

For Immediate Distribution, December 16, 2015

Contact: Roberto Borrero, communications@treatycouncil.org



The Paris Agreement: An “Incremental Advance” for International Recognition of the Rights of Indigenous Peoples

Paris, France – The 21st Conference of the Parties of the United Nations Framework Convention on Climate Change (UNFCCC-COP21) officially adopted the Paris Agreement on Saturday, December 12, 2015. The Agreement, with the legal force of a UN Treaty, was agreed to by all the 195 States (countries) present. Once ratified by at least 55 States, it will go into legal force in 2020. It commits all countries, for the first time ever, to cut their carbon emissions while also recognizing the special circumstances of developing countries. The States also adopted the “Paris Decision” which is not legally binding, but commits States to immediately begin the process of reducing greenhouse emissions that cause climate change.

Some commentators are denouncing the Paris Agreement as a failure while others are hailing it as an historic triumph. But for Indigenous Peoples, the Paris Agreement can be seen as another step forward for the recognition of their rights in international law.

The International Indigenous Peoples Forum of Climate Change (IIPFCC) and the Indigenous Peoples Caucus representing over 200 indigenous delegates attending this session from around the world, was invited to make a formal statement at the COP21 closing plenary. The IIPFCC closing statement, presented by elder Frank Ettawageshik (Little Traverse Bay Bands of Odawa Indians), highlighted the three key messages advocated by Indigenous Peoples during the two-week session. These included a call for the rights of Indigenous Peoples [to] be recognized, protected, and respected within a broad human rights framework in both the preamble and the operative sections of the Agreement; a temperature goal of no more than 1.5 degrees Celsius increase over pre-industrial levels; and recognition, respect for and use of Indigenous Peoples’ traditional knowledge, with their free, prior, and informed consent, in measures for adaption to climate change. The IIPFCC statement, while expressing that Indigenous Peoples were “keenly disappointed” at the shortfalls in meeting these calls, noted that all three Indigenous Peoples messages were “addressed to some degree” in the final Agreement.

In particular, the inclusion of “the rights of Indigenous Peoples” in the preamble paragraph of the Agreement, achieved despite the consistent opposition of some States throughout the process, is a significant and unprecedented step forward. This is only the second instance that the term “Indigenous Peoples” appears unqualified in a legally binding UN Treaty, and the first for an environmental treaty. The reference to the rights of Indigenous Peoples also was included in the preamble of the Paris Decision, although both say that States “should consider”, while Indigenous Peoples and human rights advocates called for the use of the stronger word “shall”.

As noted by hereditary Chief Damon Corrie, Lokono Arawak of Barbados, “strong support by a group of States including Philippines, Mexico, Costa Rica, Peru, Chile, Tuvalu, Indonesia, Canada and others, standing in solidarity with Indigenous Peoples throughout the negotiations, was required to achieve these inclusions in the final Agreement.

Despite disappointment that the phrase ‘rights of Indigenous Peoples’ and Human Rights in general did not also appear in the Agreement’s operative section, International Chief, attorney and member of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) Wilton Littlechild, Ermineskin Cree Nation, clarified that “the preamble of a Treaty provides the context and framework for interpreting and implementing the entire document.” The Vienna Convention on the Law of Treaties supports his assessment. On this basis, Chief Littlechild called the Paris Agreement an “incremental advancement for recognition of the rights of Indigenous Peoples in international law.”

The Paris Agreement also calls on State parties (countries) to hold “the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels.” The 1.5 temperature goal was a core position not only of Indigenous Peoples, but the Small Island Developing States.

Article 7 of the Agreement addressing Adaptation affirms the need for a participatory, transparent, gender-sensitive approach based on science and “as appropriate, traditional knowledge of indigenous peoples and local knowledge systems”. UN Special Rapporteur on the Rights of Indigenous Peoples Victoria Tauli Corpuz noted that Indigenous Peoples’ traditional knowledge, innovations and practices are recognized in

both the Agreement and the Decision, and stated that moving forward “the challenge is how to operationalize this decision.”

The inclusion of Indigenous Peoples’ core positions both in the Paris Agreement and Decision was the result of the monumental, coordinated and unified efforts by the Indigenous Peoples Caucus throughout COP21. Despite the shortfalls, the inclusion of “the rights of Indigenous Peoples” in both preambles provides a basis for future advocacy to ensure that all programs addressing Climate Change are carried out with respect for the rights of Indigenous Peoples as affirmed in the UN Declaration for the Rights of Indigenous Peoples, including land and resource rights, free prior and informed consent, traditional knowledge and Treaty rights.

END

For more information, earlier press releases, and additional resources see the website of the International Indian Treaty Council at <http://www.iitc.org/program-areas/environmental-health/climate-change-and-food-sovereignty/>.

International Indian Treaty Council

2940 16th Street, Suite 305 San Francisco, CA 94103-3664

P | (415) 641-4482 F | (415) 641-1298

<https://www.facebook.com/treatycouncil> | <https://twitter.com/treatycouncil>