



International Indian Treaty Council



Information Office
2940 16th Street, Suite 305
San Francisco, CA 94103-3664
P | (415) 641-4482
F | (415) 641-1298
E | iitc@treatycouncil.org

Administration Office
456 N. Alaska Street
Palmer, AK 99645
P | (907) 745-4482
F | (907) 745-4484
E | andrea@treatycouncil.org

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Contact:
Alyssa Macy
IITC Communications Coordinator
Phone: (414) 748-0220
Email: alyssamacy@gmail.com

TREATY RIGHTS RECOGNIZED BY THE ORGANIZATION OF AMERICAN STATES

April 22, 2012: On Friday, April 20th, a historic consensus decision adopting strong language on Treaty Rights was taken by the States attending the 14th session of negotiations for the proposed American Declaration on the Rights of Indigenous Peoples in Washington DC. The proposed American Declaration has been under negotiation by Indigenous Peoples and the 35 member States of the Organization of American States (OAS) since 1995.

Indigenous Peoples see the proposed American Declaration as an opportunity to further strengthen and supplement the recognition of rights affirmed in the United Nations (UN) Declaration on the Rights of Indigenous Peoples, which, since its adoption in 2007 has been the minimum standard and basis for these negotiations. When adopted, the American Declaration on the Rights of Indigenous Peoples will be applicable in North, Central and South America and the Caribbean.

The language in Article XXIII on Treaties, Agreements and other Constructive Arrangements has been under discussion for many years. Considerable progress was finally made in the last negotiating session in January 2011, leaving only the first paragraph still to be decided.

Strong pressure was exerted on the States to officially adopt the final remaining language for Article XXIII as proposed by Indigenous Peoples. It included all of the language in Article 37 of the UN Declaration, adding international redress for violations and recognizing the “true spirit and intent” and the understanding of Treaties by Indigenous Peoples. The final text of Article XXIII as officially adopted is as follows:

Article XXIII, Treaties, agreements and other constructive arrangements

1. Indigenous peoples have the right to the recognition, observance, and enforcement of the treaties, agreements and other constructive arrangements concluded with states and their successors in accordance with their true spirit and intent, in good faith, and to have the same be respected and honored by the States. States shall give due consideration to the understanding of the Indigenous Peoples in regards to treaties, agreements and other constructive arrangements.

When disputes cannot be resolved between the parties in relation to such treaties, agreements and other constructive arrangements, these shall be submitted to competent bodies, including regional and international bodies, by the States or indigenous peoples concerned.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements

Chief Wilton Littlechild, Ermineskin Cree Nation and International Chief for Treaties 6, 7 and 8, played a key role in the negotiations. He considers the adoption of Article XXIII as a major victory. It builds upon the strong language on Treaties in the UN Declaration, developed in a UN working group that he co-chaired, by strengthening important elements for the Cree Nation and its elders who began their work for international recognition of Treaty rights 39 years ago.

Chief Littlechild, who is also a member of the UN Expert Mechanism on the Rights of Indigenous Peoples, stated: “It was an honor to secure the dreams and fulfill the original instructions of our elders through the wording that was adopted. This was a long and difficult journey but it was a goal well worth if for the Maskwacis Cree. The adopted language strengthens the UN Declaration by recognizing the true spirit and intent of Treaties, the understanding of Indigenous Peoples, and ensuing that disputes can be submitted to international bodies. Now we must ensure that all the other articles of the OAS Declaration are also fully adopted and implemented before the 2014 UN World Conference on Indigenous Peoples.”

Francisco Cali Tzay, Mayan Kaqchikel, attended the session representing the government of Guatemala. Guatemala and Costa Rica were among the strongest proponents for the adoption of Article XXIII, despite the reluctance of some other States to move forward at this session. He stated: “Indigenous Peoples such as the Cree, Lakota and the International Indian Treaty Council began the work in the international arena many years ago to achieve recognition of their rights under the Treaties and Agreements they made with the States. It is very important that the OAS member States decided to take a strong position on this provision. The Guatemalan government was very committed to support the adoption of this Article without any further delay.”

Despite the historic strides made at this session with the adoption of Article XXIII, there was little other progress made overall, leaving a number of other provisions still undecided. The Navajo Nation’s offer to host the next negotiating session was accepted by the OAS member States and strongly supported by the Indigenous delegations.

For more information on this process and how to become involved, contact Ron Lameman, IITC Board Member from the Confederacy of Treaty 6 First Nations (Alberta, Canada), at (780) 667-8766, rlameman@yahoo.ca or Andrea Carmen, IITC Executive Director, at (907) 841-7758, andrea@treatycouncil.org.

“Treaties between sovereign nations explicitly entail agreements which represent ‘the supreme law of the land’ binding each party to an inviolate international relationship.”

--- from the “Declaration of Continuing Independence of the Sovereign Native American Indian Nations,” June 1974, Standing Rock South Dakota, the founding document of the IITC.

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