

Parallel Information:
**Discrimination against indigenous small-numbered peoples of the
North, Siberia and the Far East of the Russian Federation**

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1 Introduction

1. This parallel report has been prepared by RAIPON, the Russian Association of Indigenous Peoples of the North, an indigenous peoples' organisation in consultative status with ECOSOC, representing 41 indigenous small-numbered peoples of the North, Siberia and the Far East of the Russian Federation, in collaboration with IWGIA, the International Work Group for Indigenous Affairs, an NGO in consultative status with ECOSOC that supports indigenous peoples' organisations globally, and with assistance from the Institute for Ecology and Action Anthropology (INFOE), Cologne, Germany. In this submission, we look at the situation of Russia's indigenous small-numbered peoples which, while only numbering approximately 280,000 people, traditionally inhabit around two-thirds of the land mass of the Russian Federation.

2. Even though these indigenous peoples are highly diverse in terms of their descent, history, language, ethnicity and culture, they have some important aspects in common, such as the prevalence of a traditional subsistence-oriented way of life based on fishing, hunting/gathering or reindeer husbandry. A profound knowledge of and relationship with the territories they have traditionally used or occupied is deeply engrained in their cultures, which are finely adapted to their fragile environments, often marked by extreme climatic conditions.

3. The main focus of this submission is the developing human rights situation of the indigenous small-numbered peoples of the North, Siberian and the Far East of the Russian Federation during the reporting period and the extent to which recommendations issued by CERD in 2008 (CERD/C/RUS/CO/19) have or have not been implemented. In addition, this submission will comment on information provided by the State party in its 20th to 22nd periodic report as well as provide essential additional information that was absent from the State party's report. This relates in particular to the current situation of indigenous communities on the ground and data on demographic trends and their socio-economic situation.

2 Executive summary

4. Overall developments in Russian legislation over the last decade have failed to keep pace with international developments in the field of indigenous peoples' rights. Russia has failed to incorporate the UN Declaration on the Rights of Indigenous Peoples into national legislation. Policy measures regarding land and resources clearly lack a rights-based approach and fail to acknowledge that indigenous peoples are collective rights-holders under international law.

5. The situation has failed to improve in key areas such as land rights, the rights to self-determination, food, education, health and work. Some relevant policy measures were adopted, including the action plan for the implementation of the *Outline for the sustainable development of the indigenous small-numbered peoples of the North for 2009-2011*; however, most of its components have not been implemented.

6. The State party has also failed to follow recommendations by the UN Special Rapporteur on the Rights of Indigenous Peoples to "bring coherence, consistency and certainty to the various laws that concern the rights of indigenous peoples and particularly their access to land and resources"¹ i.e. to eradicate the legal inconsistencies which currently render many of the legal guarantees of indigenous rights ineffective.

7. More than a decade after its adoption, the Federal Act on Territories of Traditional Nature Use (TTNU), the central law governing indigenous peoples' land rights, still remains

¹ A/HRC/15/37/Add.5, para 83.

unimplemented. Not a single federal-level TTNU has been approved by the government, while an ever increasing amount of land and resource use concessions issued to extractive industries continuously diminishes the possibilities for the future creation of such territories.

8. During the reporting period, many indigenous communities have been deprived of their traditional fishing grounds, a development which has been driven by legislative and administrative measures undertaken by the State party. Proposed legislation will restrict indigenous peoples' collective rights and access to fishing grounds to mere use rights for personal needs, thus depriving indigenous *obshchinas* (communities) of their economic base.

9. Russian legislation fails to give effect to the right to Free, Prior and Informed Consent (FPIC) set forth in the UN Declaration on the Rights of Indigenous Peoples. While several legal acts allow for consideration of the opinions of the local population, local authorities are not required to obtain their informed consent.

10. Indigenous peoples affected by expropriation rarely receive fair and adequate compensation. Corporations are under no binding obligation to enter into compensation or benefit-sharing agreements with affected communities. Instead, compensation is awarded to local or regional authorities and rarely reaches the affected communities.

11. No measures have been taken by the federal legislature to comply with CERD's recommendation 20 to improve representation of indigenous peoples in legislative bodies. At the same time, several federal and regional government bodies and offices mandated to deal with indigenous affairs have been abolished. On the positive side, some regions have introduced ombudsman institutions for indigenous peoples' rights.

12. The State party has failed to comply with CERD's request to provide data disaggregated by ethnicity with regard to i.a. the rights to work, housing, health, social security and education. This failure not only affects the State party's fulfilment of its reporting obligations but also constitutes a major obstacle to the development and institution of adequate measures by policy makers.

13. From the limited available statistical data, it can be discerned that indigenous peoples remain one of the most disadvantaged groups in the Russian Federation. Data regarding life expectancy, access to healthcare, education and labour markets as well as levels of income indicate a continuing extreme marginalisation.

14. One of the groups particularly affected are indigenous children living in rural areas, who are often deprived of access to education or forced to live apart from their families in order to attend school. Furthermore, children are severely affected by a lack of access to traditional food and to healthcare.

15. With the order of a six-month suspension of activity of RAIPON, the national umbrella organisation of indigenous peoples, the State party has severely limited the ability of indigenous peoples to participate in decision-making on matters affecting their rights and interests (UNDRIP, Art. 18). Furthermore, the revised Federal Act on Non-Profit Organisations is likely to make it very difficult for indigenous organisations to enjoy their right to access international financial & technical assistance, established by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP, Art. 39).

16. In an ongoing crackdown on the Evenk *obshchina* 'Dylacha' in Buryatia, the State party is proceeding in a manner which may lead to the demise of one of Russia's most successful indigenous communities, thus threatening to violate the right of indigenous peoples to freely determine their own path of development (UNDRIP, Art. 23).

3 Overall trends in the development of legislation regarding indigenous peoples

17. Legal experts have noted that, since the adoption of the three framework laws on indigenous peoples, completed in 2001, no new major achievements have been accomplished in the field of federal legislation regarding indigenous peoples. The development has been characterized as “legal stagnation”, with a lack of implementation and a gradual erosion of legal guarantees in a variety of fields ranging from the right to certain social benefits through rights to land and resources to political representation. Some new policy measures have been adopted; however, their targets have for the most part not been met, which has led experts to characterize legislative activity regarding indigenous peoples as “unsustainable, contradictory and often amounting to mere simulation, in many ways remaining at its initial stages and not corresponding to the requirements of international law.”²

18. Internationally significant developments have taken place over the same period, most notably the adoption of the UN Declaration on the Rights of Indigenous Peoples in September 2007, at the beginning of the reporting period. In the UN General Assembly, the Russian Federation abstained from the vote and, despite accepting a recommendation to this effect during the 2009 Universal Periodic Review, has not taken measures to incorporate its principles into national legislation. This means that a rights-based approach to indigenous affairs, including recognition of their status as collective rights-holders under international law, is not clearly expressed in Russian federal legislation.

19. This limitation has profound implications, in particular regarding the recognition, or lack thereof, of indigenous peoples' customary rights and traditional ownership of their land and resources. Rather than formally recognising indigenous peoples' pre-existing traditional rights, existing legal provisions are mostly limited to the possibility of granting temporary access and use rights. These rights are, more often than not, subject to various fees, individualised rather than acknowledging indigenous traditions of collective land management and ownership, and limited to mere use rights rather than recognising ownership.

20. Another implication of the lack of a rights-based approach is that indigenous peoples' rights to participate in decision-making and to Free, Prior and Informed Consent are not enshrined in legislation, which greatly limits indigenous peoples' participation in decisions affecting their immediate interests, most notably their land and resources.

The State party should undertake a full review of legislation with the goal of bringing it fully into line with the principles contained in the reference documents on the rights of indigenous peoples, the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169 on indigenous and tribal peoples in independent states.

4 Review of the State party's compliance with CERD's 2008 recommendations

21. CERD's concluding observations of 2008 (CERD/C/RUS/CO/19 20 August 2008) contain recommendations pertaining to indigenous peoples in paras 15, 20, 24 and 30. These touch upon a wide array of issues. Below, we assess the level of progress achieved in several key areas identified by CERD: land rights; access to resources; Free, Prior and Informed Consent; adequate compensation; and the political representation of indigenous peoples.

² Vladimir Krazhkov: *Rossiiskoe zakonodatel'stvo o severnykh narodakh i pravoprimentitel'naya praktika: Sostoyanie i Perspektivy*. In: *Gosudarstvo i pravo*, 2012, vol 5, pp. 27-35

4.1 Land rights

22. Para 24 of the CERD recommendations touches upon issues related to indigenous peoples' rights to land and resources. The vital importance of land rights is grounded in the fact that activities such as reindeer herding, hunting and gathering constitute major sources of food and income for the indigenous peoples of the Russian North and, at the same time, inform their cultures and social institutions. Guaranteed access to traditional land thus constitutes an indispensable precondition to the enjoyment of indigenous peoples' right to food and to an adequate standard of living (CESCR, Art. 11), to cultural identity, development (UNDRIP, Art. 23) and ultimately to their self-determination (CESCR, Art. 1, CCPR, Art. 1).

23. During the reporting period, Russia has failed to take effective measures to create a coherent and functioning land rights regime consistent with Russia's obligations under international law. In most regions, indigenous communities therefore have no guaranteed and sustainable access to those territories and resources on which they depend for their collective survival and development. They have no effective remedies against encroachment by third parties and no guarantee of adequate compensation for damages suffered as a result of third-party activities. Furthermore, several legal initiatives currently underway threaten to further undermine protection of indigenous peoples' land rights.

24. In 2001, Russia adopted the Federal Act "On Territories of Traditional Nature Use of Indigenous, Small-Numbered Peoples of the North, Siberia and the Far East of the Russian Federation" (7 May 2001, № 49-FZ). This law stipulates the creation of so-called Territories of Traditional Nature Use (TTNU)³, which would allow these peoples to pursue their self-government, their development with identity, allow them to freely exercise their traditional economic activities and enjoy a certain level of protection from third parties such as the extractive industries. It constitutes the only serious attempt by the State party to establish a federal-level system guaranteeing to indigenous peoples those land use rights on which they depend for their subsistence.

25. More than a decade after the law's adoption, not a single federal TTNU has been established, even though the government action plan for implementation of the Outline for the sustainable development of the indigenous small-numbered peoples of the North for 2009-2011 stipulates the establishment of a model TTNU by 2011.⁴ Similar pledges were made in Russia's 19th periodic report to CERD, written in 2006 (CERD/C/RUS/19, para 52). In failing to implement the law on TTNU, the State has failed to implement recommendations made by CESCR, CERD and the UN Special Rapporteur on the Rights of Indigenous Peoples and has also failed to give effect to the recommendations it accepted under the 2009 UPR process.

26. At the time of writing, the revised version of the Law on TTNU mentioned in the State party's report⁵, which was drafted by the federal government and is supposed to allow for its practical enforcement, has still not been submitted to the State Duma. Neither has an alternative draft developed by a group of experts been considered by the State Duma. Meanwhile, requests from indigenous peoples for the establishment of federal TTNUs continue to be denied, while ever more indigenous territories are being alienated for business purposes, such as long-distance pipeline construction, hydroelectric dams, oil and gas extraction, mining and commercial logging.

³ The English translation of the 20-22 periodic report of the State party slightly inaccurately renders the term as "Areas of Traditional Resource Use"

⁴ See: *Plan meropriyatii po realizacii v 2009-2011 godakh Konceptii ustoychivogo razvitiya korennykh malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossijskoj Federacii* (utv. rasporyazheniem Pravitel'stva RF ot 28 avgusta 2009 g. N 1245-r) http://raipon.info/Documenty/zakony/Plan_kocept.rtf

⁵ Cf. CERD/C/RUS/20-22, Para. 277, IWGIA (ed): *The Indigenous World 2012*, pp. 30-33, http://www.iwgia.org/publications/search-pubs?publication_id=573

27. Even if the draft law proposed by the federal government is adopted and enters into force, it is unlikely to improve - and may even jeopardize - the land rights situation of indigenous peoples, as it removes the definition of TTNU as “especially protected environmental territories” (*osobo okhranyaemye prirodnye territorii*), a term rooted in environmental legislation and implying a certain level of protection from third-party activities such as the extractive industries’ operations.

28. Additionally, the existence of several hundred regional-level TTNU is under threat due to the government's failure to comply with a provision of the Federal Land Code which stipulates that the borders of TTNU have to be confirmed by the federal government, something which it has not done. As the governmental draft only provides for the creation of federal TTNU, the regional and local TTNU are not covered by the law. For instance, in Khanty-Mansi Autonomous Okrug (district), the traditional territories of hundreds of indigenous families have been awarded regional TTNU status without ever having been recognised by the federal government.

29. Furthermore, the proposed revision greatly limits the possibilities for creating TTNU by confining them to territories included in the State inventory of traditional habitats and areas of traditional economic activities of the small indigenous peoples of the Russian Federation, established in 2009 (8 May 2009, № 631-r).⁶ Entries for this inventory have been submitted by regional administrations without following common criteria. While some regions have nominated entire administrative districts of indigenous settlements, 12 of 26 regions named only individual settlements within the districts. This permits a reading of the contents of the inventory by which, in the case of the latter, only the individual settlements are considered indigenous territories, while the actual hunting and fishing grounds, reindeer pasture lands and forests which are used by these communities are not included. On this basis, the available territories are thus insufficient for indigenous communities to pursue their traditional economic activities and thereby enjoy their right to adequate food, cultural identity and subsistence.

30. The continued inaction of the State party with regard to the Federal Act on TTNU has profound implications for indigenous communities striving to exercise their rights to food, development, subsistence and self-determination. In Primorsky Krai, the Udege community has been struggling to achieve due recognition and protection of their land rights since the dissolution of the Soviet Union. The TTNU “Bikin” was intended to become the first federal TTNU and is, as such, even mentioned as an example of the State party’s efforts to protect indigenous peoples’ rights in the Russian Federation’s 19th periodic report to CERD (CERD/C/RUS/19 , para 52). As the regional government has withheld its approval, however, the TTNU has never been established, while the Udege's livelihood continues to be threatened by logging companies. Moreover, illegal logging is rife as no sufficient controls are in place. In Kamchatka territory, the Itelmen community of Kovran initiated the establishment of a regional TTNU - “Tkhsanom” - in December 1998 but this was dissolved by order of the regional governor in March 2001. The community therefore has no protection against the extensive commercial fishing activities taking place in the vicinity of their village, and which seriously affect the food and income opportunities in this very remote and inaccessible part of Russia. Their traditional fishing grounds have, in the end, been licensed to commercial fishing companies, something which would not have been possible had TTNU status been in place.⁷

The State party should promptly take all necessary steps, to the maximum of its available resources, to ensure that Territories of Traditional Nature Use (TTNU) with federal status can be established for the indigenous peoples of the North in due time, in all regions traditionally inhabited or used by indigenous peoples, with an adequate level

⁶ Listed as an annex to the State party's 20-22 periodic report, cf CERD/C/RUS/20-22, para. 5

⁷ cf. *Khronologiya sudebnogo dela - Osnovaniya dlya obrashheniya v Evropeyskiy sud - Otvet Evropejskogo suda* <http://rodnikcenter.ru/ru/Evrosud.shtml>

of protection and a viable territorial and resource base, and with the full and effective participation of the indigenous communities affected. Existing contradictions between various federal and regional laws, regulations and policies should be resolved to the benefit of indigenous peoples' interests. Eligibility for TTNU status should not depend on inclusion in the State inventory of traditional habitats and areas of traditional economic activities of the small indigenous peoples of the Russian Federation, established in 2009. The continued existence of regional and local level TTNU also needs to be ensured.

4.2 Access to natural resources

31. In para 266 of the 20th to 22nd periodic report, the State party declares that “Small indigenous peoples are guaranteed priority access to natural resources, which are regarded as the foundation of their life and activities.” While this principle has been one of the bedrocks of the indigenous rights protection framework in Russian legislation, it has successively been deleted from a number of significant legal acts or diminished in scope and, despite CERD's recommendation to do so, has not been reinstated in any of them.

32. This concerns i.a. the law “On the animal kingdom”⁸. In 2010, Art. 48, which regulates “traditional methods of use and protection of object of the animal kingdom”, was revised to exclude fishing. A priority right of indigenous peoples to fish is thus no longer enshrined in the federal legal act governing access to biological resources, even though in most indigenous settlement areas, fishing constitutes the predominant form of traditional subsistence activity.

33. Guaranteed and free access to viable and accessible fishing and hunting grounds, as well as to other biological resources, is a fundamental requirement for indigenous peoples' full enjoyment of their right to adequate food, subsistence and cultural identity. As pinpointed by CERD, these human rights must take precedence over other considerations such as business interests. During the reporting period, however, the State party has failed to take legal measures to embed indigenous communities' priority right of access into the federal Forest, Land and Water codes and other relevant legal acts governing management of and access to biological resources, even though these steps were set as targets in the action plan for the implementation of the federal Outline for the sustainable development of the indigenous peoples of the North (2009-2011).⁹

34. One of the most important instruments ensuring indigenous peoples' priority right to fishing used to be Art. 39 of the Federal Act “On Fishing and the preservation of aquatic biological resources”.¹⁰ It stipulated that indigenous peoples and their communities were entitled to use rights for fishing grounds without having to go through a commercial tender. By January 2008, however, Art. 39, para 2 had been voided. During the reporting period, despite CERD's recommendation, the provision has not been reinstated.

35. Following this legislative change, a comprehensive revision of the designation of fishing grounds was undertaken. At the request of the regions, many fishing grounds previously designated for fishing for the purpose of pursuing the indigenous peoples' traditional ways of life and economic activities were re-classified as industrial fishing grounds (*rybopromyslovye uchastky, RPU*) and leased to third parties through commercial tenders. A large number of indigenous *obshchinas* have thus reportedly lost their fishing grounds. While CERD asked Russia to reinsert the concept of “preferential, non-competitive access to natural resources” (CERD/C/RUS/CO/19 para 24) into legislation in 2008, measures taken during the reporting period have had the opposite effect, leading

⁸ Federal Act № 52-FZ, dated 24 April 1995 “*O zhitovnom mire*” <http://base.garant.ru/10107800/>

⁹ See: *Plan meropriyatii*, loc. cit..

¹⁰ Federal Act № 166-FZ, dated 20 December 2004 “*O rybolovstve i sokhranении vodnykh biologicheskikh resursov*”, <http://base.garant.ru/12138110/>

to an erosion of the economic base and decline of indigenous *obshshinas*.

36. Para 279 of the 20th to 22nd periodic report notes that Russia is developing legislation that would permit indigenous individuals to pursue traditional fishing for personal consumption free of charge and without volume restrictions. Due to the aforementioned developments, the rights established in this provision will most likely remain theoretical, given that most viable fishing grounds close to indigenous settlements have been put out to tender and leased to private businesses under long-term lease contracts. The lease holders have the legal right to deny third parties the right to fish in their lease area and are, as experience shows, prepared to do so.

37. Furthermore, the legislation proposed by the Russian government stipulates that indigenous peoples have only the right to fish for their personal needs. It excludes indigenous cooperatives (*obshchinas*) from the realms of traditional fishery. *Obshchinas* are, however, typically the only providers of employment and income in indigenous territories. As noted above, since 2008, many *obshchinas* have lost their fishing grounds to commercial competitors. If adopted, the proposed legislation will aggravate this tendency, as the only remaining way for *obshchinas* to obtain fishing rights will be through commercial auctions, and these require financial and logistical resources that are typically beyond their capacity. As experience shows, bids submitted by *obshchinas* are very rarely successful.

38. In excluding indigenous *obshchinas* from the sphere of traditional fishing, the draft law directly contradicts the federal law on indigenous *obshchinas*¹¹, Art. 1 of which stipulates that *obshchinas* are created for the purpose of “protecting the traditional settlement areas, traditional ways of life, rights and legal interests of the indigenous small-numbered peoples” as well as the law on non-commercial organisations¹², which explicitly permits entrepreneurial activities by *obshchinas*, as long as they remain in line with the purpose and statutes of the given *obshchina*.

In order to respect and protect the indigenous peoples’ right to adequate food, work and subsistence, the State party should create the legal prerequisites to ensure that indigenous communities that depend on fishing as a source of food and income have permanent and guaranteed priority access to accessible and viable fishing grounds and that indigenous *obshchinas* enjoy guaranteed access to fishing grounds designated for traditional fishing, allowing them to carry out their functions. Conflicting provisions in fishing-related laws should be resolved in favour of indigenous peoples’ subsistence rights.

39. Not only *obshchinas* but also indigenous families and individuals that seek to enjoy their right to adequate food face disproportionate bureaucratic obstacles to obtaining the necessary permits. For indigenous peoples living in remote settlements or leading a nomadic or transhumant way of life, in particular, obtaining these permits is often impossible, and this exposes them to the risk of severe fines. These groups typically have very limited cash income, if any.

40. A decree by the federal government stipulates that the indigenous population has to submit their applications for fishing permits for the next year by 1 September. Applications have to be sent to the authorities in the regional capitals, which for instance in the case of Kamchatka is very difficult as the regional capital has only an irregular connection with the northern part of the peninsula where the majority of indigenous Koryak and Itelmen live. On 22 August 2010, the village administration of Tymlat in Northern Kamchatka submitted applications for 717 indigenous inhabitants. They were not received by the regional administration in Petropavlovsk-Kamchatski

¹¹ Federal Act № 104-FZ, dated 20 June 2000 “*Ob obshhikh principakh organizatsii obshhin korennykh malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossijskoi Federacii*”, <http://base.garant.ru/182356/>

¹² Federal Act № 7-FZ, dated 12 January 1996 “*O nekommercheskikh organizatsiiakh*”, <http://base.garant.ru/10105879/>

until 2 September 2010. Consequently, the entire population was denied fishing rights for the whole of 2011. Such denial of the human right to feed themselves has been reported from many settlements in Northern Kamchatka, in clear violation of Russia's obligations under Art. 11 of the ICESCR.¹³ In 2012, figures show that the regional administration has continued to withhold fishing rights from the indigenous population. For instance, for 2,762 indigenous people living in Olyutorski district, in which Tymlat is located, only 42 permits were issued. Indigenous people in Ust-Kamchatski district, which did receive fishing permits, were denied the mandatory accounting sheets as they were unable to produce documentary proof of their indigenous identity, something very difficult to provide since the “nationality” entry was removed from Russian passports.¹⁴

The State party should take immediate steps to ensure that fish-dependent indigenous communities have full and sustainable access to viable fishing grounds and that they are able to fully enjoy their right to feed themselves in accordance with Art. 11 of the CESCR without risking fines or prosecution. The human right of indigenous communities to feed themselves in accordance with their customs and traditions cannot, under any circumstances, be prejudiced by overly bureaucratic and inaccessible administrative procedures.

4.3 Free, prior and informed consent

41. The Right to free, prior and informed consent (FPIC) is both a substantive and a procedural right set out in the UN Declaration on the Rights of Indigenous Peoples. During the reporting period, the State party has taken no steps to ensure that third-party activities, such as the extractive industries' operations, which are affecting indigenous peoples, their territories and their livelihoods, are subject to cooperation and good-faith consultation in order to obtain the affected peoples' FPIC.

42. As noted in para 471 of the State party's 20th to 22nd periodic report, the federal Land Code (Art. 31, para 3) provides for the possibility of referenda or assemblies (*skhody*) on the part of affected communities in cases of expropriation of territories for various purposes, including construction. However, this provision is not mandatory. It does not oblige the authorities to inform affected communities of impending expropriations nor to actually organise such referenda or gatherings. It therefore falls short of complying with the right to Free, Prior and Informed Consent, as stipulated by the UN Declaration on the Rights of Indigenous Peoples. Furthermore, it does not make specific provisions to allow for indigenous peoples to reach a consensus and make decisions according to their customary systems of decision-making.

43. While public hearings are a mandatory element of environmental impact assessment procedures, these hearings are often poorly publicised, held in places inaccessible to the indigenous communities affected and held in such a way that the information provided is incomplete and objections are not duly registered.

The State party should take immediate measures to implement the right to Free, Prior and Informed Consent, both as a substantive and as a procedural right. It should ensure that consultations held in connection with extractive industry and other third-party operations are substantive, fair, transparent and accessible, in line with CERD's recommendation 24 of 2008 and the principles set forth in the UN Declaration on the Rights of Indigenous Peoples. Indigenous communities should be provided with the necessary support to ensure that they are able to participate fully and effectively. The State party should create a regulatory framework that provides legally binding mechanisms regulating relations between businesses and indigenous

¹³ Informatsionnaya rassylka «Lach» # 5 (409), 02 February 2011

¹⁴ Published on fishkamchatka.ru, 7 August 2012

peoples, based on the concept of Free, Prior and Informed Consent as enshrined in the UNDRIP.

4.4 Lack of adequate compensation for damage to livelihood

44. No sufficient action has been taken during the reporting period to ensure that damage to indigenous peoples' territories and livelihoods caused by third-party activities was adequately compensated for. As noted in paras 285-289, in December 2009, the Federal Ministry of Regional Development did approve a "method for calculating the extent of damage caused by economic and other activities based on all forms of ownership or by private individuals to the traditional habitat and areas of traditional economic activities in areas inhabited by communities of indigenous peoples."¹⁵ However, its application by companies is entirely voluntary.¹⁶ It has had a very limited impact as those corporations that have used it were typically already bound to carry out social impact assessments by the rules of international financial institutions or their home governments.

45. Norilsk Nickel is one of Russia's largest industrial conglomerates and, at the same time, one of the country's largest polluters. During its 80 years of existence, the company's operations have had a devastating effect on the traditional territories of the Nenets, Enets and Dolgan indigenous peoples, many of whom engage in nomadic reindeer herding. Vast stretches of reindeer pasture as well as many sacred sites have been irretrievably destroyed. In contrast, Norilsk Nickel's contribution to the indigenous population's socio-economic development has been virtually non-existent. While federal legislation stipulates that indigenous peoples' associations are entitled to compensation for damage inflicted on their traditional territories,¹⁷ there has been not one single instance of compensatory payments made by Norilsk Nickel to any indigenous peoples' association.¹⁸

The State party should make the application of the approved "method for calculating the extent of damage caused by economic and other activities based on all forms of ownership or by private individuals to the traditional habitat and areas of traditional economic activities in areas inhabited by communities of indigenous peoples" a binding requirement for the approval of any projects that are potentially damaging to the livelihood of indigenous communities and ensure that compensation is adequate and in keeping with the principles set out in the UN Declaration on the Rights of Indigenous Peoples. For the sake of sustainability, the State party should enable the negotiation of proper benefit-sharing agreements between corporations and indigenous communities.

4.5 Political representation of indigenous peoples

46. No progress has been made during the reporting period with regard to implementing the

¹⁵ Cf. *Ob utverzhdenii metodiki ischisleniya razmera ubytkov, prichinennykh ob"edineniyam korennykh malochislennykh narodov Severa, Sibiri i Dal'nego Vostoka Rossijskoj Federacii* <http://archive.minregion.ru/WorkItems/DocItem.aspx?DocID=1098&PageID=147>

¹⁶ Cf. IWGIA (ed.): *The Indigenous World 2011*, p. 44, http://www.iwgia.org/publications/search-pubs?publication_id=454

¹⁷ Federal Act 82-FZ, dated 30 April 1999 "*O garantijah prav korennykh malochislennykh narodov Rossijskoj Federacii*", , <http://constitution.garant.ru/act/right/180406/>, Para 5.

¹⁸ Letter from the Taimyr association of indigenous peoples to Norilsk Nickel, dated 31 August 2012; see also "*Noril'skiy nikel!" sobiraetsja zalozhit' novyj rudnik, Associacija korennykh narodov Tajmyra protestuet*, 4 September 2012, <http://www.raipon.info/component/content/article/1-novosti/3352-q-q-----html>, IWGIA/RAIPON (eds): *Briefing note: Mineral extraction in the Taimyr Peninsula*. September 2012. http://issuu.com/iwgia/docs/taimyr_briefing_note_sept_2012

recommendation to ensure representation of indigenous peoples in legislative bodies, the executive branch or public service (CERD/C/RUS/CO/19 para 20). The State party has developed neither policies nor programmes aimed at implementing said recommendation. Neither has it reversed the 2004 cancellation of Art. 13 of the Federal Act “On Guarantees of the Rights of Indigenous Small-numbered Peoples of the Russian Federation”,¹⁹ which enabled the representation of indigenous small-numbered peoples in regional legislative organs and representative bodies of local self-administration.

47. The Committee of the Federation Council on Northern Affairs and Affairs of Indigenous Small-numbered Peoples, the only federal legislative body specializing in indigenous affairs, was dissolved in November 2011. In several regions, specialized government bodies were also dissolved and their responsibilities transferred to other bodies who reportedly fail to adequately carry out these tasks.

48. With the handover to a new governor in Khanty-Mansi Autonomous Okrug (district), the Department of Indigenous Affairs was dissolved and its responsibilities transferred to the Office of the Vice-Governor. Indigenous peoples' appeals to the regional government to reverse this decision have not been heeded.²⁰ In Taimyr district, the position of the Vice Chief of Administration on Indigenous Affairs was dissolved but later reinstated due to public pressure.²¹ Similar developments are reported i.a. from Amurskaya and Irkutsk oblasts (areas).

49. On the positive side, three regions (Khabarovsk, Kamchatka and Krasnoyarsk) have appointed Ombudsmen on the rights of indigenous small-numbered peoples. Furthermore, two indigenous individuals were elected to the State Duma in the 2011 elections although this is evidently unrelated to any policy measures taken by the State party.

The State party should adopt measures to ensure that indigenous peoples are duly represented at all levels of government and administration, as recommended by CERD in its 2008 concluding observations. Art. 13 of the Federal Act “On Guarantees of the Rights of Indigenous Small-numbered Peoples of the Russian Federation”, cancelled in 2004, should be reinstated.

4.6 Lack of disaggregated data on the socio-economic conditions of indigenous peoples

50. In 2008, CERD asked the Russian Federation to provide data disaggregated by ethnicity with regard to i.a. the rights to work, housing, health, social security and education (CERD/C/RUS/CO/19, para 10). The action plan for implementing the Outline for the sustainable development of the indigenous small-numbered peoples of the North for 2009-2011 stipulates that a system of indicators measuring life quality of indigenous small-numbered peoples should be developed and incorporated into the state statistics system; however, while the Ministry of Regional Development commissioned a study for the development of such indicators, no further action was taken, leaving this item of the action plan uncompleted. In its report published in late 2011, the Federal Accounts Chamber (*schetnaya palata*) identifies this failure as one of the root causes of the limited effect that the socio-economic measures taken by the Ministry of Regional Development to support indigenous peoples are having.²²

¹⁹ Federal Act "O garantiakh prav korennykh malochislennykh narodov Rossijskoi Federacii", loc. cit

²⁰ Cf. *Vlasti HMAO ne podderzhivajut narody Severa imet' nacional'nogo ombudsmena*
<http://www.raipon.info/component/content/article/1-novosti/3336-2012-08-28-05-56-30.html>

²¹ Sidor Chuprin: *U nas na Tajmyre slishkom mnogo problem i reshat' ih neobходимо s nashim aktivnym uchastiem*, 28 August 2012
<http://www.raipon.info/component/content/article/1-novosti/3337-2012-08-28-11-11-59.html>

²² Federal Accounts Chamber of the Russian Federation: *Otchet o rezultatakh kontrolnogo meropriyatiya*

51. In a written reply dated 29 December 2011 to an inquiry from RAIPON, the Ministry for Regional Development declared that, because Art. 29 of the Russian Constitution stipulates that ethnic affiliation is determined through self-identification, no ethnic statistics are kept. Therefore, no official data is available on the status of health, employment, income or education of indigenous peoples. This also means that the efficacy and adequacy of any state policy measures aimed at improving the socio-economic situation of indigenous peoples cannot be objectively assessed and nor can adjustments to those measures be made.

The State party should comply with CERD's recommendation in CERD/C/RUS/CO/19, para 10 to compile and provide detailed data regarding the socio-economic status of the country's population, disaggregated by ethnicity, in order to ensure that the efficacy of its measures can be objectively verified and, if necessary, these can be adjusted.

52. The available data nonetheless suggests that, during the reporting period, the indigenous peoples of the Russian North have remained one of the most disadvantaged population groups within the state and that their level of well-being remains significantly below the national average. The only demographic data provided by the State party regarding the indigenous peoples of the North are the results of the 2010 national census. In para 11, the State party cites 5.6 percent growth in the total population of indigenous small-numbered peoples of the North, thus invoking the impression of an overall stable demographic development. However, according to expert opinions, due to methodological inconsistencies between successive censuses and procedural shortcomings, the results cannot be taken at face value. A closer look reveals that, for a very large number of those surveyed (5.6 million citizens), no 'nationality' (i.e. ethnic affiliation) is given, in the majority of cases not because they declined to respond but because they were not interviewed in person. The figures for many indigenous peoples show drastic fluctuations which cannot be explained by natural growth or decline alone but by changed self-identification or categorisation. Some formerly distinct peoples have been re-classified as ethnographic sub-groups of other peoples or vice versa. The total number as provided by the State party therefore allows no conclusions with regard to the state of the indigenous peoples. Even less can it serve as an indicator with regard to the efficacy of any measures or programmes undertaken during the reporting period.

53. When the data is disaggregated by region and by people, the emerging picture is far less positive: compared with the 2002 census, the populations of 24 peoples have declined and only those ten listed in para 11 of the State party's report have seen positive growth. In 19 out of the 26 regions of indigenous peoples' traditional settlement, the indigenous population is showing a numerical decline. The loss is particularly significant in the republics of Tyva (Tuva), Komi and Karelia and in Tomsk and Leningrad oblasts; in the latter cases, the likely main factors are changed self-identification and assimilation. As a preliminary conclusion, it has to be said that the demographic situation of many indigenous peoples cannot be considered stable. Diligent research is required to assess the demographic trends in individual peoples, to identify risks associated with these as well as their causes.²³

54. According to the Federal Accounts Chamber, unemployment among indigenous peoples is 1.5-2 times the Russian average, with 24.5% unemployment among indigenous peoples of Yamal-Nenets okrug and 47.8% among the indigenous population of Amur oblast.²⁴ The incomes of

"Proverka ispolzovaniia budzhetnykh sredstv, napravlenykh na podderzhku ekonomicheskogo i sotsialnogo razvitiya korennykh malochislennykh narodov Severa, Sibiri i Dalnego Vostoka Rossiiskoi Federatsii za 2009-2010 gody", pp 82-83 http://www.ach.gov.ru/userfiles/bulletins/2012-07-05-buletен_doc_files-fl-2246.pdf

²³ Dmitri Bogoyavlenski: *Poslednie dannie o chislennosti narodov Severa*. 27.12.2011, <http://www.raipon.info/component/content/article/1-novosti/2637-2011-12-27-11-54-03.html>

²⁴ Federal Accounts Chamber, loc. cit. p 80

indigenous peoples are 2-3 times lower than the Russian national average. According to reports, in Khabarovsk krai, just 16% of the indigenous population of working age are in regular employment.²⁵ In May 2011, 93 indigenous individuals from Taimyr published an open letter noting that the regional administration was pursuing a discriminatory policy that was preventing indigenous peoples from obtaining employment. Of approximately 6,000 indigenous people of working age, 1,500 were in regular employment, some 2,000 were maintaining traditional nomadic or semi-nomadic ways of life, and the remaining 2,500 were virtually excluded from the labour market.²⁶ In Evenk district of Krasnoyarsk krai (territory), 43% of pensioners are living below the poverty line. Between 2009 and 2011, the number of inhabitants of this district with incomes below the poverty line almost quadrupled from 1,283 to 4,668.²⁷

55. Indigenous peoples' demographic trends are marked by extremely high adult mortality rates. While almost three-quarters of men and over 80% of women among the Inuit natives of Greenland live beyond 60 years, just over one-third of indigenous men (37.8%) and less than two-thirds of indigenous women (62.2%) in Russia reach this age. The national average is 54% for men and 83% for women. 36% of northern indigenous people die prematurely from unnatural causes, which is more than double the national average of 15%. Between 1998 and 2002, the incidence of suicide among northern indigenous peoples came to over 100 per 100,000, more than double the national average of 38 per 100,000. In Koryak district, this figure has been established as 133.6 per 100,000. This state of affairs has been labelled a demographic crisis by Russian demographers.²⁸

56. Infectious diseases such as tuberculosis, a typical indicator of extreme poverty, cause 60 deaths per 100,000, which is almost three times the national average of 23 per 100,000.²⁹ Furthermore, maternal deaths and child mortality are significantly above the national average. The Indigenous Rights Ombudsman of Krasnoyarsk Krai links this state of affairs to the low quality of public health services in indigenous settlements as well as to a lack of clean drinking water and adequate food, along with insufficient housing, such that those suffering from open forms of tuberculosis cannot be separated from other family members, including children.³⁰

57. The poor state of healthcare in remote villages is exemplified by the death of a girl from Chumikan village who died of tuberculosis in a hospital in Khabarovsk in April 2012. Her parents had taken her to the polyclinic in her native village as early as November 2011, where she was diagnosed with TB. However, no adequate treatment was available locally and she was not transferred to the regional capital Khabarovsk until February, by which time doctors were unable to save her life.³¹ As reported by the Khabarovsk association of indigenous peoples, mortality in the Tuguro-Chumikanski district exceeds the birth rate several times over. Doctors are working only in the district centre of Chumikan and will not risk the journey to other settlements.³²

58. Alcoholism constitutes a major contributor to the indigenous peoples' acute demographic

²⁵ "Otnosheniia bez obyazatelstv" in: Kommersant (Khabarovsk): , №151 (4933), 16.08.2012, <http://www.kommersant.ru/doc-y/2002130>

²⁶ Finougor.ru: *Korennye zhiteli Taimyra prosyat senatora ot Krasnoyarskogo kraia zashchitit ikh ot diskriminatsii*, 02.03.2011, 00:01 <http://finougor.ru/node/16387>

²⁷ <http://krsk.sibnovosti.ru/society/208528-schetnaya-palata-nashla-vopiyuschie-narusheniya-v-rashodovanii-byudzhetyh-sredstv-v-evenkii>

²⁸ United Nations in the Russian Federation : *Climate Change Impact on Public Health in the Russian Arctic*. Moscow, 2008, <http://www.unrussia.ru/sites/default/files/doc/Arctic-eng.pdf>, pp. 12-14

²⁹ United Nations in the Russian Federation , loc. cit. .

³⁰ Upolnomochenny po pravam korennykh, malochislennykh narodov v krasnoyarskom krae: *Doklad o sublyudanii konstitutsionnykh prav I svobod korennykh malochislennykh narodov na territorii Krasnoyarskogo kraia v 2011 godu*, p. 41 <http://ombudsmankk.ru/file.php?id=434>

³¹ <http://amurmedia.ru/news/khabkrai/22.05.2012/207067/habarovskaya-shkolnitsa-skonchalas-ot-otkrytoi-formi-tuberkuleza.html>

³² <http://www.raipon.info/component/content/article/1-novosti/3089-2012-05-25-14-09-05.html>

crisis. The Federal Assembly's Committee on Northern and Indigenous Affairs has established that, over the course of the last ten years, alcoholism has increased 20-fold, mostly due to increased alcohol consumption among women and children. This increase is i.a. attributed to an uncontrolled flow of alcohol into the regions inhabited by indigenous peoples.³³

In order to protect and implement the right of indigenous peoples to the highest attainable standard of health, the State party should take measures to eliminate discrimination against indigenous peoples in the labour market, ensure that the wages and pensions of indigenous peoples are above the subsistence minimum, support indigenous peoples' initiatives to combat alcohol and tobacco abuse and, if necessary, initiate them, in close cooperation with indigenous peoples' organisations. The State party should ensure that all indigenous peoples, including inhabitants of remote settlements and groups leading a nomadic or semi-nomadic way of life, have access to free healthcare of sufficient quality, including annual health check-ups.

5 Indigenous children

59. Indigenous children are an especially vulnerable subgroup of the indigenous peoples of the North, and towards whom Russia as a State Party to the CRC bears particular responsibility with regard to respecting, protecting and realising their human rights. As the Committee on the Rights of the Child notes in its General Comment regarding indigenous children, states should take special measures to ensure that "indigenous children enjoy their right to education on an equal footing with non-indigenous children" and "that school facilities are easily accessible where indigenous children live" (CRC/C/GC/11, para 61). However, during the reporting period, the State party has continued a policy of school closures in indigenous settlements, forcing parents to send their children to distant boarding schools, threatening family bonds, intergenerational transfers of culture, knowledge, language and skills. Such schools are, for the most part, poorly attuned to indigenous children's cultural needs. According to Russia's 4th to 5th periodic report to CRC, 567 schools in indigenous territories were closed between 2003 and 2009 (CRC/C/RUS/4-5, para 296), a trend which, according to the information available, is still continuing.

The State party should take immediate and effective measures to safeguard the Best Interest of the Child, as defined by the CRC's General Comment on indigenous children. In particular, it should take special measures to ensure that indigenous children can fully enjoy their right to education. Closures of village schools in indigenous settlements should be halted and reversed, and special measures taken to ensure that indigenous children in remote areas, including nomadic and semi-nomadic communities, can enjoy - at a minimum - primary education without being separated from their families and communities. The State party should also support community-supported small ungraded schools in order to ensure their continued operation.

6 Violations of principles and rights enshrined in the UNDRIP

6.1 Indigenous peoples' right to participate in decision-making

60. RAIPON, the Russian Association of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation is a national umbrella organisation representing more than 40

³³ Cf. "Ratifikatsiya konventsii 169 – nazrevshaya neobkhodimost" <http://severcom.ru/analytics/item11-3.html>

indigenous peoples. It is internationally and nationally widely recognised as the most representative voice of the indigenous peoples of Russia's North. RAIPON's ability to work and uphold indigenous peoples' rights is vital to the ability of Russia's indigenous peoples to participate in decision-making, as established in Art. 18 of the UN Declaration on the Rights of Indigenous Peoples.

61. As an association with registered member organisations in 25 regions and with a total of 49 regional representations, RAIPON is recognised as an all-Russian organisation. This status is particularly significant, not only as recognition of its unique function as a trusted and legitimate representative of more than 40 peoples but also because it provides institutional access, in particular the right to participate in the preparation and consideration by state bodies of decisions concerning the protection of the traditional habitat, traditional way of life and traditional activities of indigenous small-numbered, peoples.

62. In early 2010, the Russian Federal Ministry of Justice undertook an extraordinary audit of RAIPON's activity. Its conclusion makes two observations: first, it states that RAIPON's logo needs to be registered in the federal inventory. As of 2010, this logo had been in use for 20 years, during which time no objections had been raised by the federal authorities. Second, the audit concluded that, in relation to RAIPON's status as an all-Russian organisation, a list of its regional representations had to be included in its by-laws. Such a list had previously been maintained as an annex to the registration documents, which had likewise never caused any objections.

63. In order to comply with these observations, RAIPON convened an extraordinary congress of indigenous peoples in April 2011 with the single objective of bringing the by-laws into compliance with the requirements outlined in the audit conclusion. The delegates decided to register RAIPON's logo with the State inventory and to include a list of regional representations into its by-laws. Subsequently, while the Ministry of Justice accepted the decision to register the logo, it refused to register the decision regarding the list of regional representations, thus preventing RAIPON from complying with its own demands. RAIPON appealed the Ministry's move in court. Proceedings were still ongoing when the Ministry ordered the suspension of RAIPON's activities until 20 April 2013, taking effect on 1 November 2012, justified by the shortcomings found in RAIPON's by-laws.

64. The timing of this decision gives rise to particular concern because the suspension period includes the dates of the 7th Congress of Indigenous Peoples of Russia, to be held in Salekhard from 28-30 March 2013.³⁴ This Congress is held every four years and is the highest decision-making body of RAIPON and, i.a. elects the association's president. Its possible cancellation would severely disrupt the indigenous peoples' ability to participate in political life at all levels. Considering the purely administrative character of the alleged flaws in RAIPON's by-laws and the association's repeated good-faith attempts to rectify the situation, a de facto closure of an organisation that constitutes the organisational embodiment of a movement comprising more than 40 indigenous peoples is a disproportionate measure and inconsistent with the right to participate in decision-making, as set out in Art. 18 of the UNDRIP.

6.2 Access to international financial & technical assistance (UNDRIP, Art. 39)

65. In July 2012, the State Duma adopted legislation designating non-profit organisations that accept foreign funding and engage in activities falling under a very broad definition of "political" as "foreign agents". Protecting and promoting indigenous peoples' rights will very likely fall under this definition, and indigenous peoples' organisations will therefore be forced to either register as "foreign agents" and comply with a multitude of additional reporting obligations or decline further funding from international sources. Failure to comply is punishable with fines of up to one million

³⁴ Details at <http://www.raipon.info/home/vii-sezd-kmnss-i-dv-rf.html>

roubles and prison terms of up to three years. Furthermore, the designation as “foreign agents” is likely to stigmatize indigenous peoples' organisations and thus jeopardize partnerships with regional authorities and other partners. This legislation entered into force on 1 November 2012, in clear violation of a principle enshrined in Art. 39 of the UN Declaration on the Rights of Indigenous Peoples, by which indigenous peoples have the right “to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.”

The State party should revoke legislation designating non-profit organisations, including indigenous peoples' organisations that accept foreign funding, as “foreign agents” in order to ensure that indigenous peoples can freely enjoy their right to access financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in UN Declaration on the Rights of Indigenous Peoples. If the stated law is not revoked, a clear exception should be made for indigenous peoples' organisations in order to comply with this provision of the UNDRIP.

6.3 Indigenous peoples' right to development

66. A meaningful exercise of the right to development as outlined in Art. 23 of the UNDRIP includes the creation and maintenance of viable businesses by indigenous communities. In his report on his country visit to the Russian Federation, the UN Special Rapporteur on the Rights of Indigenous Peoples on his country visit to the Russian Federation notes that indigenous peoples' entrepreneurship may encompass both traditional and non-traditional sectors and concludes that “the federal and regional Governments should also consider providing encouragement and support for indigenous entrepreneurship in economic activities not necessarily limited to smaller-scale traditional activities, as a way of strengthening communities and enabling self-governance, job creation and self-sufficiency”.³⁵ Despite this recommendation, the State party's measures during the reporting period have not been conducive to indigenous business activities but rather based on the implicit or outspoken assumption that indigenous peoples' economic activity needs to be restricted to satisfying immediate personal needs, while the legitimacy of building viable businesses in traditional or non-traditional sectors is called into question.

67. One of the most successful indigenous-led economic initiatives in Russia is the patrimonial *obshchina* ‘Dylacha’ (Evenk for “sunshine”), based in Bauntovski Evenkiisky District in the North-East of the Republic of Buryatia. It employs approximately 200 people and provides substantial assistance to the Evenk minority in rural districts of Buryatia. ‘Dylacha’ pursues various traditional and non-traditional lines of activity, including reindeer herding, hunting, fishing and the mining and processing of nephrite, a type of jade used for carvings, beds or gemstones. The latter is conducted under a licence (UDE № 00153), valid from 1997 to 2017. Throughout 2011, the *obshchina* was subjected to a large number of meticulous audits and checks. In August 2012, the state prosecutor of the Republic of Buryatia undertook a comprehensive audit together with the Eastern Baikal environmental prosecutor's office, the Buryat administration of the Federal Service for Supervision of Natural Resource Usage (Rosprirodnadzor), the Buryat branch of the Federal Ministry of Internal Affairs and other supervisory bodies. Among other matters, compliance with the conditions of their licence UDE № 00153 was verified. The experts arrived at the unanimous conclusion that the cooperative was complying with all licensing conditions and was operating within its concession area.

68. Nevertheless on 4 October 2012, the premises of the cooperative in the regional capital of

³⁵ A/HRC/15/37/Add.5, Para 60-65, 91

Ulan-Ude and their production facility "medvezhii" in Bauntovski Evenkiiskii district were raided by armed and camouflaged members of an OMON unit of the State Administration of Internal Affairs of the City of Moscow aided by local police. Simultaneously, two helicopters carrying members of the Interior Ministry of Russia together with representatives of a competing mining company landed in the cooperative's production ground 'Medvezhi' in Bauntovski Evenkiiski District. Staff members were rounded up at gunpoint and locked up. The nephrite stocks were confiscated and transported to the storehouses of a commercial company, where they remain to this day.

69. On the following day, the director of the production facility, S. N. Yamburov, and chief geologist, D.A. Goncharov, were taken to an undisclosed location where they were held for two months without any charges brought against them. However, during his detention, Mr Yamburov, who suffers from ailing health was massively coerced to testify against the obshchina's leadership, which he refused to do.

70. The cooperative has been accused of "theft" by extracting nephrite from outside of their concession, to an estimated value of 600 million roubles (USD 20 million). In October, a criminal investigation was launched against "unidentified members of the management of the obshchina"; however, no suspect has been named and no indictment has been published. Meanwhile, several independent studies have concluded that the obshchina's operations were fully in compliance with the terms of the license. Due to the legal standstill, however, the obshchina's operations remain suspended indefinitely, threatening the demise of one of Russia's most successful indigenous businesses.

71. Given the lack of specific evidence and the nature of the accusations, the actions of the law enforcement authorities have been inappropriate. This includes the involvement of the Interior Ministry's OMON units, which would be permitted only in very specific cases involving e.g. the smuggling of nuclear material, along with the confiscation of documents and stocks without due record and copies taken, and the fact that the operations were aided by a company which is a business competitor to "Dylacha" and has its own vested interest in the case.

The State party should ensure that indigenous communities are fully enabled to build and maintain viable businesses both in traditional and non-traditional sectors in line with their right to development as reaffirmed by the UNDRIP, Art. 18. Particular attention should be paid to due process.