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UN Permanent Forum on Indigenous Issues: joint statement on the Yakye Axa and Sawhoyamaya Indigenous communities in Paraguay

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Item 4(b): Human Rights: Dialogue With the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and other special rapporteurs

International Indian Treaty Council
International Organization of Indigenous Resource Development
The Assembly of First Nations
International Alliance of Indigenous Peoples and Tribal Peoples
Amnesty International

Amnesty International has the honour to deliver the present joint statement on the Yakye Axa and Sawhoyamaya Indigenous communities in Paraguay.

On this critical theme of the implementation of the *UN Declaration on the Rights of Indigenous Peoples*, in particular articles 10, 26 and 28, we wish to express our concern about the Paraguayan State's failure to allow these communities to return to their traditional lands.

Since the 1990s both the Sawhoyamaya and Yakye Axa communities have been living on a narrow strip of land alongside a busy highway. Living under these conditions and without access to their traditional lands, their survival as Indigenous Peoples is at risk. Six members of the Sawhoyamaya community died of preventable diseases between 23 December 2008 and 30 January 2009: four of them were infants under the age of two.

Paraguay voted for the *Declaration* in 2007. In 1993, it ratified the ILO Convention 169 and accepted the jurisdiction of the Inter-American Court of Human Rights. Its national constitution recognizes Indigenous land rights. Yet it has failed to comply with binding decisions of the Inter-American Court, ordering Paraguay to return traditional lands to the two Indigenous communities.

In 2005 and 2006, in separate rulings, the Inter-American Court ruled that Paraguay violated the communities' human rights to judicial protection, to property, and their right to life. The court ordered Paraguay to return their traditional lands within three years and undertake immediate measures to provide the communities with clean water, food, and health-care.

Yesterday, 19 May 2009, marked the expiry of the three-year deadline established by the Court for Paraguay to return the traditional lands to the Sawhoyamaya community. For the Yakye Axa lands, the deadline expired 10 months ago.

In relation to the lands of the Yakye Axa, in 2008, Paraguay's President Fernando Lugo introduced draft legislation for the return of their traditional lands. We are concerned that the law may not be enacted, or may be modified in such a way that undermines the orders of the binding judgment of the Inter-American Court. No concrete steps have been adopted in relation to the return of the traditional lands of the Sawhoyamaya.

We now call on the UNPFII and the UN Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples to take these matters up directly with the Paraguayan State. Paraguay must not delay any longer in returning the traditional lands to these communities; it must provide them with adequate medical care, clean drinking water, and food until their lands are returned; and ensure that all decisions affecting them are carried out with their free, prior and informed consent.

President Lugo has signalled his personal commitment to Indigenous Peoples' rights and the Paraguayan State has demonstrated its support for the *Declaration*. Now is the time to give effect to these rights and in doing so demonstrate its commitment to ending the systematic violation of Indigenous Peoples' rights in Paraguay.