HR/GENEVA/TSIP/SEM/2003/BP.21

EXPERT SEMINAR ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS PEOPLES

Geneva
15-17 December 2003

Organized by the Office of the United Nations High Commissioner for Human Rights

Indigenous Peoples and the United Nations Charter: De-colonization

Background paper prepared by
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The views expressed in this paper do not necessarily reflect those of the OHCHR.

∗ Tununrmiut Chiulirnirit Atanrt of Tununak and Woosh Een Yaan Too. At of Tenekee – both Traditional Indigenous Governments from Alaska are Members and supported by others.

In the Summary Record Report of the Sub-Commission on the Promotion and Protection of Minorities from August of 1999 it reported that "Mr. Barnes (Indigenous World Association) gave an account of the violations of the human rights of the independent tribes and indigenous peoples of Alaska which had been subjugated, dominated and exploited by an administering Power entrusted with bringing them to self-determination. They had not been a party to nor had they participated in the removal of Alaska from the list of non-self-governing territories in 1959. Where they had attempted to participate, they had been subjected to fines or imprisonment or both if they could not read, write or speak English; the United States military and the transferred population had been allowed to vote, and the independent tribes and indigenous peoples had not even been fully informed regarding their annexation by the United States of America.1"

Alaska and Hawaii were placed on the list of non-self-governing territories under Article 73 of the United Nations Charter in General Assembly Resolution 66 (I), 14 December 1946. Under Chapter XI, Article 73 of the United Nations Charter set forth these responsibilities and the "sacred trust obligation" of Administering Powers to "ensure with due respect for the culture of the peoples concerned, their political, economic, social and educational advancement, their just treatment and their protection against abuses…"

We were denied the process of taking into due account the political aspirations of the peoples in establishing "the progressive development of their free political institutions" as Article 73 proscribes. It further denied us "due respect for our culture, our political economic, social, and education advancement, their just treatment, and economic, social, and educational advancement, our just treatment and protection against abuses." The Indigenous Peoples of Alaska and Hawaii were did not consent to the annexation of Alaska and Hawaii. We were never given to opportunity.

The United Nations elaborated upon and adopted several resolutions providing for the factors and principles for implementing the peoples of the non-self-governing territories to exercise their right to self-determination. These important principles established by the United Nations determine whether or not self-government or independence was achieved through legitimate means. Some international writers view these principles as an extension of the Charter of the United Nations and therefore contribute to its purposes and principles for insuring the peace and security of mankind.

These United Nations resolutions, *inter alia,* should be examined and compared with other situations and international law to support our reconciliation process for achieving the just right to self-determination:

1. Regarding the development of self-government, the General Assembly adopted resolution 222 (III) on 3 November 1948 pertaining to the cession of transmission of information upon the satisfactory development of self-government of the territory. This resolution stated that, "[I]t is essential that the United Nations be informed of any change in the *constitutional position* and of any such territory as a result of which the responsible Government concerned thinks it unnecessary to transmit information in respect of that territory under Article 73 e of the Charter". It further required that "…the *constitution, legislative act or executive order* providing for the government of the territory and the *constitutional relationship* of the territory to the Government of the metropolitan country" be transmitted to the General Assembly. As the factors and principles became more defined in future resolutions, the obligation to administer the territories according to the resolutions was more closely examined by the Committee on Information.

1 E/CN.4/Sub.2/1999/SR.3, paragraph 15

If proper examination of the constitutional relationship between the Indigenous Peoples of Alaska and the United States were to occur, it would be apparent that only "whites" effectively annexed Alaska in violation of the purposes and principles of the Charter of the United Nations.

2. In General Assembly resolution 328 (IV) from the 2 December of 1949 called for the "Administering Members to take steps …to establish equal treatment in matters related to education between inhabitants of the Non-Self-Governing Territories under their administration, whether they be *indigenous* or not".

The Indigenous Peoples of Alaska were never educated on the right to be de-colonized under proper oversight by the United Nations.

3. The Indigenous Peoples of Non-Self-Governing Territories are recognized as "peoples" in the context of the United Nations Charter. In General Assembly resolution 329 (IV) from the 2 December 1949 entitled Language of instruction in Non-Self-Governing Territories, the United Nations recognizes "the importance of preserving and developing the languages of the **indigenous peoples** of the Non-Self-Governing Territories" and "To make these languages where and whenever possible the languages of instruction… without prejudice to the use of any other language". This resolution2 further stated "the obligation accepted under Article 73 d of the Charter, the Administering Members will collaborate with the United Nations Educational, Scientific and Cultural Organization in the conduct of such a study". It cannot be denied that in the context of the United Nations Charter that Indigenous Peoples were referred to as peoples and that as inhabitants, in General Assembly resolutions elaborated upon them in a way to fully include their development as "peoples".

If Indigenous Peoples were to be taught in their languages and to know and speak on the matter of de-colonization as a means of harnessing international law against the discrimination today, I believe we would opt for another relationship with the United States and the international community.

4. On 2 December 1949 the General Assembly resolution 334(IV) relating to the status of the Territories to which Chapter XI of the Charter stated that "[I]t is within the responsibility of the General Assembly to express its opinion on the principles which have guided or which may in future the Members concerned in enumerating the territories for which the obligation exists to transmit information under Article 73 e of the Charter". It further stipulated that "any special committee which the General Assembly may appoint on information transmitted under Article 73 e of the Charter to examine the factors which should be taken into account in deciding whether any territory is or is not a territory whose people have not yet attained a full measure of self-government".

Indigenous Peoples were never given the opportunity to know the factors and principles or the true relationship we had with the United States of America and Tsarist Russia. Examination of the implementation process prior to and after 1959 would allow for redress.

5. In General Assembly resolution 336 (IV) from the 2 December 1949, the Special Committee on Information included that there are "measures adopted by the Governments responsible for Non-Self-Governing Territories concerning the economic an social welfare of the inhabitants of such Territories". As such there was a decision by the "General Assembly to establish an expanded programme of technical assistance for economic development through the United

2 The General Assembly resolution uses the term "indigenous peoples" without any qualification

Nations and certain specialized agencies". It was intended that the Economic and Social Council was to "authorize the Secretary-General, in consultation with the specialized agencies concerned, to enter into negotiations with appropriate officers of inter-governmental regional organizations engaged in the development of technical assistance programmes, with a view to ensuring the desirable co-ordination for the carrying out of technical assistance activities".

No such activity occurred.

6. GA Resolution 422 (V) 12 April 1950 determined that the territorial application of the International Covenant on Human Rights shall extend to or be applicable equally to a signatory metropolitan State and to territories, be they Non-Self-Governing, Trust or *Colonial* Territories;

7. General Assembly Resolution 545 (VI) Inclusion in the International Covenant or Covenants on Human Rights of an article relating to the right of peoples to self-determination, 5 February 1952. (1) Decides to include in the International Covenant on Human Rights, an article to be drafted "in the following terms;" "All peoples shall have the right of self-determination", and shall stipulate that all states having responsibility for the administration of non-self-governing territories should promote the realization of that right, and that states having responsibility of non-self-governing territories should promote the realization of that right in relation to the peoples of such territories. This resolution is evidence that the principle of self-determination was already accepted by the United Nations prior to the completion and adoption of the International Covenants on Human Rights.

8. GA Resolution 644 (VII) 10 December 1952 entitled "Racial discrimination in Non-Self-Governing Territories" recognized that "there is a fundamental difference distinction between discriminatory law and practices… and protective measures designed to safeguard the rights of the indigenous inhabitants". The resolution called for "the abolition in those Territories of discriminatory law and practices contrary to the principles of the Charter and the Universal Declaration on Human Rights".

The United States imposed the Johnson v. McIntosh (8 Wheat. 543 (1823) case and the Tee-Hit-Ton v. United States (348 U.S. 272(1955) to determine that we were never recognized and the land therefore belonged to the white race. In the United Nations report E/CN.4/Sub.2/2001/21 entitled *Indigenous Peoples and their relationship to land*, the Special Rapporteur Mrs. Erica-Irene A. Daes, gave an account in paragraphs 41 to 44 of the extremely racial character of the case. The Special Rapporteur also reported that the Indigenous Peoples of Alaska did not consent to the any legislation imposed by the United States Congress.

9. GA Resolution 637 (VII) 16 December 1952 on the "The Right of Peoples and Nations to Self-determination" proscribed in Part A, operative paragraph 3, that "The States Members of the United Nations… shall take practical steps, pending the realization of the right of self-determination and in preparation thereof, to insure the direct participation of the *indigenous* populations in the legislative and executive organs of government of those territories, and to prepare them for complete self-government or independence. In Part B, operative paragraph 1, the Administering Powers were to include in information under Article 73e "*details regarding the extent to which the right of peoples and nations of self-determination is exercised by the peoples of those Territories, and in particular regarding their political progress and the measures taken to develop their capacity for self-administration, to satisfy their political aspirations and to promote the progressive development of their free political institutions"*.

In Alaska and Hawaii the Indigenous Peoples were absent in the development of the legislative organs of government. Nor did the Indigenous Peoples create their free political institutions.

Institutions were imposed upon us by the United States. The following is what international law has determined in this regard:

> "With regard to puppet governments, their first and most prominent feature is that they are in nor way related to the legal order of the occupied State; in other words, they are neither its governments, nor it organs of any sort, and they do not carry on its continuity. *** On the contrary, puppet governments are organs of the occupant and, as such, form part of his legal order. The agreements concluded by them with the occupant are not genuine international agreements, however correct in form; failing a genuine contracting party, such agreements are merely decrees of the occupant disguised as agreements which the occupant in fact concludes with himself. Their measures and laws are those of the occupant. This determines the question of international responsibility for the acts of the puppet government. It is not the occupied State which is in any way responsible for the acts of the puppet government, or organs of a puppet State created in its territory; it is solely the occupying power. (*Digest of International Law*, Volume 2, page 765-66 (1963)

10. GA Resolution 742 (VIII) 27 November 1953) must take into consideration "the freely expressed will of the people at the time of the taking of the decision" and "on the basis of absolute equality". The factors and principles this determined *inter alia* that:

a. The constitutional status and relationship with the peoples must be examined.
b. Question of particular circumstances must be examined.
c. Must be achieved on absolute equality
d. Question of hindrance by any means exists as a result of being under Chapter XI of the Charter
e. Consider the interference by a foreign minority group in the development of the self-government or independence.
f. Questions the vote and how it is administered if not democratic
g. Discrimination in social, political or economic advancement
h. The vote must be administered to insure fairness
i. Questions military occupation

The United State of America allowed its military and transferred population to vote in both referendums on the vote for Alaska and Hawaii. In both cases none of these or of the other factors and principles in Resolution 742 (VIII) were implemented.

11. General Assembly Resolution 743 (VIII) from 27 November 1953 declared that the process of education should be designed to familiarize the inhabitants with and train them in the use of the tools of economic, social and political progress, with a view to the attainment of a full measure of self-government. It called for, *inter alia*, to develop moral and civic consciousness and responsibility in the conduct of their own affairs and to raise the standard living health conditions. It also called for the promotion of social progress for all levels of culture, for the aspirations of the peoples and for their intellectual development.

None of the Indigenous Peoples participated in tools of economic, social and political progress for any measure of self-determination in relation to our status as international personalities under international law.

12. General Assembly resolution 744 (VIII) from the 27 November 1953 was adopted in order to promote the progress of the populations towards a status of equality with the States and accept the collaboration of work of specialized agencies the Administering States Members

were to attach to their delegations indigenous representative especially qualified to speak on the matters of economic social and education policies.

There is no evidence that any indigenous representative had anything to do with the United Nations and de-colonization.

13. GA Resolution 1541 (XV) 15 November 1960, Principal V declared that "additional elements may be, *inter alia*, of an administrative, political, juridical, economic or historical nature" and the "relationship between the territory concerned in a manner which arbitrarily places the latter in a position or status of subordination… the obligation to transmit information under Article 73 e of the Charter" continues.

If the administrative, historical and juridical situation were properly examined today, you would discover that we were never legally a territory belonging to the United States of America. Our recognition is carefully explained in Section II of the *Act of State* where the United States of America denied to Tsarist Russia that the independent tribes were not part of the Russian Empire. The United States asserted this claim so they could maintain direct trade relations with us. According to the diplomatic communications, the United States asserted that we were independent from Russia. In United States v the States of Alaska (422 U.S. 184, 1975) the United States Supreme Court thereby ruled that the 1867 Treaty was merely a quitclaim and the United States acquired whatever dominion Tsarist Russia had immediately prior to cession. (See Section II of the Annex)

The Vote

In 1926 the United State Congress discussed the impact that the illiterate Indians, Eskimos and Aleutes were having on the development of Alaska3. It determined they needed to place mental qualifications, that is, a literacy test for voters. The result was the adoption of a literacy test for voters4 that was aimed and directed to stop the indigenous vote. This law created a literacy test that you must speak in English and if you attempted to participate in the vote you were subject the 500 dollars fine, six months in jail or both5

At the 69th Congress, 1st Session (1926), the House of Representatives of the United States of America issued report number 728 entitled "Literacy Test For Voters In The Territory Of Alaska". This report explained that in House Bill 9211 that the election laws in Alaska needed to be altered to provide a literacy test for voters to determine their "mental qualifications". The citizens, organizations and officials of the Territory needed it since "…[T]he 1921 general election shows a minimum of 1,100 Indian votes in judicial division, and that 90 per cent of the Indian vote is illiterate and incapable of intelligent exercise of the franchise". This report charged that "…[T]he illiterate Indians were carefully schooled to mark their ballots in accordance with marked sample ballots", and "In some of the Indian villages every ballot cast were written in long-hand" as "one indication of the lack of independence and knowledge on the part of the voters." It is very clear that this law was created to bar the Indigenous Peoples from voting. The report further states: "If all the illiterate Indians, Aleuts, and Eskimos in the Territory were to vote, and the vote should be consolidated, as the Indian vote in southeastern Alaska now is, there would be perhaps seven or eight thousand additional illiterate votes cast.

3 H.R. Rep. No. 728, 69th Cong., 1st Sess. (1926)

4 Mar. 3, 1927, ch. 363, *§* 8, 44 Stat. 1394

5 United States Code, Title 48, *§58 (1940)*

The report also noted that: “Nearly all of the Indians, Aleuts, and Eskimo in Alaska retain their tribal customs and laws.”

The United States of America ceased reporting on Alaska and therefore removed from the list of non-self-governing territories after the adoption of General Assembly Resolution 1469 on the 12 December 1959. According to S. Hasan Ahmad, M.A., Ph.D. 1974 in his book The United Nations and the Colonies he notes that:

> Resolution 1469 (XIV), failed to comply, without good reasons, with the earlier Assembly resolution 742 (VIII). The case of Alaska and Hawaii was thus a new demonstration of the basic unresolved conflict (between the Administering Members and the General Assembly) over competence to decide the self-governing or non-self-governing status of a Territory in the light of Chapter XI. The working procedure evolved for cessation of transmission of information was also disregarded. It remained for the General Assembly fully to exercise its competence to decide when Chapter XI should cease to apply to a Territory.

Professor S. Hasan Ahmad also points out that 1) the situation in the territories was not examined in sufficient detail and 2) the people of the territory were not granted the right to petition to the United Nations and 3) the agencies responsible for examination did not study the change in the political condition and the status in the territories. (at 333)

Recommendations

Alaska and Hawaii must be re-enlisted under Article 73. This would entail a special process recognizing their special situations. The full integrity of the international legal status of both Alaska and Hawaii must be reinstated. The United States has been allowed a free trespass on the land and resources in both cases. A land freeze must be issued immediately. The Act of State of the Elders Council of Tununak must be respected retroactively (see Annex I). States have the obligation to put and end to these illegal situations. A conference must be convened for immediate implementation of this recommendation. As the Special Rapporteur said, the burden of proof is on the States and United Nations to prove that this is not the case.

ANNEX I

The following Act of States was signed on the 10 of April 2002.

Elders Council of Tununak
In care of P.O. Box 97
Tununak, Alaska [99681]
Tel: (907) 652-6312 • Fax: (907) 652-6912

Act of State

Elders Council do hereby Decree

I. Under international law, we assert the right of our Indigenous Nations to exercise our own law as sovereigns for our protection

Notice is hereby given to the United States of America, the Russian Federation, to the Member States of the United Nations and to the Governments of the world, to parties involved whether they are agent or principle, to all media and to all humankind:

I.
Act of State

This Decree by the Elders Council of Tununak is an Act of State under our Sovereign Authority as a proper agent and authority as a recognized international legal personality in the region of Alaska. We hereby assert our Sovereign Authority to preserve the claims of All Alaska's Indigenous Peoples, the Authority of our Nations and international Statehood, in preservation of our rights prior to the arrival of Tsarist Russia or any other Foreign Peoples to any part of Alaska. As the proper party, agent and authority we deny to the United States of America∗ title, dominion and jurisdiction. We assert the suzerain trust doctrine in order to protect the international legal and political status of the Independent Tribes, their Traditional Indigenous Governing Authority and the Indigenous Peoples in the regions of Alaska. This "suzerainty" holds until the said Authority in the greater region of Alaska is fully informed of our international legal and political status without any diminution of absolute title. And as such, all information must be fully understood and it is essential that we are provided the technical tools and resource to implement a real exercise of our right to self-determination against the colonizing force of the United States of America. As Elders, we assert the proper foundation of Authority granted to us by our creator and preserved by our ancestors in the promotion of our existence and survival as Peoples, Nations and States for generations to come. We refute any form of exploitation of "Elders" that are not informed of our status. This Decree is a denial of possession and of any title claimed by the United States of America and its Peoples or by any claim of Tsarist Russia or its successor Governments.

The Elders Council of Tununak asserts that the Indigenous Peoples of Alaska are a separate Peoples and distinctive entity not of the United States of America. The United States of America has not celebrated any valid Treaty or Agreement with the proper agent and authority accepted under the fully informed consent doctrine with the Independent Tribes and Indigenous Peoples of Alaska or their Traditional Indigenous Governing Authorities. As such we continue to engage in several attempts to seek remedy of the situation between the Indigenous Peoples of Alaska, the United States of America and the Member States of the United Nations and other Governments of the world. We firmly assert that the international sovereign title, dominion and jurisdiction as held by the Independent Tribes, their Traditional Indigenous Governments and the Indigenous Peoples of Alaska; we deny any title or dominion to Tsarist Russia, or to any of the successor Governments of the Russian Peoples or to the United States of America or to any other Government. Said Notice draws an obligation of all parties to bring an end to an illegal situation.

∗ The use of the terms *United States of America* or *the United States* referred to in this document does not limit the various jurisdictions or the foundations of authority based upon their Constitution, common law, equity, corporate or any other source of constructed authority in all their constructive forms.

The territory of Alaska shall rightfully be the possession of the Independent Tribes, their Traditional Indigenous Governing Authority as held by the Indigenous Peoples since it has proper recognition as proscribed in parts II, IV and V of this document, but not limited to; and by Traditional Indigenous Law, the Law of Nations and international law the said parties are foreign to the United States of America and to other Governments of the world. Therefore, the United States of America and its unlawful political sub-division - the state of Alaska, cannot impose and enforce governing authority in contravention to the original Authorities of the greater region of Alaska, by the Constitution of the United States of America, the United Nations Charter, and international law, in particular its principles and norms of jus cogens and international criminal law.

The United States of America does not have the authority to tax or command dominion since it is beyond the scope of the Traditional Indigenous Law, the Constitution of the United States of America and international law to govern foreign peoples in foreign territory. Any waiver of sovereign immunity by any coercive measure will not accede any right to the illicit state of Alaska or to its parent political entity, the United States of America. There can not be implicit acceptance of the right by the United States of America to govern in our territory without due process by Traditional Indigenous Law, the Law of Nations and international law without the fully informed consent of the Indigenous Peoples of Alaska.

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This is a reclamation and succession of our international status as recognized by President James Monroe in 1822 and by succeeding Executive Administrations of the United States of America as "independent tribes inhabiting an independent territory" on soil foreign to the United States of America. Tsarist Russian merchants were ordered to get permission to build factories and forts in Alaska and further ordered not to create the thought or suspicion as if to attempt to deprive us of our independence. Therefore, this Declaration denies that title, dominion and jurisdiction ever existed in the Emperor or Government of Tsarist Russia or any successor Government of Russia, from which the United States of America pretends to have acquired valid title, dominion and jurisdiction over the territory of Alaska, the recognized Independent Tribes, their traditional Authorities and its outer limits.

II.
Recognition

The Indigenous Peoples of Alaska were recognized as "independent tribes inhabiting an independent territory" by United States President James Monroe in 1822 in response to the famous 1821 Ukase of Alexander I. United States denied Tsarist Russia title and dominion so that the United States merchants could continue the lucrative fur trade with the Sovereign Traditional Indigenous Governments of Alaska. Forty-three years before the 1867 Treaty of Cession between Tsarist Russia and the United States of America, President James Monroe communicated diplomatic memoranda to the Senate of the United States Congress. (See Senate Document Number 384 of the 18th Congress, 2d Session, 1824). Congress then went into executive session on 15 December 1824 to discuss these diplomatic communications in regard to the 1824 Treaty between United States and Tsarist Russia. The diplomatic communications gave, *inter alia*, the historical and legal reasons why Russia had not acquired absolute title and dominion to Alaska: 1) Russia had no right of discovery – Spain was there first, 2) Russia did not have first occupation – again Spain had settlements in what is known today as Prince William Sound and 3) Russia did not have uninterrupted possession, well accepted requirements for acquisition of territory at that time since the Indigenous Peoples interrupted possession. Further, in these memoranda, on behalf of United States President James Monroe, Secretary of State John Quincy Adams cites Vattel and his treatise Law of Nations to justify why the direct

trade with the "independent tribes inhabiting an independent territory" went on without the regulation or interdiction of Tsarist Russia or any other European Power. The result of this recognition allowed the Foreign Governments to trade directly with the Indigenous Peoples without intercession throughout the greater region of Alaska that remained under the Traditional Authority of the independent Traditional Indigenous Governments of Alaska. Therefore, a historical intercourse of trade and commerce was established between the independent Indigenous Peoples of Alaska and Foreign Governments without any regulation or interdiction of Tsarist Russia, the United States or any foreign Government. Such recognition continues to have full effect as of today.

The Indigenous Peoples of Alaska are not party to the1867 Treaty of Cession and as such we deny any transfer or possession of territory to the United States by Tsarist Russia or from the United States to any other entity as a result of the 1867 Treaty. Therefore the 1867 Treaty of Cession cannot apply to the Traditional Indigenous Governments nor impair its international sovereign title and dominion to Alaska. The principle of the law of treaties expressing that treaties cannot establish obligations for non-consenting third parties was already a fully accepted tenet of customary international law much before the mid 1860's. In fact as late as 1975, a decision relating to our situation in Alaska was reflected in the United States Supreme Court, United States v the State of Alaska (422 U.S. 184), the 1975 United States Supreme Court found that "The cession of all the territory and domain possessed by Russia on the continent of America and in the adjacent islands, under an 1867 treaty between Russia and the United States (15 Stat 539), was effectively a *quitclaim*, and the Untied States thereby acquired whatever dominion Russia had possessed immediately prior to cession." A quitclaim transfer under international and United States law does not transfer title, especially since territorial title has not been acquired by Tsarist Russia. Tsarist Russia has no title and dominion to transfer.

Since the Traditional Indigenous Governments of Alaska are in a defined territory with a permanent population and have the Traditional Governing Authority to engage in international foreign relations, the Independent Traditional Indigenous Governments have the right to act in our capacity as independent States under international law. Furthermore, the Traditional Indigenous Governments have the right to protest the pretended and therefore illegal incorporation and annexation of Alaska, as we are recognized independent Peoples under international law.

The United Nations, Member States and other States, Governments and Peoples of the world are called upon to acknowledge the historically internationally recognized Traditional Governments and Indigenous Peoples of Alaska.

III.
Foreign Relations

As the appointed Ambassador and Director of Foreign Relations of the Indigenous Peoples and Nations Coalition, "Angulluaq", Ambassador Ronald F. Barnes, as a Foreign Representative to the United States of America shall call attention to and assert that the Traditional Indigenous Governments and the Indigenous Peoples of Alaska are the holders of our legitimate sovereign title, dominion and jurisdiction over all lands in what is now referred to as Alaska. The United States of America and the United Nations have failed to respect and honor the international recognition of the Traditional Indigenous Governments and our status as subjects of international law and custom.

Further, "Angulluaq", Ambassador Ronald F. Barnes, the Director of Foreign Relations of the Elders Council of Tununak, the Traditional Chairman and Ambassador of the Indigenous

Peoples and Nations Coalition shall not acquiesce to the United States of America nor to any of its political subdivisions, agencies or assigns or to any entity that assumes title, dominion or jurisdiction over the Traditional Indigenous Governments of Alaska and their Peoples. Nor shall "Angulluaq" - Ambassador Ronald F. Barnes pay any admittance, tariff, tax or any other fine or charge assessed and levied against him by the United States, whether in any capacity prior to today, or as a purported "citizens" of the United States or Ambassador of the Indigenous Peoples and Nations Coalition.

Ambassador Barnes is ordered to continue to open diplomatic relations on behalf of the Traditional Elders of Alaska and open friendly discussions and explanations to call attention to our continuing colonization by the United States of America. Ambassador Barnes must seek resources to facilitate the recognition, protection, development and advancement of our Traditional Indigenous Governments and their designated representatives. Any designated domestic allocation of authority by the United States of America that limits our direct international status or attempts to impair our authority is not acceptable and must be denied. A signature of Ambassador Ronald F. Barnes – Angulluaq, shall authenticate this document.

IV.
Violation of Self-Determination

The historical recognition as sovereign independent Peoples as stated in part II of this document and the historical relations that were created with other Governments, obligates the United States of America and the Governments of the world to implement proper protocols with the Traditional Indigenous Governments of Alaska in the exercise of their right of self-determination under the full respect for Traditional Indigenous law, the law of nations and international law. The United States of America has gone beyond the boundary of the limits of the Constitution of the United States, the United Nations Charter and international law to incorporate and annex Alaska and its outer limits.

The United Nations listed, among others, Alaska, Hawaii and Puerto Rico in General Assembly Resolution 66 (I) of 14 December 1946 in accordance of Article 73, Non-Self-Governing Territories of the United Nations Charter. The vote to remove Alaska, Hawaii and Puerto Rico from the list failed to follow the United Nations' own procedures for removal. The United Nations did not consider the recognition of the Independent Indigenous Peoples of Alaska nor was the criteria from removal based on United Nations resolutions and on the full and informed consent doctrine with full and equal participation of the Indigenous Peoples of Alaska. Other examples of false removal from the list of Non-Self-Governing Territories allowed for reinstatement to the list under Article 73 that lead to protection and/or acting role as independent State status in some cases. The independent status of the Indigenous Peoples of Alaska and Hawaii continues to call out for redress. United Nations General Assembly Resolution 1469 adopted on the 12 December 1959 allowed the United States to remove Alaska and Hawaii without disseminating the information pertaining to their right of nationhood under the United Nations Charter and international law. In addition the United States and the United Nations failed to provide for the full exercise of our already recognized independence of particularly the Indigenous Peoples and our Sovereign States for Alaska and Hawaii. Without limitation to the application of any and all laws and principles, we give for example and assert among many principles of de-colonization, principle five of United Nations General Assembly Resolution 1541 (XV) of 12 December 1960 which holds that colonialism perpetuates when: *Once it has been established that such a prima facie case of geographical and ethnical or cultural distinctness of a territory exists, other elements may then be brought into consideration. These additional elements may be, inter alia, of an administrative, political, juridical, economic or historical nature. If they affect the relationship between the metropolitan State and the territory*

concerned in a manner which arbitrarily places the latter in a position or status of subordination, they support the presumption that there is an obligation to transmit information under Article 73 e of the Charter. In the case of the greater region of Alaska, the United States of America is obligated to treat us as an independently recognized State of Peoples, a status by the Unites States own admission and therefore recognition.

By General Assembly resolution 2105 (XX) of 20 December 1965, the United Nations recognized "the legitimacy of the struggle by the peoples under colonial rule to exercise their right to self-determination and independence".

General Assembly resolution 2621 (XXV) of 12 October 1970 declared "the further continuation of colonialism in all its forms and manifestations is a crime which constitutes a violation of the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the principles of international law" and affirmed "the inherent right of colonial peoples to struggle by all necessary means at their disposal against colonial Powers which suppress their aspiration for freedom and independence".
According to United Nations General Assembly Resolution 1803(XVII) of 14 of December 1962, paragraph 7 and 8 sets forth the following principles:

(7) Violations of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the Charter of the United Nations and hinders the development of international cooperation and the maintenance of peace.

(8) Foreign investment agreements freely entered into by or between sovereign States shall be observed in good faith; States and international organizations shall strictly and conscientiously respect the sovereignty of peoples and nations over their natural wealth and resources in accordance with the Charter and principles set forth in the present resolution.

Resolution 2625 (XXV) of 24 October 1970, the General Assembly adopted and proclaimed the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations and declared that the principles of the Charter embodied in the Declaration constituted basic principles of international law.

Further though not limited to, the Elders Council of Tununak and Director of Foreign Relations highlight the following:

Paragraph (b): To bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned.

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And bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.

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Every State has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

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Every State has the duty to refrain from any forcible action, which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

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The territory of a colony or other Non-Self-Governing Territory has, under the Charter, a status separate and distinct from the territory of the State administering it; *and such separate and distinct status under the Charter, shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.*

On the 16th day of June 2000 Resolution 00-02, a Decree of the Elders Council of Tununak was adopted and submitted to the 52nd Sub-Commission on Human Rights as attachment #6 under Item 12 on Thursday 17 August 2000 as a formal Elders Council of Tununak Decree. This document was created to give "Judicial, Legal, Historical and Political Notice of the Assertion of Absolute title to all Territory as recognized by the Law of Nations and by modern International law, including all submerged Territory as held by the Indigenous Peoples in the region now known as Alaska", that further gives the historical recognition of the Indigenous Peoples of Alaska. And that, as attachment #5 on the same date at the 52nd Sub-Commission on Human Right a Notice of Defective Title, *inter alia*, dated 5/30/2000 was submitted as an attachment also with the intervention.

V.
Denial of Justice

The United States of America has constructed a legal framework of colonial laws that bar the Indigenous Peoples of Alaska from obtaining justice in violation of the Constitution of the United States, the United Nations Charter and international law. The above mentioned United Nations General Assembly Resolution 1469 was adopted on 12 December 1959 in contravention of international law, in particular the principles enshrined in the Charter of the United Nations. Notice is hereby dispatched to the Russian Federation as the successor Government of the Russian Peoples of Tsarist Russia, to the United States of America and to the Member States of the United Nations: that under principles of the Law of Responsibility and under the rubric 'obligation to put an end to an illegal situation' there is a grave breach of international law against a sovereign, independent State.

There continues to be a denial of justice; although the United States has no constitutional authority to administer justice or exact governmental authority, they have imposed their laws of equity that has resulted in many instances of grave economic injustice in violation of our right to self-determination. The legal opinions of a *Foreign Court,* such as those of the United States of America, as well as the laws enacted by the Congress of that country, continue to deny our right to exist. We deny to the United States of America and its illicit political sub-division, the state of Alaskas' claims and its assertions of jurisdiction to govern from their respective legislative, executive and judicial branches of government. In any case, our level of recognition is political and does not belong in any court of the United States of America. We restate our sovereignty by this Declaration. The Independent Tribes, our Traditional Indigenous Authority and the Indigenous Peoples of Alaska have the right to deny to the United States of America original jurisdiction due to their *grave* denial of our right to self-determination. This denial to cooperate within your foreign court is an Act of State on our part.

The colonial situation in Alaska demands direct international attention. There is legal coercion via selective justice from the Executive, Legislative and Judicial Branches of the United States of America. Furthermore, the legally constructive fraud is based on the erroneous manipulation of historical and legal facts. The social, political and economic restrictions are repressive measures that subjugate, dominate and exploit the Indigenous Peoples of Alaska. Our capacity to govern is in a state of paralysis reduced to social, political and economic servitude by alien

peoples, their domination and subjugation, that continue to deny us our existence as Peoples; thus, there is no respect, sensitivity or compassion for our life as Peoples.

Article 2(7) of the United Nations Charter regarding domestic jurisdiction cannot be invoked or asserted by the United States since the United States recognized us as foreign to the United States of America for reasons proscribed in parts II and IV and V of this document. Our situation can only be resolved after careful examination of the facts and resolution as a State of Peoples and an independent State.

VI.
Diplomatic Relations and Notice

Prior notices have been dispatched to the United States of America and to various branches of the United States Government and to the United Nations. Notice to agent is notice to principle and notice to principle is notice to agent; you cannot deny that you do not know. In our capacity as Traditional Indigenous Government and by our inherent sovereign authority, we call upon the United States of America, the Russian Federation and the Governments of the world to open diplomatic relations with our Government through the Indigenous Peoples and Nations Coalition so we can put an end to this illegal situation in Alaska.

Notice is given that the rules of customary international law and/or *jus cogens* pertaining to use of force, the law of genocide, the principle of racial non-discrimination, crimes against humanity, including the principle of the right of self-determination and permanent sovereignty over natural resources cannot be set aside. The jurisdiction of this Court declares that any attempt to confiscate property of any kind belonging to any real human being or peoples of the Indigenous lineage of the original Traditional Indigenous Governments of the Indigenous Peoples of Alaska without the proper consent of the Independent Tribes, their Traditional Indigenous Authority and the Indigenous Peoples will constitute any of the said crimes under international law and/or the law of *jus cogens* and/or Traditional Indigenous Law. Under the laws of responsibility, ultra vires acts of organs and officials of the United States of America, the United States Government and any other official party can be held accountable if they do not hold restrain from their ultra vires actions.

To give validity to the accepted principles we give notice of, *inter alia*: 1) the United Nations General Assembly Resolution 3314 (XXIX), adopted on 14 December 1974 concerning the Definition of Aggression and the principles therein fully apply in our case and 2) General Assembly Resolution 96 (I) of 11 December 1946 and 3) the International Convention on the Suppression and Punishment of the Crime of *Apartheid*, adopted by The United Nations General Assembly as Resolution 3068/XXVIII on November 30, 1973 and 4) the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted by the United Nations General Assembly as Resolution 2319 (XXIII) on 26 November 1968.

VII.
Reservations

Nothing contained in this document shall limit or reduce the Indigenous Peoples' Inherent right of self-determination in the greater Alaska region. We hold that first and foremost, the natural laws governing our existence are granted to us by our creator and are embodied in our Traditional Elders system of Government. Secondly, our recognition in the realm of the Law of Nations and under modern international law can only enhance, but not limit or impair our

Indigenous right to self-determination. Any and all talks cannot legally reduce our standing as an international Nation with the full right of self-determination without the fully informed consent of all our Indigenous Peoples, and without the full disclosure of the historical, legal and political facts relating to the matter. Any and all talks cannot legally reduce our standing as an independent sovereign Nations or States, a subject of international law, with the full right of self-determination. Any and all questions of interpretation in this document are reserved to our respective Traditional Indigenous Authorities, the Elders Council of Tununak and the Director of Foreign Relations.

The Elders Council of Tununak hereby certifies this Declaration on this_10__day of April 2002.

Chief Mathias James	John Walter Sr.
Jack Angiak	Helen Walter
Lucy James	Theresa M. Kanrilak
Dick Lincoln Sr.	
Harry Angaiak	
Catherine Angaak	
Alphonc Meenegak	
Sam L. Billy	
Pauline Pitka	
Alexander Hooper	

Attest_____
Harry J. Lincoln
Witness_____
Peter Pitka
For Authentification_____
Ambassador Ronald F. Barnes – Angulluaq
