

²⁴ R. Goodland, *Environmental and Social Reconnaissance: The Bakhuis Bauxite Mine Project*, *supra*.

²⁵ *Id.*, at 22.

²⁶ *Id.* at 23.

²⁷ The villages are: Baikutu, Pikipada, Banafookondee, Bekijookondee and Duwata

response was received. The Saramaka also raised this issue before the Inter-American Commission on Human Rights in connection with Case 12.338 *Twelve Saramaka Clans* (see, *infra* para. 21-3). In response, Suriname denied that it had any intention to expand the reservoir, or proposals to that end, and claimed that it was technically impossible to do so.²⁸ Four months after it made these statements to the Inter-American Commission, Suriname submitted a (still pending) US\$880 million project proposal to the Initiative for Integration of Regional Infrastructure in South America, entitled the Tapanahony River Diversion Project.²⁹

17. In May 2006, much of the interior of Suriname – the area inhabited by indigenous and tribal peoples – experienced catastrophic, natural floods that destroyed food supplies for at least the next 4-6 months. The Suriname government and the international community have responded by providing food, medical and financial aid to address this situation, and discussions have started concerning reconstruction efforts. While the waters have now mostly receded, some indigenous and tribal leaders have commented on the irony of State assistance when, at the same time, it is in the advanced stages of authorizing the permanent flooding of large areas of indigenous and tribal territories in west Suriname and the Tapanahony River region. These waters will never recede and will permanently deprive indigenous and tribal peoples of their lands and resources and seriously undermine their physical and cultural integrity.

C. Palm Oil Plantation

18. Suriname also recently granted permission for a Chinese company to create and operate a 40,000 hectare palm oil plantation at Patamacca in the District of Marowijne. This area is traditionally occupied and used by both indigenous and maroon communities and is a critical subsistence resource harvesting area. There was no prior consultation with the affected communities and the permit was issued over the vocal and public objections of the affected communities.³⁰ The first stage in creating the plantation will be to clear-cut the existing forest and then plant oil-bearing palms. This will irretrievably destroy the ecology of the area and its capacity to provide subsistence resources and cause irreparable harm to indigenous peoples and maroons who count the area as part of their ancestral homeland.

19. The permit for the plantation was also granted despite the fact that it most likely falls within the area covered by paragraph 211 of the 15 June 2005 judgment of the Inter-American Court of Human Rights in the case of *Moiwana Village v. Suriname*. Paragraph 211 expresses the Court's order that "Until the Moiwana community members' right to property with respect to their traditional territories is secured, Suriname shall refrain from actions – either of State agents or third parties acting with State acquiescence or tolerance – that would affect the existence, value, use or enjoyment of the property located in the geographical area where the Moiwana community members traditionally lived..."³¹ In October 2005, Suriname objected to the Court's orders by means of a request for interpretation of the

²⁸ *Pertinent Parts of Information Submitted by the Government of Suriname Case No. 12.338, Twelve Saramaka Lõs*, 09 September 2003, para. 4 – "Based on information presented by the engineers section of the Department of Natural resource [*sic*], it is technically impossible to increase the water level in the Van Blommenstein Reservoir. The State does not have any plans nor proposals in this regard."

²⁹ See, <http://www.biceca.org/en/Project.328.aspx> and; http://www.iirsa.org/BancoMedios/Documentos%20PDF/mer_bogota04_presentacion_eje_del_escudo_guayanes.pdf

³⁰ See Annex F, 'Action Committee against Patamacca deal', *De Ware Tijd*, 22 April 2006.

³¹ *Case of Moiwana Village v. Suriname, Judgment of 15 June 2005*, Inter-American Court of Human Rights. Ser. C No. 124.

judgment.³² In February 2006, the Court rejected Suriname's request on the grounds that it represented a *de facto* and inadmissible appeal against its judgment.³³

D. Gold Mining Nassau Mountains

20. In east Suriname, the State has granted gold mining concessions to Suralco/Alcoa and Newmont Mining Company on the traditional lands of the Paramaka maroon people. The companies are presently conducting advanced exploration activities. According to a 2005 Inter-American Development Bank report, the "Risks associated with the development of a large-scale gold mine in this area include, in addition to the mentioned environmental impacts, the violation of Indigenous rights."³⁴ As with the Bakhuis concession, this concession and exploration permit were both issued without any prior notice to, participation by or the consent of the affected communities, and without any form of environmental and social impact assessment.

II. Additional Information

A. Case 12.338 Twelve Saramaka Clans v. Suriname

21. On 2 March 2006, the Inter-American Commission on Human Rights ('IACHR') adopted a (still confidential) report finding Suriname in violation of its international obligations in Case 12.338 *Twelve Saramaka Clans*. This case was submitted in October 2000 by the Association of Saramaka Authorities – one of the submitting organizations – and twelve Saramaka village leaders acting on behalf of the twelve Saramaka land-owning clans. It alleged, among others, that Suriname was internationally liable for violating the property rights of the Saramaka people by virtue of its acts (granting logging concessions) and omissions (failure to legally recognize and guarantee Saramaka property rights).

22. In its March 2006 report, the IACHR found violations of the right to property (Article 21), the right to judicial protection (Article 25) and the generic obligations to fully respect rights and to give domestic legal effect to those rights (Articles 1 and 2), all of the American Convention on Human Rights. To remedy these violations, the IACHR recommended that Suriname adopt legislative and other measures to fully recognize and protect the ownership rights of the Saramaka people in and to their traditional territory and to remove any legal impediments to the effective enjoyment of those rights; refrain from acts that affect the territory of the Saramaka; repair the environmental damage caused by logging concessions; make reparation and due compensation for all material and immaterial damages and; adopt legislative and other measures to provide judicial protection to the Saramaka and to otherwise give effect to their individual and collective rights in relation to their territory. In accordance with the IACHR's Rules of Procedure, Suriname was give 60 days to comply with the preceding or the case could be transmitted to the Inter-American Court of Human Rights for adjudication and a binding decision.

23. On 5 May 2006, the press reported that the Minister of Justice had announced that Suriname would give full effect to the IACHR's recommendations. The newspaper article (see Annex C)

³² *Request to the Honorable Court based on Article 67 of the American Convention of Human Rights, submitted by the State of Suriname*, 04 October 2005

³³ *Case of Moiwana Village v. Suriname. Interpretation of the June 15, 2005 Judgment on the Preliminary Objections, Merits and Reparations*. Inter-American Court of Human Rights, Judgment of February 8, 2006, at para. 16.

³⁴ Inter-American Development Bank, *Country Environment Assessment (CEA) Suriname*, draft Report, February 2005, at 60 and 63.

summarized the IACHR's recommendations and concluded by stating that the Minister had said that the Government would communicate with representatives of the Saramaka people in relation to implementation of the decision. While the State has submitted a formal response to the IACHR, at the time of this writing it has yet to formally communicate with the Saramaka people or its authorized legal counsel in relation to the decision.³⁵

B. The Presidential Commission on Land Rights

24. In the case of *Moiwana Village*, the Inter-American Court of Human Rights held and ordered that Suriname

shall adopt such legislative, administrative and other measures as are necessary to ensure the property rights of the members of the Moiwana community in relation to the traditional territories from which they were expelled, and provide for their use and enjoyment of those territories. These measures shall include the creation of an effective mechanism for the delimitation, demarcation and titling of said traditional territories.

The State shall take these measures with the participation and informed consent of the victims as expressed through their representatives, the members of the other Cottica N'djuka villages and the neighboring indigenous communities, including the community of Alfonsdorp.³⁶

25. Most likely in response to this judgment, on 4 January 2006, Suriname established a Presidential Commission on Land Rights (CLR). The terms of reference of the CLR provide that it shall, by January 2007, "research and identify in close collaboration with the target groups the problems relating to land rights, as well as giving advice to the Government concerning the approach to these issues...."³⁷ While the CLR may be viewed as progress, we wish to bring to the following to the Committee's attention:

- a) there was no prior consultation with any indigenous or tribal people or organization about the CLR's composition or mandate;
- b) while there is one indigenous and one maroon person among the members of the CLR, both are government employees and there are no freely chosen representatives of indigenous peoples or maroons on the CLR;
- c) the CLR is the third government commission on land rights in the past 15 years, none of which have produced any result to date. In similar terms to the mandate of the CLR, the second commission, the State Lands Commission of 1996, was mandated to "make an inventory of the problems of the Indigenous peoples and Maroons regarding subjective rights to State Land in the interior and to provide the Government with concrete proposals and recommendations in order to come to a fundamental solution of this issue."³⁸ This Commission dissolved without issuing a final report. The Council for the Development of the Interior, established by the 1992 Peace Accord and formed in 1995, is also charged with conducting an inventory of land rights issues, yet has failed to produce a single recommendation for titling in the eleven years it has been in existence;

³⁵ Fergus MacKay of the Forest Peoples Programme is Counsel of Record for the petitioners in Case 12.338.

³⁶ *Case of Moiwana Village v. Suriname, Judgment of 15 June 2005*, at paras. 209-10, 233.

³⁷ Establishment of a Land Rights Commission, Presidential Order of 04 January 2006, at I.

³⁸ *Interim Report of the Commissie Domeinland Inheemsen en Marrons* [State Lands Commission], Government of Suriname, Paramaribo, 1997, at 1.

- d) the CLR has been in existence now for six months – one-half of its mandated period of one year – and to date it has held only a few brief meetings with indigenous and tribal peoples’ representatives and, despite requests, has not made public its terms of reference nor sought to consult with regard to the manner in which it will discharge its mandate. Moreover, in a short meeting with the Association of Indigenous Village Leaders, the CLR refused to disclose its programme of work. Also, to the best of our knowledge, the CLR has no funds to fulfill its mandate; and, finally,
- e) the mandate of the CLR is merely to investigate the situation and advise the government with regard to policy or approaches towards land rights rather than to undertake any concrete action. Further executive and legislative action would be required to give effect to any recommendations produced by the CLR.

26. While we hope that the CLR does in fact lead to a comprehensive resolution of land and resource rights issues in Suriname, based on past experience, such an outcome is neither guaranteed nor even likely. The submitting organizations believe that Suriname has enough information presently at its disposal to take action to recognize and guarantee indigenous and tribal peoples’ rights. Therefore, a one year-long process of researching and identifying problems for the purposes of policy formulation is neither required nor necessarily constructive. Indeed, implementation of the Committee’s 2004 recommendations, including the drafting of a framework law on indigenous and tribal rights, if necessary, with technical assistance from the OHCHR, would go far toward addressing the deficits in Surinamese law and practice.³⁹ That indigenous and tribal peoples’ representatives are not formally incorporated into the CLR and were not consulted about its composition and mandate also further detracts from the credibility of the CLR process.

C. The Draft Revised Mining Act

27. The Committee has commented on Suriname’s draft and draft revised Mining Act on three separate occasions. After the Committee’s March 2005 Follow-Up decision, the Government stated in the press that it would hold parliamentary hearings on the draft revised Mining Act and that indigenous and tribal representatives would be invited to make presentations. Over one year later, these hearings have not been held and the draft revised Act remains pending enactment in the same form approved by the Council of Minister in late 2004. There is no information available at this time to indicate if the Government intends to present it to parliament for enactment in the near future.

III. Conclusion and Request

28. In reaching its decision in the Saramaka case, the IACHR determined that there are no available remedies under Surinamese law for the Saramaka people to assert and seek protection for their ownership and other rights to their traditional lands, territory and resources. Under Surinamese law, the State may violate their rights with impunity. This situation is not peculiar to the Saramaka people; there are no effective domestic remedies that may be invoked by any indigenous or tribal people or community, either specific or generally applicable, designed to provide for the recognition and recovery of their traditionally-owned lands, territories and resources, to challenge State-authorized activities

³⁹ Among others, *Prevention of Racial Discrimination, including Early Warning Measures and Urgent Action Procedures, Decision 1(67), Suriname*. UN Doc. CERD/C/DEC/SUR/2, 18 August 2005, at para. 5.

therein, and to ensure that the State consults with and obtains their informed consent prior to issuing resource exploitation concessions.

29. In *Moiwana Village v. Suriname*, the Inter-American Court similarly concluded – and designated as proven facts acknowledged by the State – that, while “individual members of indigenous and tribal communities are considered natural persons by Suriname’s Constitution, the State’s legal framework does not recognize such communities as legal entities. Similarly, national legislation does not provide for collective property rights.”⁴⁰ This absence of effective legal guarantees and domestic remedies was also observed by the Committee in 2004, which expressed its concern “that indigenous and tribal peoples cannot as such seek recognition of their traditional rights before the courts because they are not recognized legally as juridical persons.”⁴¹

30. These findings all confirm that indigenous and tribal peoples’ in Suriname lack any effective means to assert and seek protection for their rights in domestic venues and are defenseless, and underscore the urgent need for international scrutiny of the massive resource exploitation operations and infrastructure projects discussed above. As Robert Goodland observes, the State and its licensees externalize the costs of these operations to indigenous and tribal peoples, who have and will continue to suffer irreparable harm while receiving none of the benefits.⁴²

31. In light of the preceding, the submitting organizations respectfully request that the Committee again consider the situation of indigenous and tribal peoples under its Early Warning and Urgent Action procedures to draw attention to the urgent situation in Suriname and so as to assist Suriname in ensuring that the rights guaranteed by the Convention are fully recognized and respected in law and practice. Towards this end, we respectfully request that the Committee adopt a decision:

- a) reiterating and amplifying its recommendations made in Decision 1(67);
- b) requesting that the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people seek permission from the Government of Suriname to conduct an on-site visit;
- c) requesting that Chairperson of the United Nations Permanent Forum on Indigenous Issues liaise with the Secretary General of the United Nations and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to facilitate and coordinate the development and implementation of appropriate measures by United Nations bodies to address the urgent and alarming situation of the rights of indigenous and tribal peoples in Suriname;
- d) recommending that Suriname seek and obtain the free, prior and informed consent of indigenous and tribal peoples who may be affected by the Kabelebo hydroelectric and Tapanahony River Diversion projects, the Nassau Mountains and Bakhuys mining projects, and the Patamacca oil palm plantation; and,

⁴⁰ *Case of Moiwana Village v. Suriname*, Judgment of 15 June 2005, at para. 86(5) (footnotes omitted).

⁴¹ *Concluding Observations: Suriname*, at para. 14.

⁴² See *supra* note 16 and accompanying text. See, also, Annex E.

- e) recommending that the above mentioned projects not be pursued or further developed until such time as effective domestic remedies are entrenched in Surinamese law and practice and the rights of indigenous and tribal peoples to own and control their traditionally owned lands, territories and resources have been legally guaranteed and secured in fact.

Sincerely,

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On behalf of the submitting organizations

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cc. ARIS

Annex A: Indigenous maps should help solve the land rights issue, 26 February 2005, *De Ware Tijd*. [Original in Dutch]

Paramaribo- The indigenous communities of Apura, Section and Washabo from the western part of Suriname, have mapped their historical and contemporary occupation and use of lands, in cooperation with the Association of Indigenous Village Leaders in Suriname (VIDS). This map is manufactured with the use of the Global Positioning System (GPS) technology.

With the data that was drawn from this, a survey map was produced of these indigenous territories in West Surinam. This map is manufactured in Canada and the total project costs are well over 50.000 US dollar.

This map will support the indigenous and maroon people, who have been struggling with the land rights issue for years. Surinam is the only country in the western hemisphere where the native peoples do not yet have any titles to their lands. VIDS-chairman Ricardo Pane stated that indigenous people and native inhabitants do not yet have legal rights to their lands and natural resources, which they have used and inhabited since time immemorial, at their disposal. At the same time there is an enormous pressure placed on the communities and their territories, he continues. "The contemporary world is searching for more and more natural resources like bauxite, petroleum and wood. For which, if necessary, the rights of the people who live in these areas are violated." In this sense, there are examples in west Suriname and south east Suriname where there are plans for the exploitation of bauxite and the construction of new cities and nature reserves. This happens without hearing the voice of the local community or the VIDS. Pane also pointed to the fact that the government does not take any action about this situation: "We have in a lot of cases already informed the Suriname government but without any definite result."

Eventually the VIDS turned to the UN Anti Racial Discrimination Committee and the UN Human Rights Committee. They concluded that Suriname has to acknowledge the rights of the indigenous and the maroon peoples to their collective ownership and use of their territories. For that purpose the Committee on the Elimination of Racial Discrimination also made certain recommendations and also offered technical assistance.

By the means of dialogue, the villages and the VIDS want to come to a solution together with the government, concerning the land right issues. This is why they mapped their territory to achieve the legal recognition of it. The villages from the Lower- Marowijne and the southern villages have already presented the government maps in 2003. Furthermore the VIDS has suggested that a commission be appointed that can examine and solve the problem. Pane says that they are disappointed because there still hasn't been an answer.

Carlo Lewis, village chief of Apura, mentions that because of the developments in their territory they are forced to change their way of living. "We are not against the developments, but our way of living has to be taking into account. We are already no longer allowed to hunt in the Bakhuys territory and we cannot go to the supermarket like the people in the city, because we live from the forest." He realises that the demarcation of their territory does not yet mean that they have land rights, but it is an offer towards the government to solve the issue together.

Mr. Verneuil, the representative of the Ministry of Regional Development said that he is glad that the indigenous peoples want to solve the problem through dialogue. He also said that their efforts show great devotion. Despite this he emphasised that the land rights problem will not be solved any time soon and that the government needs to give consideration to all ethnic groups in Suriname, who also need to be involved.

District commissioner Rudi Strijk mentions to *dWT* that the Counsel for the Development of the Interior (CDI/ROB) is informed by different actors who are involved in the case. He recognises that it concerns a complex problem that cannot be solved on any short notice. The ROB wants to contribute to the possible start of a discussion concerning this issue and furthermore has an advising role towards the government, says Strijk. The representatives of the Ministry of Regional Development and the ROB have received a copy of the map.

Annex B: Implementation of the Kabalebo Project: Land Rights Capture the attention of Indigenous Peoples in Southern Suriname De Ware Tijd, 05/07/2005 [Original in Dutch]

APETINA - Twelve indigenous traditional authorities of villages and areas in South Suriname, held a high level discussion concerning the land rights of their people on 28-30 June in Apetina on the Tapanahony Rivier in southeast Suriname.

Paramount Chief Asongo of the Trio's from Kwamalasemutu and surrounds could not be present, but was represented by his delegate. It is high time that our rights passed on by our ancestors are recognized and we can enjoy prosperity and equal rights as enjoyed by other citizens, just like the other citizens, was the Paramount Chief's message to the high level meeting.

Recognized land rights will help ensure the current and future development of the indigenous peoples of southern Suriname. The traditional authorities said among others that if it is possible to protect trees and animals in the Central Suriname Nature Reserve, (CSNR), it must be also possible to protect traditional people and their collective rights.

The leaders as for the support of the environmental protection organization, the Amazon Conservation Team, which has previously worked in the area and seeks to raise awareness about nature protection and the protection of bio-diversity. This will take the form of information, recommendations, trainings, economic activities and investments, because, according to the indigenous authorities, the Surinamese government does not look after or insufficiently pays attention to the interests of the Trio and Wayana peoples.

We do not want to be chased from our lands like wild animals, as wild pigs are hurried and chased, the leaders said. This pronouncement came after an explanation of the state of the law concerning land rights in Suriname, by the anthropologist, Dr. Marieke Heemskerk, a consultant for the Amazon Conservation Team.

There is little difference in the culture and way of life of southern Surinamese indigenous tribes and this is something that they gladly want to keep. The majority of the indigenous authorities come from Amatopo, Wanapan, the Lucie River, Alalapadoe, Tepu, Kwamalasamutu, Sipaliwini, Apetina and Lawa. They indicated that their choice is for officially recognized and legal protection of their collective rights to their lands and territories rather than the customary rights of their ancestors. This because the legal title is stronger than customary rights.

With aid of the Amazon Conservation Team and the Association of Indigenous Village Leaders in Suriname (VIDS), the indigenous territories of south west of Suriname have been mapped by indigenous peoples.

On the maps produced with financing by the OAS, Trio territory with its largest village of Kwamalasamutu in the south west, and the villages Apoera, Washabo and Section in the west, as well as part of Wayana territory centred around Apetina have been shown. During the high level discussion the traditional authorities also examined which part of these areas will be affected when the planned Kabalebo project, which includes construction of a hydro-electric dam to provide power for bauxite extraction and processing in West Suriname and is scheduled to be in operation around the year 2012. The traditional authorities find that their land rights must be legal recognized and guaranteed before the Kabalebo project commences.

Amazon Conservation Team, Suriname Program director, Gwendolyne Emanuels-Smith, indicates to [*De Ware Tijd*] that the request for support by the indigenous peoples concerns providing technical support and capacity building to assist them to negotiate a solution to their land rights problems with the Surinamese government. The demarcation maps should assist with this as well as dealing with Suralco. The Kabelebo project certainly needs to take into account the interests of the indigenous inhabitants of west and south Suriname.

In Suralco's magazine of 1-13 April 2005 it says that the company has not fixed the errors that were made during the construction of the Afobaka dam in the 1960s.

Annex C: Government recognizes the land rights of the Saramaka people

De Ware Tijd, 05/05/2006 [original in Dutch]

The government will remove all legal impediments to recognition of the collective property rights of the Saramaka people.

The Commission of Legal Experts on Human Rights of the Ministry of Justice and Police has been given instructions to start with the implementation of recommendations made by Inter-American Commission of Human Rights (IAHCR).

The Twelve lo (clans) of the Saramaka people have successfully deposited a complaint at the American human rights institute to get their land rights recognized by the government. The state of Suriname has been recently sentenced to recognize these rights within sixty days of the pronouncement.

On Wednesday, justice minister Chandrikapersad Santokhi informed the Council of Ministers about this. The IACHR stated in the decision that the State is required to recognize the land rights of the complainants without prejudice to other indigenous and maroon peoples. It also prohibited the state from giving others rights within Saramaka territory or which may prejudice their land rights.

Additionally, the state has been required to repair the environment damage, which has been caused by logging in their area. Santokhi explained that the Council of Ministers has already included recognition of the land rights of tribal and indigenous peoples in the new draft law concerning unlawful occupation. This bill is to be discussed soon by the parliament. Attention has also been paid to this fundamental rights question in the Multi-year Development Programme, said the Justice Minister, and Commission on Land Rights, recently appointed by President Ronald Venetiaan, has been asked to study these problems thoroughly.

The Commission of Legal Experts on Human Rights is led by Procurator-General Subhas Punwasi. The Commission, according to Santhoki, must now inform the twelve Saramaka clans and the traditional authority of the Saramaka concerning the decision of IACHR and the state will act on that basis.

Annex D: Government considers construction of new hydroelectric plant

De Ware Tijd, 26/04/2006 [original in Dutch]

The government will start soon negotiations with the bauxite companies for the construction of a hydroelectric dam.

This second hydroelectric dam must not only guarantee bauxite production in the Bakhuis area, but also secure energy supplies for several other parts of the country, according to Minister of Natural Resources, Gregory Rusland.

The Kabalebo River in West-Suriname is a suitable place for setting up this hydroelectric power plant. Although he does not want to anticipate matters, Rusland says that the bauxite companies will only need 450 megawatts of energy for their activities. And that means that surplus supplies must be made available for other areas. The government is seriously looking to build that dam and of reaching expected capacity. The government wants to directly or indirectly participate in this project and to ensure that energy from the hydro-dam is optimally used. Extra energy which is available over and above 450 megawatts will be used for the society in general.

In 2003, a memorandum or Understanding was signed between the government and the two

bauxite societies, Suralco and BHP Billiton, where the government grants rights to explore for bauxite in the Bakhuis area. Here there are estimated bauxite reserves of 300 million metric tons. According to the MOU, the companies also have the right to build an aluminum smelter and hydro-electric dam in West-Suriname. Both companies operate in a joint venture and will invest some hundreds of millions American dollar in this project.

Annex E: Bauxite negotiations this month: New bauxite deal improve the brokopondo agreement

De Ware Tijd, 02/05/2006 [original in Dutch]

The bauxite companies, Suralco and BHP Billiton, will hold a presentation for the Government on the 3rd of this month.

The presentation concerns the bauxite mining plans at Bakhuis. What we seek is that an integrated aluminum industry is set up and after the presentation it is expected that a negotiation commission will be formed, which will determine the route the companies will take, says Minister of Natural Resources, Gregory Rusland.

The government wants full-time specialists in that negotiation commission, says Rusland. In addition to local experts, we also want foreign experts to be part of the Commission.

On the question of whether the new bauxite deal will improve on the Brokopondo Agreement, Rusland says: "We will strive for that, taking into account the new times and the circumstances, and we will take the environment into account. We will lay heavy emphasis on this because it had not been incorporated in the Brokopondo Agreement." He emphasizes that the experiences of the last 80 up to 90 years will be also taken in to account in closing a new agreement. With the bauxite companies, we will agree make this industry stable for the coming dozens of years or more.

At the head of the new agreement the government wants a new hydroelectric power plant. Minister Rusland accentuates that Suriname was an aluminum industry and not just a basic alumina industry. The process to make aluminum from basic alumina, requires a lot of energy. And we want to obtain as big an advantage as possible.

If an integrated bauxite industry is set up, according to the Minister, there will be added value for the companies and the state. With the added value, the government can more than ever realize gains for the society, as a result of which economic development is guaranteed.

Annex F: Action committee set up against Patamacca-deal

De Ware Tijd, 22/04/2006 [original in Dutch]

Occupants of the district Marowijne enter more and more against the government plan in implementation of Patamacca-deal with the Chinese company China Sang Heng Tai.

The Committee *Marwina Pikin*, established last week by some young Maroons from Moengo, will do all that is possible to bring to the attention of the relevant government agencies the disadvantages experienced by the population of District Marowijne.

The plan for setting up the oil palm industry at Patamacca is the reason for establishing the committee. According to one of the initiators, Humphrey Djakie, the committee has no political allegiance or allies. The people of Marowijne are completely against Patamacca deal.

Yesterday, the Committee members outlined their proposals and objections. They gladly will talk with the District Commissioner and parliamentarian, A-Combination leader, Caprino Alendy, who visits Marowijne next week. The people of Marowijne are against deal, because the permit prescribes, among others, that the Chinese company will clear-cut the area. The occupants fear that this will lead to immense environmental problems.

The Committee fears that the company will pay very low wages, as a result of which dissatisfied Surinamese workers, can easily be replaced by workers from China. The company will also set up its own security service, which will severely restrict the freedom of movement of the people who have lived in the area for centuries. They are very annoyed that the government rushes through this deal without providing any information to the general public. All this we will tell the government, says Djakie.