



June 7, 2012

Dear High Commissioner Pillay:

As concerned members of the Mining Working Group of the NGO Committee on the United Nations International Decade of the World's Indigenous Peoples, we have been carefully following the Rio+20 informal negotiations and participating as members of the NGO major group. We are writing to alert you to the fact that the two mining paragraphs in the current Zero Draft of the Outcome Document (as of June 2, 2012) fail to include respect for the right to free, prior and informed consent of indigenous peoples for mining activities impacting their land, territories and resources.

After several advocacy attempts to have this addressed in the mining text, we recognize that at this late juncture of the negotiations the introduction of new language into this text will not be possible. Alternatively, we have looked for already agreed upon UN human rights language that could be added to the mining text and the best that we can find is agreed language from the UN DRIP and from the CSD-19 text on mining, as follows:

***From UN Declaration on the Rights of Indigenous Peoples
Article 32***

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

From CSD 19 Mining -- (d)

Section 10: Strengthen legal, regulatory and institutional frameworks at all levels of government to address the environmental and social impacts of mining. **Agreed ad ref**

With respect to the social impacts:

(d) Promote and protect the rights of indigenous and local communities through their full and effective participation in accordance with national laws and procedures at all levels. **Agreed ad ref**

Because we believe it is imperative that the Zero Draft include clear reference to respecting the rights of indigenous peoples, we recommend that one or both of the above paragraphs be incorporated into the current mining paragraphs of the negotiation text. It is the agreed position of the Mining Working Group that if reference is not made to the rights of indigenous peoples in the text, the two paragraphs on mining in the Zero Draft of the Outcome Document are severely limiting and seriously compromised.

We forward this concern to you in your capacity as United Nations High Commissioner for Human Rights. Some of the members of Mining Working Group will be on the ground in Rioⁱ and will continue our advocacy on this issue. We are enclosing the two paragraphs from the mining text as it currently stands and the alternative text that we offered during the negotiations last week. In addition, we are providing you a copy of the joint statement made by Indigenous Peoples and the NGOs Commons Cluster.

High Commissioner Pillay, thank you for taking the time to review our concern and to act on it in whatever manner you deem to be most appropriate.

Sincerely,

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On Behalf of the Mining Working Group of the NGO Committee on the United Nations International Decade of the World's Indigenous Peoples.

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