Mr. Chairperson,
Distinguished members of the Expert Mechanism on the Rights of Indigenous Peoples,
Delegates of Member States,
Representatives of indigenous peoples and organizations,
Ladies and gentlemen

Thank you for this opportunity to once again address the members of the Expert Mechanism and all those attending this session. Since I did not address the Expert Mechanism under its agenda item 4 on the study on indigenous participation, allow me to start by saying a few words about that study now. I would like to congratulate the members of the Expert Mechanism on the completion of your excellent work addressing one of the core issues concerning indigenous peoples – that is, the right of indigenous peoples to participate in decision-making affecting them and the modalities of implementing the right. In particular, the advice on indigenous participation included in the annex to the final report of the Expert Mechanism provides important, well-grounded guidance to indigenous peoples, States, and the international system on this important issue.

I hope that all stakeholders will carefully study the Expert Mechanism’s report and advice on indigenous participation and use them to guide the development of laws and policies to ensure the operationalization of this foundational right. Without in any way diminishing the importance of other aspects of the expert advice on indigenous participation, I would like to make special mention of the Expert Mechanism’s call for a permanent mechanism or system for consultations with indigenous peoples’ governance bodies to ensure that such bodies have a consultative status enabling them to participate effectively at all levels of the United Nations.

Mr. Chairperson,

I would now like to report to the Expert Mechanism on my work over the past year to promote respect for the rights of indigenous peoples within the terms of my mandate.
from the Human Rights Council as Special Rapporteur on the Rights of Indigenous Peoples. I do this in connection with agenda item 5 on the Declaration on the Rights of Indigenous Peoples, since, as I have stressed previously to the Expert Mechanism, the Declaration provides the principal normative frame of reference for my work.

A most welcome development has been the reversal of positions by those few States that voted against the Declaration upon its adoption by the General Assembly in 2007. Since the Expert Mechanism’s last session, the United States became the last such State to change its position and express support for the Declaration, thereby making opposition by States to the Declaration a thing of the past. While we can celebrate the global consensus that now stands behind the Declaration, its implementation remains a constant challenge that must be confronted with concerted efforts at the national and international levels.

The activities I have carried out in my capacity as Special Rapporteur to promote the implementation of the Declaration, along with other relevant human rights instruments, fall within four, interrelated areas of work. They are: promoting good practices, country reports, responding to cases of alleged human rights violations and thematic studies.

In promoting good practices, I have continued to assist with the advancement of legislative, administrative and programmatic reforms within States. At the request of the Government of Suriname and the indigenous and tribal peoples of that country, I travelled to Suriname in March to provide input on the development of legislation to protect indigenous and tribal land rights, in light of judgments by the Inter-American Court of Human Rights. I provided comments on a Government initiative in Guatemala to develop a regulation on consultation. I have worked with the Office of the High Commissioner for Human Rights on initiatives to develop legislation on consultation in Colombia and on harmonizing the indigenous and national justice systems in Ecuador. In Australia, I attended the biennial conference of the New South Wales Aboriginal Land Council to discuss how the Declaration on the Rights of Indigenous Peoples could be an impetus for reforms in government programming and relations with indigenous peoples.

I have also cooperated with Governments, indigenous peoples, business enterprises, United Nations agencies and other international institutions in the promotion of sound policies, guidelines or international standards in the areas of development cooperation and financing, the environment and climate change, corporate responsibility, and the protection of traditional knowledge and cultural expressions.

Mr. Chairperson,

With regards to country reports, since the Expert Mechanism’s session last year I completed a report on the human rights situation of Maori of New Zealand to follow up on the work of my predecessor, Rodolfo Stavenhagen, after conducting a visit to that country. I also completed a report on the human rights concerns of the Sami people living in their traditional territory across Norway, Finland and Sweden, following a consultation with Sami and Government representatives in Rovaniemi, Finland. I have also completed reports on the conditions of indigenous peoples in the Republic of Congo and New
Caledonia, having made visits to those countries. I would like to express my gratitude to the indigenous peoples and organizations that provided invaluable assistance for the preparation and carrying out of the visits to these countries, as well as to the Governments of these countries for their cooperation and support.

As for addressing specific cases of alleged human rights violations, I would like to point out that this area of work represents the greater part of my daily work. It relies mostly on the written information provided to me by indigenous peoples and other sources, and also on information submitted to me at parallel meetings at the Expert Mechanism and Permanent Forum on Indigenous Issues. Based on the information received, as well as on any responses from Governments, in a number of cases I have formulated detailed observations and recommendations to address the human rights concerns raised. These observations and recommendations appear in my annual reports to the Human Rights Council.

On certain occasions my examination of particular cases involves on-site visits. Last year, I travelled to Guatemala to assess the effects of mining and other industrial activities on indigenous communities. This visit was prompted originally by allegations of human rights violations arising from the activities of the well-known Marlin Mine. My findings from that visit resulted in two reports, one focusing on the general issue of mining in Guatemala, and one on the specific case of the Marlin Mine. Additionally, in April of this year, I travelled to Costa Rica to assess the situation of the Térraba and other indigenous peoples affected by the proposed Diquis hydroelectric project – a project that if completed would make for the largest hydroelectric power generation facility in Central America. Following the visit I completed a report with specific recommendations. I am hopeful and even optimistic that my visit and report may contribute to the faithful implementation of international standards of consultation and free, prior and informed consent, and ultimately to a just resolution of the demands of the indigenous peoples affected by the project.

Finally, as to my work in the area of thematic studies, my third report to the Human Rights Council, made public last September, focused on the responsibility of corporations to respect indigenous peoples’ rights and exercise due diligence to ensure that their conduct does not contribute to infringement of these rights.

My annual report to the Human Rights Council this year, building on my previous thematic studies, will address concerns about extractive industries on or near indigenous territories. I have chosen to focus on this issue in light of the high level of information I have received from indigenous peoples about persistent problems arising from the activities of extractive industries.

In preparation for this report, I distributed a questionnaire to governments, indigenous peoples, corporations and non-governmental organizations in order to understand their views, concerns and recommendations on this issue. The questionnaire requested information on the major concerns regarding the extraction or development of natural resources within or in close proximity to the territories of indigenous peoples; the
possible benefits for indigenous peoples of extractive or natural resource development activities; and the principal steps required for avoiding negative impacts for indigenous peoples from the extraction or development of natural resources and for establishing good practices.

I am grateful for the numerous responses received from Governments, indigenous peoples and organizations, business enterprises and other actors to the questionnaire. These responses point to a state of shared awareness and concern about the past negative impacts of extractive operations for indigenous peoples in many situations. However, at the same time, the responses to the questionnaire provide a strong indication of the existence of conflicting points of view concerning the potential adverse impacts and benefits of extractive industry projects in indigenous territories. The questionnaire responses also pointed to conflicting understandings of the practical implications of international standards and the kind of measures that are required to fulfill the responsibilities of States, corporate actors and indigenous peoples themselves.

In this connection, I believe it would be helpful to develop specific guidelines or principles aimed at assisting States, corporate actors and indigenous peoples to fulfill the responsibilities that arise from international standards, especially those expressed in the Declaration on the Rights of Indigenous Peoples, including with respect to lands, territories and natural resources; consultation and free, prior, and informed consent; participation in and control over the design and implementation of project activities; mitigation measures; and benefit sharing. Advancing in the development of such guidelines requires a broadly encompassing dialogue with governments, indigenous peoples’ organizations, corporate actors, international institutions and other relevant stakeholders, in which consensus-building is a key element.

I hope that these efforts will build upon the work of other United Nations mandates, include the work of the Expert Mechanism, especially its report on the participation of indigenous peoples in decision-making. I intend to provide the Human Rights Council with more detailed information on my future plan of work during the presentation of my annual report to the Council in September.

Mr. Chairperson,

I would like to conclude by reiterating my gratitude for the opportunity to address those present. I would also like to acknowledge the important role of the Expert Mechanism in contributing to the promotion of the Declaration and its implementation. I reaffirm my commitment to working along with the Expert Mechanism, State Governments and indigenous peoples, communities and organizations in helping to build understanding about the Declaration and to advance its full implementation.

I thank you all for your kind attention.