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INDIGENOUS ISSUES

**Written statement¹ submitted by Amnesty International, a non-governmental organization
in special consultative status.**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 February 2005]

* Re-issued for technical reasons.

¹ This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

PROTECTION OF THE HUMAN RIGHTS OF INDIGENOUS PEOPLES REQUIRES A GLOBAL COMMITMENT

The recognition and protection of the human rights of indigenous peoples is a pressing global priority that deserves and requires the full and unconditional support of the international community. Indigenous individuals, families and communities are among the most frequent victims of grave human rights violations around the world. Furthermore, indigenous people whose lives and well-being are threatened or attacked are routinely denied fair and adequate access to mechanisms for protection and redress. The consequence is that those who commit grave human rights violations against indigenous peoples often do so with impunity, while the harms they inflict go unaddressed for generation upon generation.

In opening the third session of the United Nations (UN) Permanent Forum on Indigenous Issues, on 10 May 2004, UN Secretary-General Kofi Annan said: *“For far too long the hopes and aspirations of indigenous peoples have been ignored; their lands have been taken; their cultures denigrated or directly attacked; their languages and customs suppressed; their wisdom and traditional knowledge overlooked; and their sustainable ways of developing natural resources dismissed. Some have even faced the threat of extinction... The answer to these grave threats must be to confront them without delay.”*

This call to action was echoed by 28 independent experts of the Commission on Human Rights (the Commission) in a statement issued on the occasion of Human Rights Day, 10 December 2004. The experts noted that human rights violations remain the main concern for millions of indigenous people and thousands of indigenous communities around the world. They urged civil society, the private sector, the international community, and every individual to step up efforts to promote and protect the human rights of indigenous peoples.

The Commission was presented with an historic opportunity to take action in defence of the human rights of indigenous peoples a decade ago, when the Sub-Commission on Prevention of Discrimination and Protection of Minorities¹ (the Sub-Commission) submitted to the Commission for adoption the draft “United Nations declaration on the rights of indigenous peoples”² (the draft Declaration). The fact that ten years later, a Declaration has still not been adopted raises concerns about the international community’s commitment to the recognition and protection of the human rights of indigenous peoples.

Yet Amnesty International (AI) has noted the greatly improved spirit of dialogue among representatives of states and indigenous peoples demonstrated during the tenth session of the UN open-ended inter-sessional Working Group on the draft declaration on the rights of indigenous peoples (the Working Group)³, which met from 13 to 24 September and 29 November to 3 December 2004. There were many constructive developments during the last Working Group session. The indigenous caucus was able to identify a large number of preambular and operative articles considered ready for provisional adoption. These included text that was unchanged from the draft Declaration, as well as new or modified articles considered likely to be supported by both the indigenous caucus and states. Effective collaboration of indigenous and state

¹ Now the Sub-Commission on the Promotion and Protection of Human Rights

² The draft Declaration was annexed to Sub-Commission’s resolution 1994/45 of 26 August 1994.

³ By its resolution 1995/32 of 3 March 1995, the Commission on Human Rights established an open-ended inter-sessional Working Group to consider the text submitted by the Sub-Commission and to elaborate a draft declaration for consideration and adoption by the General Assembly within the International Decade of the World’s Indigenous People (1995-2004).

representatives in co-facilitating informal sessions also advanced considerably the debate on the remaining articles, including those addressing critical issues, such as self-determination, treaties, and lands, territories and resources. Given these significant developments, AI believes that the adoption of a strong and effective Declaration on the Rights of Indigenous Peoples is still attainable.

AI therefore urges that the Commission provide states and indigenous peoples the opportunity to continue to work together to clarify and strengthen the 1994 draft Declaration through an effective process and within a realistic timetable. The process must build on established instruments for the protection of human rights, continue to engage indigenous peoples in an open and constructive dialogue, and lead to the adoption of a Declaration that has the full support of indigenous peoples.

AI is concerned that many of the interventions by state representatives during the last Working Group session appeared to focus more on the interests of states and third parties than on the rights of indigenous peoples. AI urges states to bear in mind that the Declaration, while enriching the body of human rights law by responding to specific needs of indigenous peoples that have long been neglected, will be interpreted within the context of existing international law and standards – which address many of the concerns raised by states.

The 1994 draft sets out a comprehensive body of interdependent rights relevant both to individuals and to communities and nations. This is not the first international human rights instrument to recognize collective rights – both the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights recognize the right of self-determination as a fundamental right of all peoples. The recognition of collective rights in the Declaration is particularly important because, as has been affirmed by numerous UN expert bodies, including the Human Rights Committee, the fulfillment of the fundamental rights of indigenous individuals is often inseparable from the protection of the right of indigenous peoples to collectively maintain their distinctive cultures and determine their own futures.

Amnesty International calls on the Commission on Human Rights to adopt a resolution that:

- urges governments to work cooperatively with indigenous peoples towards the adoption of a strong and effective Declaration on the Rights of Indigenous Peoples;
- continues the standard-setting process in a manner that involves the full participation of indigenous peoples, that builds on the original draft text and the progress made to date within the Working Group, and that sets a realistic process and timetable for the adoption of the Declaration.
