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Addendum

**Indigenous People's Discussion Paper on Water, Sanitation and Human
Settlements***

* Prepared by the Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education) and the Indigenous Environment Network in consultation with indigenous people's organisations; the views and opinions expressed do not necessarily represent those of the United Nations.

I. Introduction

II. Indigenous Peoples and Human Settlements

III. Indigenous Peoples and Water

IV. Indigenous Peoples and Sanitation

V. International Water Policy

VI. Conclusions and Recommendations

I. Introduction

1. Indigenous peoples welcome this implementation review on the thematic issues of human settlements, water and sanitation for CSD-12, with a focus on identifying constraints, obstacles, successes and lessons learned in the implementation process. This year 2004, coincides with the culmination of the UN Decade for the World's Indigenous Peoples, and this review will contribute to a deeper understanding about the policies, approaches and actions which affect the sustainable development of Indigenous peoples.
2. Ten years after Rio, the World Summit on Sustainable Development strongly reaffirmed commitments to the Rio principles, the full implementation of Agenda 21, the Program

for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation. In the Johannesburg Declaration on Sustainable Development, the world's political leaders stated: **“We reaffirm the vital role of indigenous peoples in sustainable development.”**

3. The relevant commitments made in Chapter 26 of Agenda 21 "Strengthening the Role of Indigenous People and their Communities" states: **In view of the interrelationship between the natural environment and its sustainable development and the cultural, social, economic and physical well-being of indigenous people, national and international efforts to implement environmentally sound and sustainable development should recognize, accommodate, promote and strengthen the role of indigenous people and their communities.**

4. Human settlements, water and sanitation cover a complex of social and ecological inter-relationships, between peoples and with the Earth. Human settlements are cultural homes within our larger ecological home, the Earth. Water is a basic element of this planet, therefore, life. Sanitation is critical to maintaining the health, well-being and life of peoples and nature.

5. This background paper on Indigenous peoples, human settlements, water and sanitation for the CSD-12 covers this social and ecological inter-relationship, underlining that diversity of human settlements is a central criterion for monitoring progress in the

implementation of sustainable development. It looks at the impacts of urbanization on Indigenous peoples' human settlements, in both the rural and urban settings.

6. Sufficient attention must be paid at this meeting to reviewing the over-all balance and practice of integrated land use planning and resource management to ensure that the long-term diversity and health of ecosystems and human settlements are maintained, including the well-being of Indigenous peoples. The approaches, policies and actions adopted by the international community on these important matters, will have long-term bearing on the health and well-being of peoples and planet.

II. Indigenous Peoples and Human Settlements

The overall human settlement objective is to improve the social, economic and environmental quality of human settlements and the living and working environments of all people, in particular the urban and rural poor.

Agenda 21, Chapter 7

Diversity of Human Settlements - The Earth is our Home

7. CSD-12's review of implementation towards sustainable human settlements must start from an affirmation of the diversity of human settlements which have existed historically and in contemporary times: from small land-based communities to the large urban conurbations.

8. For 99% of the history of human settlements, cities were one option, one way of life among a diversity of human settlements. However, in the most recent 1% of human history, in the latter part of the 20th century and the start of the 21st century, for the first time a majority of the human population will be living in urban areas. This transformation, which is closely linked to globalization, has magnified the reach of the consumption and production of cities to encompass the diverse lands, resources and human settlements around the world. One form of human settlement, the built environment, organized through States and the values of the market are encroaching and overwhelming other human settlements organized around local resources, institutions and values. Indigenous peoples' territories are being consumed by urban areas, destroying indigenous and local communities' own self-determination and sustainable development.

9. Most Indigenous peoples today still live in human settlements outside modern cities and industrial centers. Indigenous communities embody historical relationships to lands, waters and forests and their livelihoods and economies are adapted to these diverse ecosystems such as forests, mountains, deserts, tundra, or wetlands where they live. Human settlements are cultural homes within our larger ecological home, the Earth. In some countries with very high urban concentrations (e.g. New Zealand, Chile, USA and Canada) of over 50-70%, the number of indigenous persons living in cities reflects this trend.

10. Human settlements among Indigenous peoples are characteristically self-sustaining communities that provide for peoples' social, economic, religious and political needs, and space where peoples are not separate from their land, waters and forests. This is a far cry from the urban concept of settlements as simply infrastructures and facilities.

Women refugees in Mindanao, Philippines criticised the government's resettlement project saying that their concept of a home is not just the "four walled building". A home has a place for growing vegetables and space for raising chickens and hogs to supplement the family's income. If we built only physical structures, we failed to address the woman's need to be productive within her own domain. The space must also be one where she has the opportunity for livelihood, thus contributing to her empowerment as a productive member of society."

11. Pastoralists are mobile indigenous peoples, who use mobility as a settlement and livelihood strategy, while conserving and protecting fragile environments. Some of their practices include enforcing traditional grazing policies where they restrict grazing in some parts of the land until it has rejuvenated, and fencing off watering points to prevent water pollution. Their settlement patterns are not fixed and permanent. They seasonally move from place to place with their livestock, including across national borders, but with the agreement of related pastoralist communities. Governments have pursued policies to settle and sedentarise pastoralists, but the land provided is often inadequate to maintain their livestock and livelihoods, and can be harmful to the environment.

12. For indigenous hunter-gatherers, nomads, swidden farmers, reindeer herders and pastoralists, a continuing relationship and access to their natural homelands provides livelihood and food security through patterns of human settlement which are appropriate to the natural environment. Their loss of land through government expropriation and priorities for modernization have severely impoverished them. Government policies pursuing sedentarisation, forced resettlement or restricted access to customary lands are violating their rights to livelihoods and appropriate housing.

Displacement and Urbanization

13. From the onset of colonization in many regions of indigenous peoples' lands and islands, human settlement and migration of colonizers and non-indigenous populations have and are continuing to be destructive to the original inhabitants. With colonization often comes policies of militarization, removal of indigenous peoples, introduction of foreign diseases and imposition of foreign governmental structures that don't recognize the inherent rights of indigenous to their lands, waters, self-determination and to practice their culture and spiritual ceremonies. Today, this threat continues to be significant for indigenous peoples in voluntary isolation, for example in some forests in the Amazon basin. Indigenous peoples continue to suffer forcible and violent mass displacement through development projects that have the effect, if not the intent, of forcible assimilation.

14. Whereas urbanization and modernization has resulted in economic and material improvements for many, the overwhelming experience of Indigenous peoples has been one of impoverishment in both rural and urban areas. The incorporation and encapsulation Indigenous peoples' within modern states through colonization and modernization has rendered their land and resources open to expropriation for use by others. Characteristically, this has happened through the settlement of indigenous territories by colonists, through the operations of extractive industries, through the construction large infrastructure projects, the proclamation of protected areas, and more recently as sites for industrial expansion and as dumping areas for wastes and toxics from industrial processes.

15. Many of these projects directly undermine the goal of poverty alleviation and providing housing for all, by resulting in the forced displacement of many indigenous communities, leading to their deep impoverishment in traditional homelands and contributing to urban drift. Caused by the loss of lands and territories, and by negative affects of free trade agreements that have created mechanisms of privatisation of indigenous communal lands, many Indigenous peoples are forced to migrate, as an economic need, to urban areas. Within these pockets of urban cities, Indigenous peoples join human settlements of poverty to survive without the support of family, community and culture.

16. In many regions, urban sprawl and population growth are infringing into the traditional homelands of Indigenous peoples with no local or national mechanism to protect the rights of Indigenous peoples. Human settlements of various class and caste systems compete with Indigenous peoples over scarce land and water, creating political and legal struggle over land and water rights.

Involuntary Displacement

17. Indigenous peoples' poverty is directly linked to dispossession from their lands which are essential for their security, livelihoods and well-being. Material impoverishment is also associated with language and cultural loss.

Cultural Poverty: a Dayak Perspective

These seven principles summarize the way in which the Dayak achieve their ideal of life, based on their cultural values.

1. Sustainability (biodiversity) versus productivity (monoculture)
2. Collectivity (cooperation) versus individuality (competition)
3. Naturality (organic) versus engineered (inorganic)
4. Spirituality (rituality) versus rationality (scientific)
5. Process (effectiveness) versus result (efficiency)
6. Subsistence (domesticity) versus commerciality (market)
7. Customary law (locality) versus state law (global)

Failure to achieve these ideals is believed to result in *barau* (Jalai Dayak): a situation when nature fails to function normally, and thus results in chaos. *Barau* is a result of Adat transgression, a broken relationship with nature. ‘Poverty’ for the Dayak is linked directly with failure to exercise the Adat that governs the way in which the people should live.

From: John Bamba “Seven Fortunes and Seven Calamities”

18. In the cities, Indigenous peoples suffer major disparities in all measurable areas such as lower wages, lack of employment, skills and education; poor health, housing and criminal convictions. Many indigenous city dwellers maintain reciprocal relationships with family and their homelands and build associations and relations as a form of finding their own space and socio-cultural continuum outside of their traditional homes – a coping mechanism that helps minimize conflicts brought about by the drastic change and demands of urbanization.

19. The livelihood and employment strategies pursued by indigenous urban dwellers build on traditional skills; but many end up in low-paying work. Some examples are marketing of handicrafts; trading of traditional herbs and remedies; as construction workers by *Igorot*

men skilled in building rice terraces and *Maasai* males serving as security guards reflecting their traditional role as warriors in East Africa. Others are also exploited as tourist attractions in tourism establishments. Many have livelihoods as petty traders, menial and domestic workers and low-paid service workers, as well as being a source of cheap labour in the city.

20. On the other hand, indigenous urban dwellers have raised the visibility of indigenous issues through advocacy and public actions in the cities.

Sustainable Land-Use Planning and Management - Demarcation and Respect for Land Rights of Indigenous Peoples

21. Within the action plan on human settlements, the implementation of integrated land use planning and natural resource base management strategies continues to be weak, with slow progress being made in the mapping and demarcation of indigenous peoples lands and territories towards security of tenure and legal protection. Indigenous peoples give high priority to this activity, which is critical to the substance of Indigenous peoples' self-determination and sustainable development.

22. For as long as Indigenous peoples are denied security over the lands, waters and resources they have traditionally occupied and used, their contributions and benefits to sustainable development remain unfulfilled. Weak or absent legal protection for Indigenous peoples rights in the development process, including in the planning and implementation of water, sanitation and other infrastructure projects for human settlements, is the outstanding obstacle to addressed.

Mapping for Land Rights: Indigenous Land Demarcation

In the past twenty five years, the constitutions of a large number of countries, notably those in Latin America, have been revised to accept the presence of Indigenous peoples as integral elements of their multi-cultural and pluri-ethnic societies. Constitutions and laws have been passed which provide for the recognition of Indigenous peoples' rights in land. However, progress towards actual recognition of these rights in practice has been slow, mainly because conflicting laws, policies and economic interests have been given priority in land use planning and the allocation of rights.

One of the most significant developments that has taken place during this period has been the pro-active initiatives undertaken by Indigenous peoples and supportive NGOs to map and demarcate their own lands. Using a wide variety of technologies and methods, indigenous communities from the Arctic to the Amazon and from the Americas to Papua New Guinea have been making their own maps of their lands as a way of confronting the imposed land use plans of government and establishing the complexity and validity of their own visions of land. Techniques used have varied widely, from simple sketch mapping and community level discussion groups, to highly technical surveys involving qualified cartographers and registered surveyors.

Some of the most progressive techniques involve training community members in the use of Global Positioning System devices so that they are able to precisely 'waymark' locations of cultural, economic and historical significance. Importing such geo-referenced data into simple Global Information System grids along with scanned in base maps allows indigenous

communities to own and control the content of maps without compromising on technical quality. Community experiences with these techniques have proven their value not just for validating indigenous knowledge and securing indigenous rights but also as mechanisms for overcoming inter-ethnic rivalry, promoting inter-generational transmission of customary law (and lore) and promoting land-use planning.

Choice of the techniques has varied depending mainly on national laws and political contexts as well as the degree of autonomy sort by the mappers. In some countries, such as Peru and the Philippines, independent surveys, verified by government surveyors, are accepted as a basis for land claims and the registration of land titles. In other countries, like Guyana and Sarawak, governments have refused to survey indigenous lands, leaving the communities no choice but to carry out independent surveys themselves. Such maps have proved crucial in the subsequent assertion of land claims through the courts or, where government agencies have proved open to discussion, have provided a sound basis for the renegotiation of indigenous land claims, as in South Africa.

Although some governments have proved hostile to these initiatives, even going so far in the case of Sarawak to make such mapping illegal, in general there has been a widespread appreciation that ‘social mapping’ techniques provide an important means by which indigenous people can enter into dialogue with decision-makers and land use planners on a more equal basis.

Source: Forest Peoples Programme www.forestpeoples.org

III. Indigenous Peoples and Water

Indigenous Peoples Kyoto Water Declaration March 2003

We, the Indigenous Peoples from all parts of the world assembled here, reaffirm our relationship to Mother Earth and responsibility to future generations to raise our voices in solidarity to speak for the protection of water. We were placed in a sacred manner on this earth, each in our own sacred and traditional lands and territories to care for all of creation and to care for water.

We recognize, honor and respect water as sacred and sustains all life. Our traditional knowledge, laws and ways of life teach us to be responsible in caring for this sacred gift that connects all life.

Our relationship with our lands, territories and water is the fundamental physical cultural and spiritual basis for our existence. This relationship to our Mother Earth requires us to conserve our freshwaters and oceans for the survival of present and future generations. We assert our role as caretakers with rights and responsibilities to defend and ensure the protection, availability and purity of water. We stand united to follow and implement our knowledge and traditional laws and exercise our right of self-determination to preserve water, and to preserve life.

23. Related to human settlement, water is a critical source of life. In many indigenous societies, their relationship to the life-giving qualities of water permeates their culture and spiritual values. Indigenous peoples' systems of water management and use are based upon principles and practices that balance immediate needs with the needs of the environment and other living things, plants and animals, as well as other people, and the sustainability of future generations. Indigenous peoples have an important role in sustainable water resource

management and their cultures and knowledge are an integral part of humanity's heritage and cultural diversity. In this context, due respect must be given to indigenous peoples' rights.

Water in Crisis

24. Indigenous peoples from every region of the world are concerned that ecosystems, including water systems, of the world have been compounding in change and are in crisis. Waters continue to be polluted with chemicals, pesticides, sewage, disease, radioactive contamination, and ocean dumping from mining to shipping wastes. Underlying the water crisis is a governance crisis and a cultural crisis. Indigenous traditional knowledge developed over the millennia is undermined by an over-reliance on relatively recent and narrowly defined western scientific methods, standards and technologies. Indigenous peoples support the implementation of strong measures to allow the full contribution by Indigenous peoples to share their experiences, knowledge and concerns.

25. An ethical framework based upon respect for life-giving water and its cultural manifestations is of critical importance for water policy and use. When water is disrespected, misused and poorly managed, Indigenous peoples see the life threatening impacts on all of creation, all populations and human settlements. Indigenous peoples right of self-determination and sovereignty, application of traditional knowledge, and cultural practices to protect the water are being disregarded violated and disrespected. Already there are eruptions of serious disputes within and among states and indigenous peoples and local communities over water.

26. Throughout indigenous territories worldwide, Indigenous peoples are experiencing increasing scarcity of fresh waters and the lack of access by indigenous communities and

other life forms such as the land, forests, animals, birds, plants, marine life, and air have to waters, including oceans. In these times of scarcity, governments are creating commercial interests in water that lead to inequities in distribution and prevent access to the life giving nature of water.

Mining and Water

27. Global industrial expansion, particularly of the mining industry has accelerated the contamination of underground water and environment with heavy metals, persistent organic pollutants and acids. In northeastern United States, in the state of Oklahoma, six Indigenous tribes: the Quapaw, Eastern Shawnee, Seneca-Cayuga, Wyandott, Ottawa and Peoria have seen their once flourishing Tar Creek Watershed devastated by the acid mine drainage that flows murky orange from the Pitcher Mining Field.

28. The mineral extraction industry has left many indigenous communities with contamination and depletion of important water resources, along with ecological landscapes destroyed, family systems disrupted, and the loss of food systems, the loss of sacred and culturally important land. An example of this is a mining company that is the largest coal producer in the world operating a coal mine on *Navajo (Dineh')* Indigenous land in United States that uses a slurry line that withdraws over 4,000 acre feet of water or 1.3 billion gallons per year from the aquifer to fuel it's slurry operation. The pipeline consumes an average of 120,000 gallons of water per hour with 43,000 tons of coal per day. As a result, the aquifer wells have decreased by more than 100 feet in some aquifer wells and discharge has dropped by more than 50% in the majority of monitored local aquifer springs. This is especially devastating considering the area recently experienced a seven-year drought.

29. The Ogallala aquifer in the United States, which underlies parts of eight states: South Dakota, Nebraska, Wyoming, Colorado, Kansas, Oklahoma, New Mexico and Texas is being over-pumped throughout the entire area. One-third of its volume is being siphoned off for irrigated agriculture. Water is being extracted from the Ogallala between 8 and 40 times faster than the natural rate of recharge. Over 40 Indigenous tribes in this area are affected. In this vast dry region, wildlife is dependent on the Ogallala's groundwater, since it helps recharge surface water. Studies have found that 21 of 50 species of fish have disappeared largely because of depletion of the Ogallala led to the desiccation of rivers and streams dependent on aquifer for replenishing base flow.

Energy and Water

30. Global warming and climate change pose significant threats to Indigenous and local communities from the Arctic, Latin America, Africa, Asia and Southeast Asia, Pacific Islands, North America and every region of the world. Climate change, if not halted, will result in increased frequency and severity of storms, floods, droughts and water shortage. Globally, climate change is worsening desertification. It is polluting and drying up the subterranean and water sources, and is causing the extinction of precious flora and fauna.

31. The most vulnerable communities to climate change are Indigenous peoples and impoverished local communities, occupying marginal rural and urban environments. Small island communities are threatened with becoming submerged by rising oceans. Many countries in Africa have been suffering from unprecedented droughts.

32. For the Inuit, Inupiat, Yupik, Athabascan and other Indigenous tribes of Alaska and Northern Canada, climate change poses an immediate danger to the continuation of their way of life. The Inuit and other Indigenous tribes of the Polar Regions are watching their world melt before their eyes. Glaciers are receding, the ice is thinning, coastlines are eroding, and permafrost is melting, which has destroyed the foundations of houses, eroded the seashore, disrupted traditional subsistence activities and forced communities to move inland. Climate change is happening now and these communities and Nations are already bearing the brunt. Without snow and ice their way of life and culture will disappear.

33. Recent years have seen severe drought conditions in the regions of the United States, Mexico and Central America. Conflicts surrounding access to existing sources of limited water supplies have been amplified due to drought conditions. This has resulted in Indigenous peoples being forced to defend their access to and customary uses of water, or else abandoning their homelands and subsistence agricultural economies for work in cities. In times of scarcity, we see governments and private corporations creating commercial interests in water that lead to inequities in water distribution with resulting devastating impacts on traditional farming and other local food systems.

Dams and Indigenous Peoples

34. Indigenous peoples and local communities have suffered disproportionately from the impacts of large dams. In India, 40 percent of all those that have been displaced by dams are the *Adivasis* who represent less than 6% of the Indian population. Almost all the large dams built

and proposed in the Philippines are on ancestral lands of the country's 5 million Indigenous peoples. In Canada, the Lake Winnipeg, Churchill-Nelson River Hydro Project in northern Manitoba and the James Bay Quebec-Hydro Project in Quebec are the two largest and most complicated dam projects ever undertaken in Canada. These projects have adversely affected vast areas of environmentally fragile boreal forest environments, animal habitat and *Cree* peoples' land, as a result of river diversion, flooding, seasonal inversion of flows, shoreline erosion and destruction of access and devastation to the indigenous trap-line culture.

DAMS AND INDIGENOUS PEOPLES

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I Conference of Dam Affected Peoples,

The recent push for water and energy projects through the building of more large dams continues
re

Indigenous participants at the workshop confirmed that large dams have disproportionately

New dams affecting Indigenous peoples are

Mexico, the Philippines, the Mekong basin, Malaysia and many others. Major impacts include:

fragmentation of

countries, militarisation has accompanied dam building.

- Failure to identify the distinctive characteristics of Indigenous peoples in project planning
- Failure to recognise customary rights and territories
- Inadequate or absent environmental and social impact assessments
- Inadequate compensation, ill-planned resettlement and tardy and inadequate reparations
- Weak participatory mechanisms, no negotiation and prior and informed consent.
- Social exclusion and prevalent discrimination in national societies, including lack of citizenship rights.

The widespread adoption of neo-liberal economic policies is furthering weakening national protection of Indigenous peoples' rights and creating legislative conflicts. Regional economic plans like Plan Puebla Panama and regional trade agreements promote regional energy grids and further dam-building. Under these conditions, there is weakening accountability of dam builders, operators, contractors, consultants and funders to the affected peoples. This tendency is likely to be exacerbated by moves to increasingly privatise the dam building industry. These policies are fuelling conflicts in many countries, and Indigenous peoples have mobilised in popular uprisings against state policies, including land and water privatisation.

Water Privatisation

35. Water systems within the homelands of Indigenous peoples are increasingly being governed by externally imposed management systems, as well as trade agreements and commercial practices that disconnect them as *Peoples* from the ecosystem. Water is being treated as a commodity and as a property interest that can be bought, sold and traded in global and domestic market-based systems.

36. Commercialization and privatisation of water contradicts indigenous perspectives that water is inseparable to land and people where it is found. Transporting, bottling and diverting water from its natural flow, appropriates inherent rights to access and benefits of water to private corporations at the expense of local and indigenous communities who are the primary users in its conservation and management.
37. Within the Andean region of Latin America, indigenous and local community water management systems constitute the basis of sustaining local livelihoods and assisting in the national food security. Indigenous and local communities are the main providers of food for the national populations. However, extremely unequal distribution and access to water and the rights of Indigenous peoples to customary water rights in Latin American countries are under increasing pressure. Millions of indigenous water users are structurally among the poorest groups of society within the Andean region. They are not represented in national and international decision-making bodies, contributing to a situation of increasing inequality, poverty, conflict and ecological destruction.
38. Privatisation of basic public services such as water and energy in several countries which has spurred massive general strikes and protests such as those led by Indigenous peoples in Bolivia, South America. The General Agreement on Services (GATS) whose coverage is being expanded to include environmental services of sanitation, nature and landscape protection, financial services, tourism, among others, provides the mechanism for the privatisation of basic public services.
39. Increasing demographic pressure, migration, and urban growth of rural areas are leading to profound changes in the agrarian structure, local cultures and forms of natural resource

management. Newcomers enter the territories of local Indigenous communities claiming a substantive share of existing water rights. Powerful stakeholders manage to influence new regulations and policies or monopolize water rights. Indigenous peoples within the Andean regions are witnessing a denial of contemporary forms of indigenous water management systems in addition to the denial by the governments and non-indigenous peoples of inherent indigenous rights to land and water.

IV. Indigenous Peoples and Sanitation

40. Safe and adequate water supply, wastewater, sanitation and waste disposal systems are essential to the health of Indigenous peoples. Among many Indigenous peoples worldwide, in both developing and developed countries, safe and adequate water supply and wastewater disposal facilities are lacking. An alarming number of Indigenous peoples have unsafe drinking water, and the numbers are growing. There is a lack of the existence of community infrastructure programs to address the most immediate health threats, requiring the provision of clean water, basic sanitation facilities and safe housing. One out of eight of Indigenous communities in Canada are threatened by unsafe water which each year kills indigenous newborn and elderly

41. Among many Indigenous peoples worldwide safe and adequate water supply and waste water disposal facilities are lacking. An alarming number of Indigenous peoples have unsafe drinking water, and the numbers are growing. There is a lack of the existence of community infrastructure programs to address the most immediate health threats, requiring the provision of clean water, basic sanitation facilities and safe housing. One out of eight of Indigenous

communities in Canada are threatened by unsafe water which each year kills indigenous newborn and elderly.

42. Safe and adequate water supply and waste water disposal facilities are lacking in approximately 7.5% of Indigenous tribal homes in the United States compared to 1% of the homes for the United States general population. While 1% of the general United States population lacks safe water and sewage systems, 7.5% of Indian homes lack these systems. In some parts of Indigenous lands in the United States, 36% of Indian homes lack these systems. The basic sanitation needs in nearly one-half of Alaska's 192 Native villages have yet to be met. 89 of the 192 Alaska Native villages do not have water piped or trucked to their homes; rather, villagers must physically carry water from community watering points and spigots. As many as 20,000 of the 86,000 individual Alaska Native villagers depend on systems as inadequate as the so-called "honey bucket" or pail.

5. International Water Policy

43. Indigenous peoples have challenged the dominant paradigm, policies, and programs on water development, which includes among others; government ownership of water, construction of large water infrastructures; the privatization and commodification of water; the use of water and the liberalization of trade in water services, which do not recognize the rights of Indigenous Peoples to water. They have also participated in a growing number of international activities on water which have significant relevance for Indigenous peoples, and to highlight the importance of water-related knowledge and values, and the importance of recognizing indigenous peoples rights in decision-making on water and energy development.

44. Indigenous peoples of the world assembled in Kimberley, South Africa for the "Indigenous Peoples' International Summit on Sustainable Development" from 19-23 August 2002, as a pre-summit to the Johannesburg WSSD. 300 Indigenous representatives developed an Indigenous Peoples' Plan of Implementation on Sustainable Development and the Kimberly Declaration, including water issues.

45. The Water and Cultural Diversity Thematic Statement of the 3rd World Water Forum brought attention to the significance of the cultural dimension of water that developed through millennia by human societies and that constitutes a treasure of sustainable practices and innovative approaches. The Thematic Statement recognized the importance of Indigenous knowledge holders to be full partners with scientists to find solutions for water related problems.

46. The World Commission on Dams was another process in which dams-affected indigenous peoples brought their situation to the attention of the international community.

World Commission on Dams Strategic Priorities for Decision-Making

The World Commission on Dams (WCD) in its reports Dams and Development: A New Framework for Decision-Making highlighted the disproportionate impacts of large dams on the lives and environments of Indigenous peoples around the world. The report underlined respect for Indigenous peoples in water and energy development.

Based on five core values of equity, efficiency, participatory decision-making, sustainability and accountability, the WCD developed a constructive and innovative way forward for decision-making in the form of seven strategic priorities and corresponding policy principles. These move from a traditional top-down, technology-focused approach to advocate significant innovations in assessing options, managing existing dams, gaining public acceptance and negotiating and sharing benefits.

1. Gaining Public Acceptance

Public acceptance of key decisions is essential for equitable and sustainable water and energy resources development. Acceptance emerges from recognizing rights, addressing risks, and safeguarding the entitlements of all groups of affected people, particularly indigenous and tribal peoples, women and other vulnerable groups. Decision-making processes and mechanisms are used that enable informed participation by all groups of people, and result in the demonstrable acceptance of key decisions. Where projects affect indigenous and tribal peoples, such processes are guided by their free, prior and informed consent.

By bringing to the table all those whose rights are involved and who bear the risks associated with different options for water and energy resources development, the conditions for a positive resolution of competing interests and conflicts are created. Negotiating outcomes will greatly improve the development effectiveness of water and energy projects by eliminating unfavorable projects at an early stage, and by offering as a choice only those options that key stakeholders agree represent the best ones to meet the needs in question. This will result in fundamental changes in the way decisions are made.

47. For Indigenous peoples, WCD's strategic priorities underline the need for decision-making processes on water and energy development based on negotiated agreements among all affected and interested parties, and which respect the fundamental rights of Indigenous peoples including free, prior and informed consent.
48. A fair, informed and transparent decision-making process, based on the acknowledgement and protection of existing rights and entitlements, will give all stakeholders the opportunity to fully and actively participate in the decision-making process. Failure to recognise the rights of all affected groups, whether legally sanctioned or not, coupled with the significant involuntary risk imposed on the most vulnerable, is central to the dams debate and associated conflicts. The WCD was convinced that this represents the way forward to address the underlying conflicts in water rights and development.
49. The UNESCO Universal Declaration of Cultural Diversity (2001) and the Johannesburg Declaration on Sustainable Development (2002) urged the dialogue and cooperation within human society and among cultures in order to wisely use and sustainably manage earth's resources, including freshwaters and oceans.

IV. Conclusions and Recommendations

Indigenous Self-Determination and Rights to Water

50. Indigenous peoples have the right to self-determination. By virtue of that right Indigenous peoples have the right to freely exercise full authority and control of their natural resources

including water. Such rights cover both water quantity and quality and extend to water as part of a healthy environment and to its cultural and spiritual values. Indigenous interests and rights must be respected by international agreements on trade and investment, and all plans for new water uses and allocations.

51. Indigenous peoples' interests on water and customary uses must be recognized by governments, ensuring that Indigenous rights are enshrined in national legislation and policy.

52. Self-determination includes the practice of our cultural and spiritual relationships with water, and the exercise of authority to govern, use, manage, regulate, recover, conserve, enhance and renew their water sources, without interference.

53. The promotion of respect and observance of Indigenous peoples' rights and fundamental freedoms, in particular the right of self-determination and the free use and control of their lands and territories, is necessary for the use and conservation of water and of water sources and resources.

54. International law recognizes the rights of Indigenous peoples to self-determination;

- Ownership, control and management of our traditional territories, lands and natural resources;
- Exercise their customary law;
- Represent themselves through their own institutions;
- Require free prior and informed consent to developments on their land;
- Control and share in the benefits of the use of, their traditional knowledge.

55. Governments should support the immediate adoption of the UN Draft Declaration on the Rights of Indigenous Peoples that will help ensure the recognition and protection of Indigenous peoples' rights.

Human Rights to Water

56. Governments must recognize and adopt policies of water as a human right that entitles everyone to safe, sufficient, affordable and physically accessible water for personal and domestic use.

57. States must comply with their human rights obligations and commitments to legally binding international instruments to which they are signatories to, including but not limited to, such as the Covenant on Civil and Political Rights, the Covenant on Economic, Cultural and Social Rights, International Convention on the Elimination of all Forms of Racial Discrimination; as well as their obligations to conventions on the environment, such as the Convention on Biological Diversity, Climate Convention, and Convention to Combat Desertification.

58. Human rights obligations of States must be complied with and respected by their international trade organizations. These legally binding human rights and environmental obligations do not stop at the door of the World Trade Organization (WTO), General Agreement on Trade Services (GATS) and other regional and bilateral trade agreements.

59. For Indigenous peoples, the fundamental criteria they apply in assessing the progress made in these international agreements, and in their implementation is important and dependent on whether or not, their our basic human rights are respected.

Participation, Consultation and Prior Informed Consent

60. Governments must ensure public participation in all aspects of water management and decision-making, particularly the participation of Indigenous peoples when there are Indigenous communities within water management areas. The participation of Indigenous peoples will include men, women, youth and elders.

61. To recover and retain Indigenous peoples' connection to their waters, they must have the right to make decisions about waters at all levels. Governments, corporations and intergovernmental organizations must, under international human rights standards require Indigenous peoples' free prior and informed consent and consultation by cultural appropriate means in all decision-making activities and all matters that may have affect, including partnerships. These consultations must be carried out with deep mutual respect, meaning there must be no fraud, manipulation, and duress nor guarantee that agreement will be reached on the specific project or measure.

Article 7(1) of ILO Convention 169 provides that: *“The people concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development.”*

Building upon these principles, Article 30 of the UN's Draft Declaration on the Rights of Indigenous Peoples acknowledges that:

'Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require the State to obtain their free and informed consent prior to the approval of any project affecting their lands, territories and other resources particularly in connection with the development, utilization or exploitation of mineral, water or other resources....'

62. Base Integrated Water Resource Management (IWRM) strategies must include Indigenous peoples and local community participation and provide adequate mechanisms for dialogue and conflict resolution within river basins and across national boundaries. Indigenous peoples are ready to work with governments to set up these mechanisms and share Indigenous knowledge.

63. Participatory decision making in IWRM should take into account all facets of cultural diversity, gender, age, and seek informed consensus.

Principles of Consultations with Indigenous Peoples include:

To conduct the consultations under the communities own systems and mechanisms;

The means of Indigenous peoples to fully participate in such consultations;

Indigenous peoples exercise of both their local and traditional decision-making processes, including the direct participation of their spiritual and ceremonial authorities, individual members and community authorities as well as traditional practitioners of subsistence and

cultural ways in the consultation process and the expression of consent for the particular project or measure;

Respect for the right to say no, and;

Ethical guidelines for a transparent and specific outcome.

64. Governments and international agencies recognize and support Indigenous peoples' commitment to establish an Indigenous Working Group to facilitate linkages between Indigenous peoples and international organs to provide technical and legal assistance to Indigenous peoples on water and water related issues.

65. Governments to recognize within many Indigenous cultures, the women are the caretakers and users of traditional water resource systems requiring the need for mainstreaming gender and Indigenous peoples in Integrated Water Resources Management (IWRM) strategies and implementation.

66. Both Indigenous peoples and gender analysis and Indigenous peoples and gender sensitive indicators must be integrated in the implementation of the WSSD targets and the MDGs. Measurements for assessment of targets and goals is needed to sustain the positive impacts of gender mainstreaming for both Indigenous women and men. Qualitative indicators are required to monitor the process and the impacts.

Human Settlement

67. The transformation of human settlements in this century towards largely urban settlements, must not undermine the importance of rural settlements, which are equally deserving of attention. An explicit goal for a program of work on human settlements must be the promotion of balanced and equitable relationships between diverse urban and rural communities, and sustainable human settlements in relation with the Earth.
68. The development of action plans on human settlements and in the implementation of integrated land use planning and integrated resource base management strategies must be strengthened to provide security of tenure and legal protection of Indigenous peoples lands and territories. Legal protection for Indigenous peoples rights in the development process, including in the planning and implementation of accessible water, sanitation and other infrastructure projects for human settlements is the outstanding obstacle that must be addressed.
69. Safeguards must be put in place to protect the less powerful and vulnerable communities whose well-being is closely linked to biodiversity and integrity with the natural world to address the over-exploitation of lands, unsustainable agricultural practices, waters, forests and other resources of Indigenous peoples and rural communities, and from the harmful dumping and accumulation of wastes.

Water and Sanitation

70. Develop regional and global goals into realistic local, national targets for improved sanitation and hygiene services, adopting community-based approaches and bearing in mind the human right to clean and safe water.

71. Developing and developed countries with Indigenous tribal populations must develop and strengthen clear policies, targets and institutional frameworks to improve sanitation, assure for safe and adequate water supply and access and hygiene services to Indigenous peoples.

72. Water and sanitation must remain in the public sector and all governments must commit to public sector delivery of water services. This includes ensuring adequate financial resources are made available, and adequate local capacity is built. In areas of Indigenous communities, mechanisms for the option for Indigenous peoples to control and manage their own water and sanitation systems must be provided.

Dams and Water Diversion

73. Governments, international financial institutions, bi-lateral donors, and the private sector should cease to promote water mega-projects without reference to international agreements and must always incorporate the recommendations of the World Commission on Dams (WCD) into water and energy planning processes, including reparations. These include the WCD report's core values, strategic priorities, the "rights and risks framework" and the use of multi-criteria assessment tools for strategic options assessment and project selection. Its rights-based development framework, including the recognition of the rights of Indigenous peoples in water development is a major contribution to decision-making frameworks for sustainable development.

Climate and Water

74. Climate variability and weather extremes will derail achieving the 2015 Millennium Development Goals without considering climate change. It is imperative for States to fulfill the mandates of the United Nations Framework Convention on Climate Change (UNFCCC) and to ratify the Kyoto Protocol. Governments must end financial subsidies to fossil fuel production and processing and for aggressive reduction of greenhouse gas emissions calling attention to the United Nations Intergovernmental Panel on Climate Change (IPCC) that reported an immediate 60% reduction of CO₂ is needed to stabilize global warming.
75. Enhance policies and measures towards adaptation to the impacts of climate variability and change, along with more aggressive efforts on further reduction of greenhouse gas emissions.
76. Indigenous peoples and community level decision making is important in all categories of action and measures coping with climate change, and how climate variability and change can be mainstreamed into local, national, regional and international water management policies and practices.

Ecological Approach to Water Management and Indigenous Traditional Ecological Knowledge (TEK)

77. Implement both an ecological approach with incorporation of Indigenous TEK principles to water management. Both the ecological approach and TEK integrates different perspectives into integrated management of land, forests, oceans, air, human settlements and water resources.

78. Understanding Integrated Water Resources Management (IWRM) inherently recognizes the ecosystems approach to river and water basin management including the function of ecosystems as the basis for livelihood of people and conservation of biological diversity.

79. Governments to widely implement the following measures of ecological approach:

- Integrate Indigenous TEK principles of the sacred nature of water and the need to protect all water sources as sacred sites;
- Protection and restoration of ecosystems, springs, wetlands, freshwaters, lakes, water basins and aquifers vital for water resources;
- Leave enough water in rivers to maintain downstream benefits and in stream flows;
- Governments develop action plans to implement the Integrated River Basin Management (IRBM) initiative.
- Protect all oceans, coral reefs and coastal systems with protection of sustainable management of fisheries and aqua-culture;
- Protect mountains, forests, headwaters and rivers;
- Integrate wetland conservation and restoration in water resources and land use planning;
- Establish proper management regimes for critical aquatic biodiversity;
- Protect freshwater ecosystems and biodiversity with sustainable management of freshwater fisheries;
- Integrate the management of land, air and water resources with special attention to environmental protection and resource conservation;
- Implement air shed and watershed pollution control, treatment and prevention programs with financing and legal frameworks for implementation;

- The concept of environmental flow requirements need to be further worked out and applied at the basin level to provide a basis to strike a balance between water for food and environmental security;
- Protection of species, habitats and biodiversity;
- Within arctic regions, protect glaciers, snow and ice conditions that comprise the biological integrity of the arctic environment;
- Protect glaciers and snow coverings within mountain regions that comprise the biological integrity of the river systems and water basins.

Traditional Ecological Knowledge (TEK)

Indigenous peoples' traditional knowledge and practices are dynamically regulated systems. They are based on natural and spiritual laws, ensuring sustainable use through resource conservation. Traditional ecological knowledge (TEK) is the accumulated knowledge and understanding of ones' place in relationship to the universe. This relationship extends to knowledge and practices that indigenous communities hold about the spiritual-cosmovision, bio-physical, socio-economic, and cultural-historical aspects of their local environment. TEK builds upon the experience of earlier generations and allows for adaptation to appropriate technological and socio-economic changes of the present. Indigenous peoples' system of the millennia of water management and use is based upon principles and practices that balance immediate needs with the needs of the ecology, environment and other living things, plants, fish, and animals, as well as other people, and the sustainability of future generations. TEK encompasses spiritual relationships, relationships with the natural environment and the use of natural resources, relationships between humans, relationships with animals, birds, fish, forests, plants, water,

oceans, and all elements, and is reflected in language, social organization, values, institutions and laws.

Source: Indigenous Environmental Network

Privatisation and Commodification of Water

80. Water and water services must be kept out of General Agreement on Trade Services (GATS), the World Trade Organization (WTO) and other multi-lateral and regional trade agreements.

81. The World Bank, the International Monetary Fund (IMF), regional banks like the Asian Development Bank, African Development Bank, Inter-American Development Bank, stop the imposition of water privatisation or ‘full cost recovery’ as a condition for new loans and renewal of loans of developing countries.

Government and Corporate Accountability

82. Political, technical and legal mechanisms on the domestic and international level be developed so that the States, as well as transnational corporations and international financial institutions will be held accountable for their actions or inactions that threaten the integrity of water, land, air, biodiversity and Indigenous peoples and local communities.

Governance

83. Developing countries need to take primary responsibility for establishing good water governance and water management plans, and need to ensure that water is integrated into

national poverty reduction strategies. Good governance is essential to provide sustainable solutions to the water needs of Indigenous peoples and poor people in developing countries.

84. Developed countries, with Indigenous peoples, need to take primary responsibility for establishing good water governance and water management plans to Indigenous communities and poor communities. Good governance is essential to provide sustainable solutions to the water needs of Indigenous peoples and poor people in developed countries.

85. Governments must enhance the participation, cooperation and mutual partnership of Indigenous peoples, in all aspects of agricultural water use, development and management; to recognize Indigenous knowledge on water management; to increase access to water resources; and to recognize Indigenous peoples interests on water use, allocation and customary uses.

Financing and Investments

86. Indigenous interests and rights must be respected by international agreements on trade and investment, and all plans for new water uses and allocations.

87. Governments must recognize the importance of providing support to small-scale local investments, by local authorities, Indigenous communities and with support of NGOs. Regulations of multilateral financing agencies do not allow lending to local governments and Indigenous communities therefore requiring mechanisms for direct support to local levels and Indigenous communities.

88. International law should ensure that water is not used as a vehicle for oppression and should promote local, national and regional cooperation.

89. International and domestic systems of restoration, financing, investments and compensation be established in partnership with Indigenous peoples to restore the integrity of water and ecosystems.

Capacity Building and Technology Transfer

90. Capacity and technological transfer initiatives to recognize Indigenous peoples' traditional practices including traditional water management as dynamically regulated systems. They are based on natural and spiritual laws, ensuring sustainable use through traditional resource conservation. Capacity includes developing education programs on Indigenous TEK of water and Indigenous systems of water management.

91. Governments must recognize the need for utilizing technologies such as rainwater harvesting, drip irrigation, crop rotation and other Indigenous knowledge and sustainable water conservation practices within current farming methods.

92. Environmentally sound technologies must be identified and adopted; economic incentives must be given for the use of pollution prevention and control systems. As a mechanism to protect the health of watersheds and groundwater systems, the establishment of wastewater disposal and treatment facilities must be given top priority for the minimization of waste generation, and the constant recycling and re-use of waste water.

93. Practical, efficient and low-cost technologies are important tools for providing clean drinking water and basic sanitation.
94. Capacity development is a main focus of water polices that needs to amplified with more action and targets with particular emphasis on building capacities in Indigenous communities and local communities and government agencies.
95. Cultural diversity and intercultural dialogue should be the guiding principles for the development of awareness raising, educational and capacity building materials and methods.
96. Incorporate in scientific and professional conferences, sessions on the relevant Indigenous and customary knowledge and practices.
97. Indigenous traditional knowledge developed over the millennia should not be compromised by an over-reliance on relatively recent and narrowly defined western reductionist scientific methods and standards. Indigenous peoples support the implementation of strong measures to allow the full and equal participation of Indigenous peoples to share their experiences, knowledge and concerns.