



[Home](#)

Canadian Statements

Statement by His Excellency John McNeen, Ambassador and Permanent Representative of Canada to the United Nations, to the 61st Session of the General Assembly on the Declaration on the Rights of Indigenous Peoples

NEW YORK, September 13, 2007

Madam President,

Canada has long demonstrated our commitment to actively advancing indigenous rights at home and internationally. We recognize that the situation of indigenous peoples around the world warrants concerted and concrete international action. We have strongly supported the establishment and ongoing work of the Permanent Forum on Indigenous Issues and the Special Rapporteur on the situation of the fundamental freedoms and human rights of indigenous peoples and have promoted consideration of indigenous issues within a variety of international conferences. We have a constructive and far-reaching international development program, targeted specifically at improving the situation of indigenous peoples in many parts of the world. Canada continues to make further progress at home, working within our constitutional guarantees for Aboriginal and treaty rights, and with our negotiated self-government and land claims agreements with several Aboriginal groups in Canada. Canada also intends to continue our active international engagement, both multilaterally and bilaterally. It is therefore with disappointment that we find ourselves having to vote against the adoption of this Declaration as drafted.

Since 1985, when the United Nations expert Working Group on Indigenous Populations decided to produce a Declaration on indigenous rights, Canada has been an active participant in its development. Canada has long been a proponent of a strong and effective text that would promote and protect the human rights and fundamental freedoms of every indigenous person without discrimination and recognize the collective rights of indigenous peoples around the world. We have sought for many years, along with others, an aspirational document which would advance indigenous rights and promote harmonious arrangements between indigenous peoples and the States in which they live.

However, the text that was presented at the Human Rights Council in June 2006 did not meet such expectations and did not address some of our concerns. This is why we voted against it. We also expressed dissatisfaction with the process.

Canada's position has remained consistent and principled. We have stated publicly that we have significant concerns with respect to the wording of the current text, including the provisions on lands, territories and resources; free, prior and informed consent when used as a veto; self-government without recognition of the importance of negotiations; intellectual property; military issues; and the need to achieve an appropriate balance between the rights and obligations of indigenous peoples, member States and third parties.

For example, the recognition of indigenous rights to lands, territories and resources is important to Canada. Canada is proud of the fact that Aboriginal and treaty rights are given strong recognition and protection in its Constitution. We are equally proud of the processes that have been put in place to deal with Aboriginal claims respecting these rights and are working actively to improve these processes to address these claims even more effectively. Unfortunately, the provisions in the Declaration on lands, territories and resources are overly broad, unclear, and capable of a wide variety of interpretations, discounting the need to recognize a range of rights over land and possibly putting into question matters that have been settled by treaty.

Similarly, some of the provisions dealing with the concept of free, prior and informed consent are unduly restrictive. Provisions such as Article 19 provide that the State cannot act on any legislative or administrative matter that may affect indigenous peoples without obtaining their consent. While we in Canada have strong consultation processes in place, and while our courts have reinforced these as a

matter of law, the establishment of a complete veto power over legislative and administrative action for a particular group would be fundamentally incompatible with Canada's parliamentary system.

In Geneva leading up to the Human Rights Council's adoption of the text, and here in New York throughout the 61st session of the General Assembly, Canada has been very clear in proposing that further negotiations take place in an open and transparent process with the effective involvement of indigenous peoples. Over the last year, had there been an appropriate process in place to address these concerns, and the concerns of other States, a stronger Declaration could have emerged, one acceptable to Canada and other countries with significant indigenous populations and which could have provided practical guidance to all States. Unfortunately, such a process has not taken place. The few modifications presented at the last minute to this Assembly, prepared by a limited number of delegations, do not arise from an open, inclusive or transparent process, and do not address key areas of concern of a number of delegations, including Canada.

We regard it as particularly unfortunate that a number of States, like Canada, with significant indigenous populations, cannot solidly support the adoption of this particular text as a meaningful and effective United Nations Declaration on the Rights of Indigenous Peoples.

Yet let me reiterate that regardless of the Declaration, Canada will continue to take effective action, at home and abroad, to promote and protect the rights of indigenous peoples based on our existing human rights obligations and commitments. Such effective action, we must be clear, would not be undertaken on the basis of the provisions of this Declaration.

By voting against the adoption of this text, Canada puts on record its disappointment with both the substance and process. For clarity, we also underline our understanding that this Declaration is not a legally binding instrument. It has no legal effect in Canada, and its provisions do not represent customary international law.

Madam President, Canada will vote against adoption of this text.

Thank you.

Date Modified: 2012-01-24