**Statement of the Indigenous Peoples Caucus before the OAS Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples**
**Issue: Process**
**(February 27, 2003)**

My name is Danielle Lazore of the Haudenosaunee people. The statement that I am about to read is presented here today on behalf of the entire Indigenous Peoples' Caucus.

Ambassador Ferrero, esteemed government delegates and representatives of indigenous peoples, members of the OAS Secretariat and the Inter-American Commission on Human Rights, we thank you for your presence here this week and for the support that so many of you have shown to this process. As we get ready to close this session the Indigenous Peoples' Caucus would like to take this opportunity to say some final words about how we see this draft declaration process moving forward.

Mr. Chair: In the weeks and months to come, the member states of this Working Group will meet to discuss how this body will complete its work on the elaboration of this historical document. Based on statements that we have heard this week, it appears likely that you will begin to discuss the most serious task of defining the conditions and methods by which you will carry out a new phase of work – a so-called "negotiation" phase. As this session closes and you prepare to undertake this task, we offer the following as guidance and we respectfully urge you to consider these matters in your deliberations.

**First**, in order to enter the next phase with an atmosphere of trust, an important principle must be understood. Indigenous peoples, nations, and their organizations understand that the word "negotiation" is a term of art that states use to describe a period of deliberation and adoption of text. Nevertheless, it needs to be clarified that neither indigenous peoples nor governments can or should be "negotiating" human rights. Human rights are inherent and inalienable. Human rights should be recognized, promoted, and protected. They should not, however, be the subject of deal making or compromises. Human rights may not be traded like political favors.

With this said, we want to make it clear that any mechanism or method of work that is created or utilized by this Working Group to further its efforts will cease to be legitimate if it pretends to have the authority to negotiate the human rights of others. Stated another way, any process to declare the rights of victims of human rights abuses – whether it addresses indigenous peoples, minorities, women, or the disabled – will be legitimate *only* if it includes the full participation of the interested beneficiaries and *only* if the declaration is supported by a broad consensus of the intended beneficiaries.

**Second**, on Monday we heard the Secretary General express the desire to have the draft declaration ready for adoption at the General Assembly in 2004. We have also heard many delegates express the need to move forward with the process in a more aggressive manner. Mr. Chair, esteemed government delegates, while we strongly support the increased state

commitment to mounting a more serious effort towards the adoption of this declaration, we wish to state something very clearly: indigenous peoples will not sacrifice content for speed. Unless the final declaration is strong and effective, its adoption will be meaningless and will threaten to undermine the parallel declaration being considered at the United Nations. Mr. Chair, the discussions that have taken place over the last few years in this Working Group have revealed that there are many aspects of this draft declaration that still do not express a minimum standard of rights for indigenous peoples. With that said, absent certain modifications, it would not be possible for us to support state adoption of the existing text in 2004. We do believe, however that there is enough expertise and emerging confidence in this room to allow us to all work together to arrive at a declaration that can be acceptable to all parties in the near future. We look forward to working with the member states in this room to achieve that end.

**Thirdly**, I would like to specifically address how this Working Group can strengthen the partnerships that have been developed between indigenous peoples and states over the last few years and in particular, how this body will include indigenous peoples in the next phase of its work.

In the past three years, states and indigenous peoples have worked together to make great strides in increasing indigenous participation in this process and creating an environment for open and frank discussions. With every new session (including this one), the dialogue and mutual trust has reached new levels of mutual respect and seriousness. Nevertheless, the so-called "negotiation" phase is likely to bring forth an entirely new dynamic. States who have not already done so will finally need to complete their analysis of the draft declaration, consult with their indigenous peoples back home, seek the advice and counsel of their relevant national offices and ministries, and place on the table their full comments, critiques, and concerns regarding the draft language. Mr. Chair, some states still have failed to put on the table for discussion their real concerns and positions.

We understand that it is precisely because of this need for open and frank dialogue that some states want to restrict indigenous participation in these meetings in the future. At this time, we would like to make it very clear to this Working Group, that it will be entirely unacceptable for members states to decrease the presence of indigenous representatives in these meetings. If indigenous participation is to be truly meaningful, then we must be present when states begin to fully articulate their positions. Only then can we adequately respond and work together to reach understandings that can allow us to elaborate an instrument that is acceptable to both indigenous peoples and states. Only then can we achieve the necessary consensus to adopt this declaration. States should not be apprehensive about this ongoing dialogue. It is an opportunity to forge new relationships with indigenous peoples that will benefit all concerned.

With all of this said, we preliminarily offer the following (5) criteria for future meetings during this new phase of work.

1) First, there must be full participation of indigenous peoples in all meetings where members states are "negotiating" text. While we understand that throughout the year the Working Group meetings are open to observers, such mechanisms will not be sufficient when carrying out this new phase. There must be ample, full, direct and meaningful

participation. We understand that limited resources will be a significant obstacle to creating an environment for every working session such as the one we have today. As such, each of our governments and organizations must make a commitment to working together to find mechanisms to allow for the largest participation possible and the most transparency possible.

2) With respect to transparency, we are pleased by the internet simulcast of these meetings. We would like to further encourage the member states, in consultation with indigenous peoples, to consider creative ways for increasing the transparency of such meetings in the future. Mr. Chair, the introduction of bulletins for the inter-sessional Working Groups have been welcomed. We would add, however, that in the future it will be necessary to find mechanisms that will permit the availability of more detailed summaries of these meetings. Full transparency means, at the very least, that indigenous peoples who are not present at a given meeting must be aware of the specific positions being taken by individual states. Only with this information can they open a dialogue with their states and others to reach understandings about the subjects of concern.

3) National consultations between governments and indigenous peoples must also take place at the same time as we enter into this new phase. Open and frank dialogue within these Working Group meetings is no substitute for the advances in understanding that can take place in national consultations. The purpose of the rights recognized in this declaration is to help foster a new era in the existing relationships and partnerships between states and their indigenous peoples. For this reason, we offer the following suggestion. Before the next special session, we would request that each state submit a written report to the Chair of the Working Group which summarizes the steps they have taken during the year with respect to the national consultations they have carried out with indigenous peoples as well as any support they may have given to indigenous peoples so that they might organize and conduct their own consultations and training. At the beginning of the next special session, we ask that the Chair make these reports available to all participants.

4) As states develop the conditions and methods of work towards the finalization of this declaration, we wish to make it clear that such a process should not contemplate the adoption of the draft declaration – one article at a time. The declaration must be reviewed and analyzed as a whole. As each of you know, one article can have the effect of significantly strengthening or weakening another existing article. For instance, the absence of an express recognition of self-determination in this declaration will likely be fatal to the whole text. As many governments have expressed in their own statements this week, it is hard to provide a final conclusion on one article, prior to the resolution of issues addressed in related articles. For this reason, indigenous peoples also cannot offer their support for the adoption of this declaration until it can be evaluated as a whole document.

5) Lastly, the states must approach this new phase of work with an increased level of seriousness. For this reason, it is essential that in all future meetings, there is the

presence of state officials with the authority to make decisions about the final wording of the draft declaration text.

Mr. Chair, esteemed government delegates, observer states and friends, we have offered these words in an effort to improve upon the developing partnership that this body has helped to create. Despite our differences, no one can deny that together, member states and indigenous peoples have accomplished something historic for all the peoples of the Americas. We are opening the doors of the OAS to the whole of civil society and we are strengthening democracy against its many enemies.

Esteemed government delegates, this declaration is more than just words that can be disregarded or dismissed as mere aspirations. It will constitute the highest moral commitment by states to not only affirm what they believe are the rights of indigenous peoples, but to also contribute to the strengthening and development of international and domestic laws that effectively recognize, promote and protect these rights. As you the member states begin deliberations next month about the future work of this group, we ask that you consider that the very process that you articulate represents the commitment of each of your countries to the full realization of the principles and rights articulated in this document.

Mr. Chair, on behalf of the Indigenous Peoples' Caucus, I thank you for this opportunity to address this important body. We will make copies of this statement available to the Chair in both Spanish and English.