Mr. President,
Distinguished delegates,  
Ladies and gentlemen,  

I have the honor to present today my third annual report to the Human Rights Council. I would like to start by expressing my gratitude to the numerous States, indigenous peoples, and others for the cooperation and support they have provided to my work over the past year.

The first part of my written report to the Council presents a summary of my activities, and in the second part I present views on the responsibilities of business enterprises in relation to the human rights of indigenous peoples.

A. Coordination with other mechanisms

Since my last report to the Council, I have continued my efforts to work in cooperation with the other United Nations agencies and mechanisms that deal with issues confronting indigenous peoples, in particular, the Permanent Forum on Indigenous Issues and the Council’s Expert Mechanism on the Rights of Indigenous Peoples.

As mandated by the Council I participated in the annual sessions of the Permanent Forum and the Expert Mechanism. During these sessions I took the opportunity, as I had done in previous sessions, to have a number of separate meetings with representatives of indigenous peoples and organizations to discuss particular issues and situations of concern to them.

B. Areas of work

In conjunction with my efforts to cooperate with other United Nations mechanisms, I have continued to carry out work in four principal areas to fulfill my mandate. These are: promoting good practices; communications relating to alleged human rights violations; country reports; and thematic studies.

Promoting good practices

My efforts to promote good practices have involved advocating for endorsement of the Declaration on the Rights of Indigenous Peoples by those States that did not vote in favor of it in
the General Assembly two years ago. I am pleased to note that at the most recent session of the Permanent Forum in April, New Zealand officially declared its support for the Declaration, in an eloquent and moving pronouncement in both Maori and English. As members of the Council will recall, Australia had previously also reversed its position and declared its support for the Declaration. I am hopeful that Canada and the United States will soon do so as well, thereby making opposition to the Declaration among Member States a thing of the past. I was pleased to hear earlier this year expressions by both these States of their intentions to review their positions on the Declaration.

We can indeed celebrate that there is ever-greater support among states for the human rights principles enshrined in the Declaration. But as I have stated to the Council before, that support will only be meaningful if the standards expressed in the Declaration are effectively implemented. Within the past year, I have sought to promote good practices of implementation by providing technical assistance for domestic legal reforms in Ecuador and Colombia.

In December, I visited Ecuador to provide observations on an initiative being facilitated by the Office of the High Commissioner for Human Rights to prepare new legislation aimed at harmonizing the indigenous customary legal system with the State judicial system. In Colombia, I began work with an ongoing joint project of the field Office of the High Commissioner for Human Rights and the Ministry of Interior and Justice to develop necessary legislation and administrative rules for adequate procedures of consultation with indigenous peoples.

Communications

Mr. President,

The Council has directed me, in addition to promoting good practices, to receive and exchange information on cases of alleged violations of the human rights of indigenous peoples, and it has authorized me to formulate appropriate recommendations to address those situations. As before, a great deal of the time and resources available to me as Special Rapporteur have been devoted to this area of work.

On a daily basis I have received letters, emails, and phone calls from representatives of indigenous peoples or their supporters calling attention to situations of human hardship and threats to cultural survival throughout the world. Similar to before, this year I have learned about cases in which indigenous peoples have seen their lands invaded by resource-hungry enterprises or have been forcibly removed from the lands; cases in which indigenous peoples experience decisions made by others but with profound effects on them, without adequately being consulted; cases in which violence has taken the lives of indigenous people, including children, and threatened the lives of others; and many other troubling situations. These cases attest to the widespread and systemic human rights problems indigenous peoples continue to face around the globe and the ongoing need for systemic and coordinated action to address these problems.

I have communicated directly with governments through the appropriate procedure on many of these cases, and I am pleased that in most instances governments have responded and that a number of those responses have indicated steps toward addressing the problems identified. The
summary of these communications to and from governments is in my report on cases examined, which is the first addendum to my annual report.

As can be seen from this report, in some of the cases examined I have submitted detailed observations and recommendations regarding the actions I believe should be taken to address the situations, within the framework of the relevant international norms. I am further pleased to note that, in most instances, governments have provided constructive written responses to the observations. I will continue to follow up on these cases and may in the future provide detailed observations and recommendations for other cases included in my report.

On occasion, my examination of specific cases has involved on site visits. Last June I visited Guatemala to investigate the situation of indigenous peoples affected by the Marlin gold mine in the Sipacapa and San Miguel Ixtahuacán municipalities. I would like to express my gratitude to the Government of Guatemala and to the Maya peoples of that country for the outstanding reception and cooperation I received during the visit. I issued a preliminary note on my findings and am currently completing my full report.

*Country reports*

Mr. President,

This year I completed country reports on Botswana, Australia, and the Russian Federation following visits to these countries. I also completed a report on Colombia to follow-up on the recommendations of my predecessor and a report on the status of the implementation of constitutional norms in Ecuador, likewise following visits to those countries. I have issued preliminary notes but am still in the process of completing my reports following visits to New Zealand and to the Sapmi region of Finland, Norway and Sweden.

I am deeply grateful for the governments and indigenous peoples of all of these countries for their cooperation and hospitality during my visits.

Because of time constraints, I am able to offer here only brief comments on my final reports on Botswana, Australia, the Russian Federation, Colombia and Ecuador. I respectfully refer the members of the Council and others present to the full texts of my reports on these countries.

In Botswana, several ethnically distinct indigenous peoples are marginalized due to the legacy of colonialism and policies and laws established post-independence that have privileged dominant groups. The Government has taken several steps to address the conditions of disadvantaged indigenous peoples, as well as to promote and celebrate diverse cultural identities. Yet the government’s initiatives and practices continue to fall short, especially in relation to respect for cultural patterns related to the use of lands and resources, political participation and consultation, and redress for historical wrongs. Indicative of this problem, is the situation of the indigenous Basarwa people who seek to return or remain on their ancestral lands in what is now the Central Kalahari Game Reserve, in the face of a Government policy to keep them out of the Reserve.
In relation to Australia, I commend the Government for various programs aimed at reducing the disadvantaged conditions of Aboriginal and Torres Strait Islander peoples. However, these programs should be better devised to advance the cultural integrity and self-determination of these peoples. In my report, I dedicated special attention to the Government’s program of legislation and related measures known as the Northern Territory Emergency Response, or Intervention. I note that, despite some Government steps to bring this program in line with Australia’s human rights obligations through recent amendments, it remains a subject of concern.

With respect to the Russian Federation, I note that the federal and some regional governments have undertaken important initiatives to improve the living conditions of indigenous peoples and to advance their cultures and participation in decision-making. Still, further efforts are needed to ensure that the existing laws are fully and consistently implemented throughout Russia and for all indigenous peoples, and to ensure that indigenous peoples’ rights—especially to lands and resources, consultation, and participation at the municipal, regional and federal levels—are fully respected.

Sr. Presidente

En cuanto a Colombia, tomo nota que el Estado ha dedicado una atención particular y significativa a las cuestiones indígenas y el desarrollo de planes y propuestas para atender a las recomendaciones hechas por mi antecesor, Rodolfo Stavenhagen, en su informe sobre Colombia de 2004. Sin embargo, los pueblos indígenas en el país continúan enfrentando graves problemas que no han sido abordados con la urgencia merecida. El patrón preocupante de actos de violencia, amenaza, intimidación y desplazamiento forzado continúa asediando a los pueblos indígenas de Colombia y amenazan la supervivencia física y cultural de los pueblos indígenas del país.

Con respecto al Ecuador, tomo nota de los avances y desafíos continuos en la implementación de los derechos de los pueblos indígenas reconocidos en la Constitución de 2008, incluyendo derechos relacionados con el reconocimiento de la jurisdicción indígena, la explotación de recursos naturales en territorios indígenas y la situación de los pueblos indígenas aislados. Enfatizo que es necesario llevar a cabo consultas con los pueblos indígenas antes de la adopción de cualquier medida que afecte directamente sus derechos o intereses, incluyendo el desarrollo de nueva legislación.

*Thematic Studies*

Señor Presidente,

Dentro de la cuarta esfera de mi trabajo, que comprende la realización de estudios temáticos, he continuado con mis esfuerzos para contribuir a un mejor entendimiento de temas transversales de particular preocupación para pueblos indígenas alrededor del mundo. El estudio temático de este año, que viene incluido en mi informe, tiene como objetivo dilucidar el contenido de la responsabilidad que corresponde a las empresas en relación con los pueblos indígenas.
En mi trabajo como Relator Especial, he notado la falta de claridad en torno a la responsabilidad que atañe a las empresas, y particularmente a las empresas transnacionales, en relación con los derechos de los pueblos indígenas, lo que contribuye a numerosos abusos en todas las partes del mundo. En mi informe al Consejo, proporciono un análisis y recomendaciones sobre la responsabilidad de las empresas en relación con los derechos humanos de los pueblos indígenas, en el marco de las normas internacionales existentes.

Sr. Presidente,

Quisiera finalizar reiterando mi agradecimiento por la oportunidad de poder dirigirme a los distinguidos miembros del Consejo de Derechos Humanos, a los representantes indígenas y a los demás presentes. Reafirmo mi compromiso como Relator Especial y a mi mandato, en la búsqueda para asegurar el pleno goce de los derechos humanos de los pueblos indígenas. Esta búsqueda es uno de los mayores desafíos. Pero me siento alentado por los muchos desafíos que ya han sido superados, por la perseverancia de los pueblos indígenas en realizar sus aspiraciones, y por las constantes posibilidades de poder avanzar más hacia un futuro mejor.

Les agradezco a todas y a todos por su amable atención.