



International Indian Treaty Council Information Sheet: *United Nations Permanent Observer Status and Indigenous Peoples* July 27th, 2013



Most members of the United Nations (UN) are sovereign independent States (or countries). But there are other forms of participation in UN activities. Indigenous Peoples are familiar with Non-Governmental Organization (NGO) status as a mechanism for their participation in the UN since 1977. However, many Indigenous traditional and elected Governments as well as Indigenous Treaty Nations have questioned why they should participate in the UN as NGO's. The International Indian Treaty Council's founding document, the "Declaration of Continuing Independence" adopted in June 1974, affirmed an international relationship with equal standing between States and Indigenous Peoples, based on Nation to Nation Treaties: ***"Treaties between sovereign nations explicitly entail agreements which represent the 'supreme law of the land' binding each party to an inviolate international relationship"***.

Statehood and UN Membership

It is possible to be a sovereign State without being a member of the UN (i.e. Switzerland until 2002). It is also possible to be UN Member State without being a fully independent State (like India, before independence from the UK). The existence of States is governed by general international law. In order for a new State to come into existence, it must satisfy what is known as the "Montevideo Criteria": (a) a permanent population; (b) a defined territory; (c) a government; and (d) capacity to enter into relations with other states. Whether a state chooses to recognize another state is a political, discretionary act. The act of recognizing another state, or withholding recognition, does not by itself affect the legal existence of the other state – unless it is an overwhelming collective non-recognition. It is IITC's position that by entering into Treaties with Indigenous Nations, current UN Member States and their predecessors recognized them, *prima facie*, as fulfilling these basic criteria by virtue of the terms of Treaty-making under international law.

The **Alta Outcome Document** was adopted by consensus on June 12th, 2013 at the Global Indigenous Peoples Preparatory Conference for the High Level Plenary Meeting of the UN General Assembly to known as the World Conference on Indigenous Peoples. It called for a change in UN status for Indigenous governments:

*“Pursuant to the universal application of the right of self-determination for all Peoples, recommends that the UN recognize Indigenous Peoples and Nations based on our original free existence, inherent sovereignty and the right of self-determination in international law. **We call for, at a minimum, permanent observer status within the UN system enabling our direct participation through our own governments and parliaments.** Our own governments include inter alia our traditional councils and authorities”.*

What is Permanent Observer Status?

The status of a Permanent Observer is based purely on practice. There are no provisions for it in the United Nations Charter. The practice dates from 1946, when the UN Secretary-General accepted the designation of the Swiss Government as a Permanent Observer to the UN.

Other Observers were subsequently put forward by States that later became full UN members, including Austria, Finland, Italy, and Japan.

Permanent Observers are invited to participate at sessions of the United Nations General Assembly (UNGA) subject to the rules of procedures. They **cannot vote** on resolutions and other substantive matters. However, unlike NGO's, Observers can speak at the UNGA, participate in procedural votes, and co-sponsor and sign UNGA resolutions. They have free access to most UNGA meetings and to all relevant documentation.

Non-Member States of the United Nations which are members of one or more specialized UN agencies, can apply for the status of Permanent Observer. This includes States and governments which expect to become full UN State members in the future.

Currently, non-Member States with Permanent Observer Status are the Holy See and Palestine. Both maintain missions at UN Headquarters.

There is a difference between State and non-State Observers.

Regional and international organizations, as well as inter-governmental bodies, are also invited to participate as Observers in the UNGA. However, different categories of Observers may have different rights of participation.

Non-State Entities which have been accorded Permanent Observer Status include inter-governmental bodies such as the European and African Unions and entities such as the International Criminal Court. Some maintain permanent offices at UN Headquarters.

The UNGA approves new Observers through resolutions adopted by majority vote. Identifying States which are willing to sponsor and vote for such resolutions at the UNGA will be a challenging and perhaps lengthy political process undertaken by Indigenous Nations and governments.

For more information regarding Permanent Observer Status, as well as the full list of entities with this Status, please log on to: <http://www.un.org/en/members/aboutpermobservers.shtml>



Geneva, 1977

Although the first United Nations meeting on Indigenous Peoples in Geneva in 1977 was called a “Non-Governmental Organization Conference”, Indigenous leaders and representatives entered the United Nations with the intent to sit as Nations and equal partners with States, based on their Nation to Nation Treaties

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