

PERMANENT COUNCIL



OEA/Ser.G
CP/doc.3959/04 rev. 2
18 February 2005
Original: Spanish

THE DRAFT “SOCIAL CHARTER OF THE AMERICAS”

This document is being distributed to the permanent missions
and will be presented to the Permanent Council of the Organization.



**Permanent Mission of the Bolivarian
Republic of Venezuela to the
Organization of American States**

BOLIVARIAN REPUBLIC OF VENEZUELA

SOCIAL CHARTER OF THE AMERICAS

DRAFT

Caracas, April 22, 2004

SOCIAL CHARTER OF THE AMERICAS

Preamble

Considering that poverty, inequity, and social exclusion have reached levels unprecedented in the Hemisphere, affecting the development and the very foundations of many countries, which, in turn, has led to higher levels of malnutrition and illiteracy, the spread of disease and, in general, economic, social, and moral deterioration in our societies;

Bearing in mind that the United Nations Millennium Development Goals commit us to making our best efforts to attain the poverty reduction targets set for 2015;

Mindful that the Charter of the Organization of American States, the Inter-American Democratic Charter, the Protocol of San Salvador, the Declaration of Margarita, and the Declaration of Nuevo León are the principal documents in which our hemispheric forum has set forth its intention to eradicate poverty, equity, and social exclusion in the region; and

Convinced that social inequality is foremost among the topics of today and for our times, we declare that achieving social development means that all citizens have an opportunity to achieve as much happiness as possible: considerations that lead us to commit ourselves to implementing each of the rights and duties comprising this

SOCIAL CHARTER OF THE AMERICAS

TITLE I **FUNDAMENTAL SOCIAL RIGHTS**

CHAPTER I **The Right to a Decent Existence**

1. The right to life is inalienable. All human beings have the right to a decent existence and to full enjoyment of their human rights, solidarity, peace, and social justice.
2. All strategies for resolving social problems related to poverty and lack of security that endanger human lives shall be discouraged.
3. Life is a collective asset and no one may patent the human genome or use it for discriminatory purposes, nor may human beings be used for biological experimentation or scientific practices allowed that lead to the destruction of life or the deformation of its components.
4. The states shall ensure the promotion of ethical values associated with respect for life, a culture of peace, and a deep-rooted commitment to the elimination of all forms of discrimination that affect the availability of the basic resources essential to life.
5. The states shall ensure that food is provided to those social sectors lacking financial resources as an essential protection against hunger and poverty.

CHAPTER II

The Right to Health

6. All peoples are entitled to health. The states undertake to provide their citizens with universal and comprehensive primary health care, at no cost and on an ongoing basis, and education for the promotion of health and the prevention of disease, and necessary and timely rehabilitation, and shall enable the community to participate in the development of programs and services designed to control biological and social agents that generate health risks.

7. The states undertake to provide those suffering from chronic, high-cost diseases with the treatment and medications needed to enhance their quality of life, at no cost, and on an ongoing and universal basis.

8. The states undertake to provide the equipment, medicine, and human resources required to address the health needs of their populations, particularly those of the poorest and most excluded segments.

9. The central role of the public in co-responsibility for health services must be encouraged and recognized as a factor in consolidating national public health systems.

10. The states shall seek to promote health worker training networks, with participation by universities, public health institutes, and national research centers. At the international level, the states shall promote all cooperation agreements or arrangements that facilitate and promote acceleration of the training of technical teams, the exchange of technological resources, provision of health services, and any other cooperation activity that raises health standards and increases participation by our peoples.

11. Health is a commitment made by the citizenry as a whole. Consequently, all social sectors – public and private, institutional, and community, are urged to present and support health projects that provide direct care for the population. An attempt shall be made to develop health networks that optimize the system's response capacity and its prompt activation during public emergencies.

12. The states shall recognize the value of indigenous medical arts. In particular, the recovery of the indigenous heritage of traditional therapeutic knowledge shall be promoted, while respecting its practice and community ownership thereof.

13. As health is a universal human right, domestic alliances shall be promoted between sectors and/or with other countries of the region to establish productive mechanisms for obtaining resources essential to health, such as human resource training, generic drugs, surgical instruments, hospital equipment, and information technologies and systems that contribute to the development and implementation of better health services.

14. The states undertake to finance social research intended to promote the validation of new technical instruments that take genuine and exhaustive account of public health conditions, and of equivalent information systems that are comparable for therapeutic purposes and available via the epidemiological information network, which countries are obliged to use under WHO/PAHO rules.

15. The risks to the health of workers at every level of the health services shall impose an obligation on the states to take maximum prevention measures through training and the provision and mandatory use of the technical and regulatory resources designed to ensure the comprehensive safety of workers in the performance of their duties.

16. Citizens who are the victims of natural disasters have the right to be compensated by the state for damage to their property and harm done to their health and living conditions.

17. Pregnant women and the newborn shall be accorded priority in receiving state health care. A sufficient number of appropriate institutions shall be created for that purpose.

CHAPTER III The Right to Education

18. All citizens are entitled to free preschool and primary education, and to all other levels of education with no restrictions other than those stemming from individual ability and vocation.

19. Education shall be rooted in the principles of universality, pluralism, freedom, equity, relevance, quality, justice, and training for employment and for life.

20. The states undertake to provide educational centers with adequate facilities to ensure their continued existence and that they remain scientifically, technologically, and humanistically up-to-date.

21. All citizens have the right to participate in the design, administration, and evaluation of educational processes and the state shall ensure the recognition of this right and shall pay heed to their proposals within the legally established framework.

22. The states shall ensure access to education to citizens deprived of their liberty and/or with special needs in the same ways and on the same terms as for the rest of the population.

23. The states shall move forward in designing and applying innovative ways of reaching and socially including the poorest and most marginalized groups and of promoting academic and pedagogical alternatives with a view to achieving universal literacy and job training.

24. The states shall regulate media participation with a view to fostering the development of civic ethics based on democratic values, community services, social solidarity, and responsibility for the education of boys, girls, and adolescents.

25. The states shall promote the academic training and quality of life of educators as a basic condition for the development of enhanced teaching processes. To that end, special attention shall be paid to remuneration, social security, and public recognition of performance as incentives for educators to perform their social function.

26. Educational policies shall also provide for certification and accreditation of work skills as a way to achieve recognition of dignified and decent work.

27. Public policies must be coordinated so as to provide and establish direct financial, housing, and food assistance, study materials, clothing, and transportation for the least privileged, excluded segments of the population in order to ensure equal opportunity to exercise the right to study and gain immediate access to the labor market.

CHAPTER IV

The Right to Work

28. Everyone has the right to work, to employment, to be protected against unforeseen circumstances, and to be well paid. The state shall ensure that opportunities are promoted for citizens to carry out a worthwhile, decent, and productive economic or paid activity under conditions of freedom, equity, safety, occupational health and hygiene, and respect for human dignity.

29. All paid work shall be performed on the basis of the rights attached thereto, which include working conditions in which individuals can attain their highest potential and, in general, all rights accorded under domestic labor law and the international agreements of the ILO and such regional or subregional agreements as may have been ratified.

30. The states undertake to ensure and guarantee the right to form unions, freedom of association, freedom to petition and to make demands, the right to bargain collectively, the elimination of all forms of forced or mandatory labor, effective abolition of child labor, the elimination of all forms of discrimination in employment or occupation, the promotion and oversight of health and safety in employment or occupation, and the imposition of sanctions on those failing to respect such rights or comply with such obligations.

31. All migrant workers and their families are entitled to the protection and equality of labor rights and work conditions in accordance with national law, with no restrictions other than those stemming from validly ratified and specified international treaties.

32. Labor rights cannot be waived and the states shall guarantee that they are observed in accordance with law, collective bargaining agreements, and international laws and agreements on labor and social issues reached with multinational enterprises, where such agreements exist. These rights include, in particular:

- A minimum wage to ensure everyone's access to and enjoyment of society, apart from a fair, decent, and equitable remuneration for a specific job;
- Protection and security, and sanctions for those who do not meet occupational health and hygiene promotion and prevention requirements;
- Freedom to choose one's employment and work;
- Ongoing training, professional training, and advancement and promotion in keeping with capabilities and competence
- Wage protection
- Job stability
- The right to paid vacations and to rest and recreation
- The right to a recognized and nationally and internationally agreed work day that does not exceed eight (8) hours per day or seven (7) hours per night, depending on the nature of the work

- The right to unemployment compensation and reassignment to other employment or incorporation in a social economy-oriented productive activity
- The right to social and economic protection in case of unemployment, illness, or on-the-job accident, and to a pension and a dignified and decent retirement
- The right to financial information pertaining to the employer company or entity, and to investment risks and contingencies as a mechanism for protection against possible fraud by companies that might be detrimental to emotional, social, or family stability.
- The right to co-management, self-management, and control of the means of production, based on the promotion and formation of cooperatives and an inclusive social and socially sustained economy.

CHAPTER V

The Right to Social Protection

33. Everyone has the right to receive comprehensive state protection, particularly the following:

- The elderly;
- Persons with disabilities;
- The unemployed;
- Orphans;
- Forcibly displaced persons;
- Victims of violence;
- Victims of hunger.

34. The states undertake to design comprehensive public policies that ensure universal, integral, supportive, equitable, and financially sustainable social security for all citizens.

35. All citizens have the right to a decent retirement pension to keep them in their old age and in recognition of their contributions to society. Its value may never be less than the minimum social wage established in domestic legislation.

36. Citizens enjoying a pension or retirement shall have the right to continue to participate in productive work when they freely and in full use of their faculties so choose. The state shall provide opportunities to profit from their experience to facilitate the transition from one generation to the next.

CHAPTER VI

The Right to Housing

37. All citizens have the right to adequate housing, in a sound environment, with public spaces and basic services that ensure safety and civility in the conduct of their neighborly and community relations. The states shall formulate and implement policies to protect this right.

38. Housing should be designed in keeping with the ecological environment and respect the cultural diversity of peoples.

39. Housing should not cost families more than one quarter of their income. To ensure access to housing, the states shall promote land use and housing construction plans and arrange special credit facilities for low-income groups.

40. All citizens are entitled to the following basic utility services in their communities: drinking water, sewerage, communication, energy, and solid waste collection, at a cost not exceeding 10% of family income.

41. The state shall seek and promote the organization of communities in self-management programs to ensure access to basic utility services.

CHAPTER VII

Rights of the Family

42. Citizens have the right to organize their families in keeping with their own beliefs, to choose where they want to live, and to receive state protection to ensure the safety of their families.

43. The state has the obligation to address family safety, education, health, and stability, in particular, for the weaker family members, such as the elderly, children, and adolescents.

44. Boys and girls have the right to citizenship, sufficient space and their own beds within the home, and families shall ensure that such rights are respected. The state shall have the obligation to ensure opportunities and resources for the effective exercise of such rights.

45. It shall be recognized that work within the home is an activity that creates added value and produces wealth and well-being. Accordingly, housewives have the right to the benefits of a decent pension and the state has the obligation to provide one.

46. Families shall obtain care for their elderly members, who act as counselors for new family members. The state has the obligation to support them to enhance their quality of life and family harmony.

47. Households have the right to social recognition by the state, institutional support to contribute to the education of their children, professional assistance in resolving problems with living together, and material support to maintain and consolidate the family as the basic unit of society.

TITLE II
COMMUNITY RIGHTS

CHAPTER I
The Right to Political-cum-Territorial Identity

48. The new frontiers of social rights have moved forward to a point at which the Collective Person (*Sujeto Colectivo*) has been identified as a lead player in the exercise of democracy. The states shall recognize the legitimacy of communities defined by their cultural ethos, physical location, and requirements as active parties in institutional legal relations for designing, implementing, monitoring, and evaluating public and private policies.

49. Citizens have the right to organize themselves into communities to present public petitions and states have the obligation to recognize them as collective subjects of rights. Accordingly, legislative authorities shall draft legal instruments that take account of organizational diversity and provide scope for the self-representation of communities before public entities in terms of equal opportunity for attaining their community objectives.

50. Local communities have the right to organize themselves as complex social networks in order to explore new opportunities for structuring and promoting their collective identities. The state has the obligation to facilitate grassroots social organization of community relations, with a view to identifying new grounds for political, economic, and cultural legitimization than promote the eradication of poverty.

51. Communities and/or community, corporate, labor, ethnic, age-group or gender-based social movements have the right to pertain to and be members of a society that accords them the necessary power to participate and to take decisions in democratically constituted bodies.

CHAPTER II
Rights to Own Land as a Collective Heritage

52. In executing development projects that involve physical intervention in community areas, the communities affected shall be consulted, after exhaustive information has been gathered on the positive or negative impact that might ensue from said projects.

53. Such communities as are affected shall have the right to demand financial compensation, restoration of territories, environmental rehabilitation, replacement of housing, and resettlement in case of major damage to or redefinition of habitable spaces.

54. The states shall undertake to increase surveillance of borders and places of embarkation and disembarkation to prevent the unlawful extraction, as part of international trade, of flora, fauna, and raw materials that are part of the community's collective property and are not covered by nationally authorized regulatory treaties or international trade agreements.

55. Communities shall have the right to oppose the installation of public or private agencies, companies, or businesses that constitute a threat to their biodiversity resources, traditional natural resources, or any other essential element of their collective existence.

56. The state shall preserve community ownership of traditional natural resources. States in conjunction with communities shall maintain inventories of such resources as a means of guaranteeing possession of them.

CHAPTER III

The Right to Organization and to Public Participation

57. Communities have the right to organize themselves and to participate in defining, executing, and monitoring public policies, particularly aspects directly affecting them. The states shall be obliged to foster participation as a full and effective mechanism for democratic legitimization and local, regional, and national government agencies shall be available to address community demands.

58. Communities shall have the right to present bills and legislative proposals to the competent entities in keeping with the laws in force in each country. The state shall be obliged to consider and respond to requests made by communities within a reasonable period and in a manner commensurate with the needs of the proponents.

59. Communities have the right to exercise democratic mechanisms for dispute, hold public demonstrations, address petitions through the media, open their own fora for discussion and, in general, have all guarantees and civil and political rights established for citizens within their respective constitutional frameworks.

60. Communities shall be at the forefront of shared responsibility for monitoring the observance of all human rights. To that end, the states shall foster the creation of expeditious mechanisms, activated by the communities, to take account of possible violations of human rights and, at the same time, shall order that steps be taken to halt the violations under way and/or suspend the officials or organizations (public or private) involved in such acts, in accordance with law.

61. Communities have the right to approach and appeal to international organizations to resolve questions pertaining to human, community, or constitutional rights that have not been respected or that national justice systems have failed to resolve, in keeping with international treaties in this area, when domestic remedies have been exhausted.

TITLE III
ECONOMIC RIGHTS

CHAPTER I
General Economic Rights

62. The peoples of the Americas have the right to overcome conditions of poverty and to maintain sustainable standards of living above the poverty line established for each individual nation. The states shall establish public policies enabling economic development to be linked to the population's quality of life requirements, with a view to ensuring integral human development.

63. The states shall support the promotion of appropriate technologies to achieve a form of sustainable economic development that generates new and equitable opportunities for social inclusion and the eradication of poverty.

64. The peoples of the Americas have the right to enjoy productivity linked to technological development in the international arena. Accordingly, a significant proportion of the added value of our exports shall be directed to social service programs.

65. Citizens have the right to organize and to promote different undertakings to generate goods and services. The states are obliged to recognize the existence thereof, promote their financial and technical strengthening, and facilitate opportunities for trade and commerce that stimulate all sectors of the economy.

66. Citizens have the right freely to develop dignified and decent forms of work which allow them to express their creativity, productive effort and energy, and vocation, while providing sufficient income to enable them to fulfill their potential as human beings. The state shall recognize workers in the informal economy as subjects of rights who are carrying out an activity that supports the development of the formal economy. Accordingly, it shall provide such workers with social protection and financial assistance and shall seek to ensure that they cease to work on an informal basis as soon as possible.

67. Peoples have the right to receive remittances sent from other countries by family members. The states shall, through international mechanisms, reach agreement on the terms governing such remittances, progressively reducing the cost involved.

68. All citizens have the right to equitable participation in the social benefits ensuing from the application of new production technologies, in terms of substantial increases in their income and enhancement of their quality of life, financial transparency in government agencies, and their manifestation in the form of high quality services.

69. Employers are obliged to contribute a minimum of 5% of their total income to the promotion of new employment and the education and training of their workers.

70. Companies are obliged to reward their workers financially for the value of their contributions in terms of innovations, creativity, and risk minimization that lead to reductions in cost and/or increases in productivity.

CHAPTER II
Community Economic Rights

71. Communities organized as legal entities may engage in the production of goods and services and be entitled to request and obtain from the state or nongovernmental organizations technical and financial assistance, human resource training, information, legal protection, and quality certifications for the placement of their products.

72. The states shall offer communities the technical assistance required for effective management of productive resources. Communities shall be obliged to keep current the administrative, economic, and financial reports needed to evaluate their organizational performance, based on the principle of transparency and accountability to the community and to organizations that have undertaken to provide assistance.

73. Service to communities by the state requires the latter to locate public utility service administration facilities therein, in particular, those pertaining to health, education, identification, police protection, civil and company registration, justice administration, and civil defense. Communities shall be co-responsible for the maintenance and good administrative practices of these state services.

TITLE IV
CULTURAL RIGHTS

CHAPTER I
The Right to Cultural Identity

74. All peoples have the right to participate actively in the cultural diversity that is the heritage of mankind. To that end, the states shall promote the strengthening of the cultural identities of peoples, as expressed in habits, customs, languages, beliefs, ideologies, symbols, ethical values, creativity, sense of belonging to a territorial, national, or human group, and in the exercise of all rights extolled as fundamental to human life.

75. All peoples have the right to their own names, historical records of their native ancestors, their ethnic differentiation, self-characterization, recognition of their language, traditional resources, territorial identification, and official registration by the state.

76. All cultures are, legally and socially, of equal importance. No people may be renamed, relocated, or assimilated into another culture without such initiatives emanating from collective decisions taken within the communities themselves in the free exercise of their civil and political rights, without prejudice to all human rights enshrined in national and international laws.

77. The states shall take account of the cultural profiles of communities as a necessary consideration in designing focused public policies, and as a guarantee of respect and historical recognition of the cumulative collective effort of generations of their members.

78. Communities have the right to preserve their historical and cultural identity, their traditional roots, and their specific social traits as citizens contributing to human diversity, in a

manner both unique and inalienable. The states shall ensure multiculturalism, promote all channels of expression required, and consolidate the integration of peoples as they themselves define it, in full exercise of democratic values.

CHAPTER II

The Right to Universal Culture

79. All peoples have the right to access the knowledge and information generated in any country of the world. To guarantee that right, the states are obliged to recognize the unique linguistic traits of the living languages of their inhabitants, which shall be reflected in the media, institutional publications, in particular, educational publications, project formulation, national and international documents, treaties, information networks, and in any context that facilitates access to knowledge, through simultaneous interpretation, and in printed, electronic, and audiovisual editions of scientific, cultural, and humanistic content in the numerous languages constituting each country's cultural heritage.

80. The right to cultural diversity is a guarantee of human survival. Consequently, all peoples have the right to defend themselves from any cultural form that seeks to replace their values, world views, language, practices, and customs or to impose social, scientific, technical, or political models destroying national unity, their cultural particularity, biogenetic heritage, traditional resources, or right to development.

81. All peoples have the right to restitution of such irreplaceable cultural heritage, works of art and cultural property as may have been taken from them forcibly or by deception. The states are obliged to prosecute cases of illicit ownership of cultural property.

82. Peoples have the right to access universal culture. Consequently, the states shall ensure that all cultural, scientific, and technical media, including the new technologies, are publicly available, at no cost and of sufficient quality to ensure the peoples the right to participate in the collective cultural creation of humankind.

83. Artistic creations are the heritage of peoples. The states shall seek to guarantee the collective, institutional, or individual ownership of artistic creations and shall encourage financial support to promote their restoration and strengthening, and public access for everyone to the knowledge, evaluation, dissemination, and enjoyment thereof in conditions of respect for the traditional or creative contexts of their respective custodians or creators.

CHAPTER III

The Rights of Creators of Culture

84. Cultural expressions, manifestations, and traditions are reflections of the particular characteristics of human creative freedom. The states shall ensure that this basic condition is fully satisfied and, to that end, shall make available institutional resources and support that address the requirements of economic needs, social welfare, and collective expression without restrictions of freedom of expression or disputes of substance and form in respect of the creations of those whose vocation is any form of art or culture.

85. Popular creators have the right to public recognition of their work, to its ownership, to specific financial compensation for each work they produce and sell on the market, to protection and dissemination by museums or to cultural sponsorship, without any form of discrimination or restrictions other than those expressly imposed by the creator of the work. Exceptions shall be works deemed by the corresponding authorities to be national or community heritage.

CHAPTER IV Science and Technology

86. Scientific and technological innovation constitute a need and a right of peoples. The state shall promote research and development, in a context of freedom of research, which takes priority account of national needs, preservation of resources and traditional knowledge, and strengthening of the scientific and technical structure required to bridge the divides of social inequity, poverty, and social exclusion.

87. Peoples have the right to preserve the public nature and collective ownership of natural resources—renewable and non-renewable—that constitute the national strategic heritage. Consequently, national research and technological development will remain under the supervision of the state and only with its authorization and upon prior consultation of the citizenry may permits or concessions to conduct research, describe, or exploit such resources be granted to foreign private sectors.

88. The states shall undertake to protect and promote national research for sustainable endogenous development that ensures community rights and contributes to overcoming poverty.

89. The scientific and cultural communities shall be areas open to the plurality of traditional and modern knowledge of universal original, without political, religious, cultural, or ethnic discrimination. They shall bring together all creators of knowledge with equal rights in order to build a new culture of community participation in generating solutions to the problems hampering integral development of our peoples.

90. The states shall ensure that artistic, scientific, and technological products become social assets within everyone's reach and that scientific and technological progress, and the reformulation of public science and technology policy, are channeled directly to social development.

CHAPTER V The Right to Information

91. The states shall guarantee the rights to freedom of expression and information without censorship, within the bounds proper to a democratic state, as well as the effective exercise and observance of human rights, particularly with respect to the protection of honor, privacy, intimacy, confidentiality, and reputation.

92. The states shall regulate the contents of published material and establish the social responsibility of advertisers, producers, and providers of radio, television, and cinematic services or any other mass media; thereby fostering democratic values, in keeping with the duties, rights, and

interests of peoples, with a view to achieving social justice, peace, human rights, culture, education, and socio-economic development, in accordance with the each state's legal system.

93. The states are obliged to guarantee that persons with a hearing impairment can have access to the contents of broadcasts. To that end, they shall incorporate that right in each country's domestic legislation, as an obligation the media have to comply with.

94. The states shall ensure the dissemination of socially and culturally worthwhile programs for children and adolescents that are geared to the progressive and full development of their personality, attitudes, and mental and physical capacity, respect for human rights, the family, and cultural identity; that encourage a life of responsibility in freedom; and develop, appropriately, a sense of human and social solidarity. Likewise, the states shall guarantee that the media contribute to civic education.

95. The states shall promote actions that bolster active participation by communities in consolidating the production of independent programs on the radio, in community or educational stations, and other alternative media.

96. The states shall put into effect a communications strategy that compares different currents of public opinion to identify the needs of our peoples and strengthens the processes of change taking place in the region.

CHAPTER VI

Right to Sports, Free Time, and Recreation

97. Everyone has the right to leisure and recreation, to practice sports, and to take advantage of free time, for his or her physical and spiritual welfare.

98. Sport is a social right and essential activity in support of a person's all-round development: physically, intellectually, morally, and socially, through the development, enhancement, and conservation of his or her physical and moral potential.

99. The states shall promote the practice of sports, without discrimination, except as regards individual limitations, constraints imposed by laws and regulations to protect people's health, and any restrictions associated with local cultural traditions.

100. It is in society's interest to promote, develop, and practice physical education and sports. To that end, the states shall foster the construction, equipping, maintenance, and protection of infrastructure allowing the performance, teaching, and obligatory practice of sports, at all levels of the educational system.

101. The states shall pursue urban planning policies that include parks and squares to be used for sports, recreation, and community celebrations.

102. Efforts shall be made to promote the participation of persons with disabilities in the different types of sports.

CHAPTER VII

Environmental Rights

103. It is the right and duty of each generation to protect and maintain the environment on behalf of all living beings and their future generations. Everyone, individually and collectively, has the right to enjoy a healthy life and environment.

104. The primary objective and social concern of environmental policies should be conservation of the environment in the broad sense, which includes both the sustainable exploitation of natural resources, as an important means of meeting urgent social and economic needs, especially those of the most vulnerable segments of society, and its reconciliation with endogenous and sustainable development.

105. The states shall undertake to adopt and execute strategies, plans, and policies to protect the environment and natural resources, within the framework of sustainable development, with the active and prominent participation of their peoples.

106. The states shall pursue land development policies taking ecological, geographical, demographic, social, educational, scientific, technological, production, cultural heritage, economic, and political factors into account and based on ethical principles and the premises of sustainable development, which include, *inter alia*, mechanisms for informing and consulting citizens and their participation in decision making.

107. All activities capable of causing environmental degradation must first be subject to environmental impact studies, conducted in accordance with the principle of co-responsibility, in order to preempt, avoid, correct, mitigate or offset damage to the environment.

108. The states shall implement the environmental rules and regulations arising out of international commitments; they shall also draw up and adopt others considered suitable in the intraregional context to ensure that economic integration in the region takes place in an environmentally sustainable manner.

109. The states shall employ instruments and mechanisms and establish bodies that help prevent and resolve environmental conflicts.

110. The states shall adopt legal instruments that establish the obligation of national or transnational perpetrators or instigators of environmental degradation to take steps to restore the environment to its former state and to make reparation for any adverse social impacts of the damage done, and that impose sanctions, where appropriate.

111. The states shall foster citizen participation in environmental conservation and the sustainable use of natural resources. They shall also support self-management and co-management schemes, based on responsibility that is both shared and specific and committed to protecting the environment.

112. The states shall generate alternative, appropriate, and “ownable” technologies for the production of goods and services that manage to minimize adverse impacts on the environment and they undertake to exchange knowledge, technology and environmental methodologies, in such a way as to harmonize approaches and establish shared capabilities.

113. The states shall promote integral management of water basins, as a resource for environmentally sustainable development and the quality of life of the population.

114. The states shall develop instruments to ensure comprehensive appreciation of natural resources, in collaboration with communities.

115. The states undertake to step up border surveillance to prevent the illegal extraction of flora, fauna, raw materials and cultural property, which form part of the collective heritage of communities, unless they are contemplated in nationally approved, international trade treaties.

Title V Rights of Indigenous Peoples

116. The states recognize the existence of indigenous peoples and communities, their social, political, and economic organization, their cultures, habits, and customs, languages, religions, and ancestral rights to the lands they occupy and which they need in order to develop and sustain their ways of life. With the participation of the indigenous peoples, the states shall demarcate—and guarantee the right to collective ownership of—their lands or territories, as the case may be, which shall be inalienable, imprescriptible, unattachable, and nontransferable, in accordance with domestic laws.

117. The indigenous peoples have the right to maintain and develop their ethnic and cultural identity, their spirituality, their values, and their places of worship and sacred sites, and to participate in the economic and social life of their country. The state shall foster appreciation and dissemination of the indigenous peoples’ cultural manifestations.

118. Collective intellectual property of the knowledge, technology, and innovations of the indigenous peoples shall be guaranteed and protected. The application of existing intellectual property mechanisms in order to grant exclusive rights over traditional and ancestral knowledge shall be prohibited, because such knowledge is not in the public domain.

119. Jointly with indigenous communities and peoples, the states shall design and implement a special regime or harmonization standard to strengthen protection of traditional knowledge, genetic resources, innovations, and traditional practices of indigenous communities or peoples, in accordance with international agreements. The states shall assist the indigenous peoples in asserting their rights to their collective knowledge and vis-à-vis any action or event that could facilitate the illicit appropriation of that knowledge.

120. The indigenous peoples and communities are entitled to all requisites for good health and to legal recognition of their traditional medicine, medical practices and treatment, including promotion, development, prevention, and rehabilitation, as well as the right to preserve and administer such care. The states shall promote whatever means are necessary to ensure that the indigenous peoples and communities achieve satisfactory health conditions.

121. All male and female citizens forming part of an indigenous people are entitled to an education that respects and develops their cultural identity, as well as to a multilingual and multicultural education, in accordance with their own local and collective practices. The states shall guarantee and implement the mechanisms required to achieve an education that addresses their socio-economic practices, values, traditions, spiritualities, needs, and aspirations.

122. Indigenous peoples and communities are entitled to decide on and assume control over their own organizations, life styles, and economic practices based on reciprocity, solidarity, and exchange; their identity, culture, rights, habits, and customs, education, health, world view, and protection of their ancestral knowledge; over the defense of their lands and, in general, over the day-to-day management of their community life within their territories or lands in order to strengthen their cultural identity.

123. The indigenous peoples are entitled to training in areas related to their own knowledge or universal knowledge; and to take part in the preparation, execution, and management of specific training programs and technical and financial assistance services that strengthen their economic activities, in an endogenous development framework.

124. The indigenous peoples are entitled to maintain and promote their own economic practices based on reciprocity, solidarity, and exchange; their traditional productive activities; their participation in the national economy; and to set their own priorities.

125. The states shall provide the indigenous peoples with the resources they need to design and build their dwellings in accordance with their own cultures and habitat.

126. The states shall guarantee indigenous participation and representation in government institutions, in accordance with their habits, customs, and applicable laws.

127. The exploitation of natural resources by the states shall be done without impairing the cultural and social integrity of the indigenous peoples and communities.

The indigenous peoples and communities have a right to participate in the utilization, administration, and conservation of the natural resources located in their lands or territories, as well as in the benefits deriving from their use and exploitation, in accordance with the domestic laws of each state. Likewise, they shall receive just compensation for any damage that might result from such activities.

128. The states must guarantee the indigenous peoples and communities the right to be informed and consulted prior to the execution of any activity that could directly or indirectly affect their lives. Such information and consultation must be carried out in good faith, taking into consideration and respecting the languages, spirituality, own organization, legitimate authorities and

communication and information criteria of the peoples and communities concerned. The decision taken by the indigenous peoples and communities following consultation shall be binding.

129. The states undertake to guarantee the exercise of the rights of indigenous peoples set forth in this Charter as well as in any other international instruments that are more favorable to their interests.