**-------------CHECK AGAINST DELIVERY-----------**

JOINT STATEMENT OF INTERNATIONAL INDIAN TREATY COUNCIL AND TEBTEBBA

ARTICLE 5 - PREVENTION

 Before the Open-ended intergovernmental working group on transnational corporations

and other business enterprises with respect to human rights

October 15, 2019 Geneva, Switzerland

This is a joint statement on behalf of the International Indian Treaty Council (IITC) and Tebtebba. IITC is an Indigenous NGO representing Peoples from North, Central, South America, the Caribbean and the Pacific. Tebtebba, based in the Philippines, works with Indigenous Peoples in 13 countries.

First, we appreciate the addition of the **UN Declaration on the Rights of Indigenous Peoples** to the text. This Declaration reaffirms that Indigenous peoples are entitled without discrimination to all human rights recognized in international law, and that we possess **collective rights** which are indispensable for our existence, well-being and integral development as peoples.

A fundamental right elaborated in the UN Declaration on the Rights of Indigenous Peoples is the right to **free, prior and informed consent, as provided in Articles 10, 11, 19, 28, and 29**. We note that Paragraph **3b of article 5** references this right, but it should conform to the UN Declaration language and read **“the right to free, prior and informed consent”** not **consultation.**

The state duty to obtain FPIC is also enshrined in ILO Convention 169 and standards such as the World Bank IFC Performance Standard 7. In some countries, FPIC has been a legal requirement for years, e.g., the Philippines Indigenous Peoples Rights Act of 1997.

The 3 UN mechanisms on Indigenous Peoples have developed a helpful body of literature on the importance of this right for Indigenous Peoples: UN Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, and the UN Special Rapporteur on the Rights on Indigenous Peoples. A key point is that the right to free, prior and informed consent should be considered hand in hand with the right to self-determination and the rights regarding lands, territories and resources.

Last, we remind this body that since the very first session of the UN Forum on Business and Human Rights, there has been consistent recognition that Indigenous peoples worldwide have disproportionately been impacted by the actions of transnational corporations and other business enterprises.