



**SANTE' MAWI'OMI wjit MIKMAQ**

**foreign affairs**

24 August 1989

Mr Jakob Th. Moller  
Chief, Communications Unit  
Centre for Human Rights  
United Nations Office at Geneva

Mikmaq Tribal Society v. Canada (No. 205/1986)

Dear Mr Moller:

I have the honour to acknowledge receipt of your letter of 9 August 1989, transmitting for our information a copy of a further submission from the State Party in this matter, regarding our note of 10 February 1989.

The information contained in our February 10 note was transmitted solely to show that the issues raised in No. 205/1986, which remain unresolved, are giving rise to a widening circle of collateral disputes. We drew this to the Committee's attention as an indication of the urgency of a decision on admissibility, and of obtaining interim measures under Rule 89. The State Party admits that these recent developments reported "largely concern a dispute over the application of the Treaty of Halifax of 1752" (State Party's response of 26 July 1989, at p. 5), which of course is central to our position in No. 205/1986. Certainly it is permissible for the authors to apprise the Committee of further developments affecting the parties.

The State Party, in fact, has used this opportunity to submit additional legal arguments on the interpretation of the Treaty. Since the State Party included a copy of the decision of the Supreme Court of Canada in *Simon v. The Queen*, the Committee may judge for itself whether the Court's reasoning was as narrow as the State Party contends. We simply note that the Treaty itself (enclosed with our communication) refers to the "Mikmaq Tribe" and its "Grand Sachem" (Kji-sakamou or Grand Chief) rather than "Shubenacadie," the name of an Indian Reserve of a few square kilometres which did not exist until nearly a century after the Treaty was executed. The argument that a treaty with the "Mikmaq Tribe," which occupied much of five present-day Canadian provinces, was intended only to apply to a tiny plot of land which was not named and did not yet exist, strains logic.

Since the prosecution of individual Mikmaqs was noted only to illustrate the problems continuing to arise out of the matters raised in the original communication, no decision on admissibility is necessary or appropriate at this time. We reserve the right, however, to document these cases as new communications under the Optional Protocol at an appropriate stage in the future, depending upon the result of the judicial proceedings in Canada.

With continued highest regards and favour,

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