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HUMAN RIGHTS COUNCIL  
Sub-Commission on the Promotion  
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Fifty-eighth session  
Agenda item 5 (b)

### PREVENTION OF DISCRIMINATION

#### PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES

**Mr. Alfonso Martínez, Mr. Bíro, Ms. Hampson, Ms. Mbonu  
and Mr. Yokota: draft resolution**

**2006/... Working Group on Indigenous Populations**

*The Sub-Commission on the Promotion and Protection of Human Rights,*

*Reaffirming* the urgent need to recognize, promote and protect more effectively the rights of indigenous peoples, including their human rights and fundamental freedoms,

*Mindful* of the relevant recommendations adopted by the World Conference on Human Rights in 1993, in particular those contained in Part I, paragraph 20, and Part II, paragraphs 28 to 32, of the Vienna Declaration and Programme of Action,

*Mindful also* of the relevant recommendations adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001,

*Recalling* Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a Working Group on Indigenous Populations,

*Taking note with deep appreciation* of the report of the Working Group on Indigenous Populations on its twenty-fourth session (A/HRC/Sub.1/58/22) and, in particular, of its conclusions and recommendations,

*Welcoming* the ample discussions in the Working Group during its twenty-fourth session under its twofold mandate: the review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people, including the main theme, “Utilization of indigenous peoples’ lands by non-indigenous authorities, groups or individuals for military purposes”, and standard-setting, as well as on cooperation with other United Nations bodies in the sphere of indigenous issues,

*Stressing its deep concern* at the still visible sequels of the colonial era that continue to adversely affect the living conditions of indigenous peoples in various parts of the world,

*Recalling once again* Commission on Human Rights resolution 1993/30 of 5 March 1993, in which the Commission recommended to all thematic rapporteurs, special representatives, independent experts and working groups to pay special attention, within the framework of their mandates, to the situation of indigenous peoples,

*Taking note* of Commission on Human Rights resolutions 2005/49 and 2005/51 of 20 April 2005 and Economic and Social Council decisions 2005/268 and 2005/270 of 25 July 2005,

*Taking into account*, in the context of the ongoing process of reform of the United Nations human rights bodies recently launched at the initiative of the Secretary-General, the deep interest in the continuation of its Working Group on Indigenous Populations repeatedly expressed by a large number of Governments and the representatives and caucuses of indigenous peoples in a large number of meetings held both within and outside the United Nations system,

*Recalling* its resolution 2005/23 of 11 August 2005,

1. *Expresses its deep appreciation* to all members of the Working Group for the important and constructive work accomplished during the session and for the new working methods introduced, with the purpose of facilitating a more interactive dialogue during its annual sessions;
2. *Reiterates* its view, in the context of the ongoing process of reform of the United Nations human rights activities, bodies and mechanisms recently initiated by the Secretary-General, that in reviewing the activities, bodies and mechanisms relating to indigenous peoples, account should be taken of the fact that the mandates of the Working Group on Indigenous Populations, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Permanent Forum on Indigenous Issues are clearly distinct and complementary and that consequently none of these three bodies should be discontinued, and invites its superior bodies to endorse this view in the light of the already established cooperation among the three mechanisms;
3. *Recommends* that the item “indigenous issues” be automatically included in the agenda of the Human Rights Council and stresses the need for an expert body to provide the Council with advice on the promotion, protection and realization of the rights of indigenous peoples; also recommends that the principal functions of this body should be to produce in-depth, action-orientated reports and studies and to engage in the elaboration of norms and other international standards relating to the promotion, protection and realization of the rights of indigenous peoples; and further recommends that the expert body should report to the Sub-Commission or any future expert advice mechanism;
4. *Requests* the Secretary-General to transmit the report of the Working Group on its twenty-fourth session (A/HRC/Sub.1/58/22) to the United Nations High Commissioner for Human Rights, indigenous organizations, Governments and concerned intergovernmental and non-governmental organizations, to the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations, as well as to the Human Rights Council, all thematic rapporteurs, special representatives, independent experts and working groups existing as special procedures under the authority of the Human Rights Council, and to all the treaty bodies;

5. *Reiterates* its invitation to the treaty bodies and all thematic special procedures to advise the Working Group on how they take into account, in their work and in accordance with their respective mandates, the promotion and protection of indigenous peoples' rights and in this context further invites them to take duly into account paragraphs 3 and 4 of Commission on Human Rights resolution 2004/58 of 20 April 2004;

6. *Requests* the current Chairperson-Rapporteur of the Working Group to make an oral presentation to the fourteenth annual meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Human Rights Council to substantiate the need for further cooperation between the special procedures and the Working Group and to propose possible modalities for further developing this much-needed cooperation;

7. *Welcomes* the adoption by the Human Rights Council by its resolution 2006/2 of 29 June 2006 of the United Nations Declaration on the Rights of Indigenous Peoples and recommends its adoption by the General Assembly at its sixty-first session;

8. *Reiterates* its decision to authorize the Working Group to make available to the Permanent Forum on Indigenous Issues and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, upon their specific request, the information provided by representatives of Governments and indigenous peoples during the annual general debate on its agenda item 4 (Review of developments), as a specific step towards further cooperation with other bodies with specific mandates related to the situation of indigenous peoples;

9. *Requests* the Working Group to continue exploring ways and means to further strengthen its cooperation with the Permanent Forum and the Special Rapporteur;

10. *Requests* the Human Rights Council to endorse the participation, for one week, of the Chairperson-Rapporteur of the Working Group at the sixth session of the Permanent Forum on Indigenous Issues in 2007, as recommended by the Working Group in its report (A/HRC/Sub.1/58/22, para. 59), to enable him to present the report of the Working Group on its twenty-fourth session;

11. *Recommends* to the Human Rights Council and the Economic and Social Council that the Chairperson of the Permanent Forum on Indigenous Issues and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people be invited to participate in the twenty-fifth session of the Working Group;

12. *Decides* that the Working Group, at its twenty-fifth session, shall adopt as the principal theme “The impact of private sector initiatives on indigenous peoples’ rights”, and that the Office of the United Nations High Commissioner for Human Rights shall invite all relevant organizations, agencies and departments of the United Nations system to provide information on this subject and, if possible, to participate actively in the debates on this matter at the Working Group;

13. *Decides* that the Working Group’s agenda for its twenty-fifth session would be as follows: 1. Election of officers; 2. Adoption of the agenda; 3. Organization of work; 4. Review of developments: (a) General debate; (b) Principal theme: “The impact of private sector initiatives on indigenous peoples’ rights”; (c) “Utilization of indigenous peoples’ lands by non-indigenous authorities, groups or individuals for military purposes”; 5. Standard-setting: review and approval of the final drafts of the guidelines on cultural heritage and on free, prior and informed consent; 6. Other matters: (a) Second International Decade of the World’s Indigenous People; (b) Cooperation with other United Nations bodies; (c) State of the United Nations Voluntary Fund for Indigenous Populations; (d) The United Nations Declaration on the Rights of Indigenous Peoples (update); 7. The human rights situation of States and territories threatened with extinction for environmental reasons, with particular reference to indigenous peoples; 8. Presentation of elements for conclusions and recommendations; 9. Adoption of the report;

14. *Requests* the Secretary-General to prepare an annotated agenda for the twenty-fifth session of the Working Group on the basis of paragraph 13 of the present resolution;

15. *Invites* the Office of the High Commissioner for Human Rights, after consultation with the Chairperson-Rapporteur, to inform participants at the twenty-fifth session of the Working Group about the organization of issues under agenda item 4 in advance of the session, in order to facilitate a more active dialogue among the various participants;

16. *Requests* the Working Group to continue to review at its twenty-fifth session, under draft agenda item 5, the final drafts of the guidelines on the heritage of indigenous people and on free, prior and informed consent;

17. *Calls upon* all States to give specific attention to the promotion and protection of the traditional knowledge of indigenous peoples and to ensure that the principle of free, prior and informed consent is fully applied when protecting their traditional knowledge in their relations with non-indigenous sections of the population;

18. *Requests* Miguel Alfonso Martínez to submit to the twenty-fifth session of the Working Group under draft agenda item 4 (c), or to any future expert advice mechanism under the appropriate agenda item, the additional working paper requested by the Sub-Commission in its resolution 2004/15 of 15 April 2004 on the issue of indigenous peoples and conflict prevention and resolution;

19. *Invites* all States to submit to the Working Group at its twenty-fifth session any information they deem fit to provide on the mechanisms for conflict resolution and prevention available to indigenous peoples living under their jurisdiction, in case of existing or potential conflict situations based on the exercise of their rights in their relations with non-indigenous entities or individuals;

20. *Endorses* the recommendation of the Working Group to request the Office of the High Commissioner to organize two technical workshops, one to produce a final draft of the guidelines relating to indigenous peoples' heritage, and another to prepare guidelines on the principle of free, prior and informed consent based on the work undertaken by the Working Group during recent years, and to this effect, to take the necessary steps to include in the budget for 2007 the necessary appropriations to ensure that these workshops are held in Geneva not later than the end of 2007; and recommends that the Office publish and disseminate widely the guidelines on free, prior and informed consent;

21. *Decides*, in view of the discussions that took place under the principal theme of its twenty-fourth session, to invite the Office of the High Commissioner to organize in 2007, as a matter of priority and in consultation with the Chairperson-Rapporteur of the Working Group, a

second workshop on indigenous peoples, mining and other private sector companies and human rights, with a view to preparing guidelines based on respect for the cultures, traditions and the cultural heritage of indigenous peoples, and for the principle of free, prior and informed consent;

22. *Reiterates its deep appreciation* to the Mascwachis Cree Nation's Elders and Chiefs for confirming their hosting of the United Nations seminar referred to in Sub-Commission resolution 2004/15 on possible ways and means to implement treaties, agreements and other constructive arrangements between States and indigenous peoples, to be held from 25 to 27 September 2006 in their traditional lands under Treaty 6 in Canada, in accordance with the invitation extended by them during the twenty-second session and already formally accepted by the Working Group (see E/CN.4/Sub.2/2004/28, para. 118), and welcomes the work that has already been done by the Mascwachis Cree Nation's Elders and Chiefs and the Office of the High Commissioner in preparation of that event;

23. *Expresses its thanks* to the Office of the High Commissioner for having extended the necessary cooperation to the indigenous organizers of this seminar so as to ensure the full organizational and technical preparation as well as the successful holding of this important event;

24. *Expresses its appreciation* to the Office of the High Commissioner for the organization of a seminar on "Indigenous peoples' permanent sovereignty over natural resources and their relationship to land" in January 2006 and takes note of the report on this activity presented to the Working Group on Indigenous Populations (E/CN.4/Sub.2/AC.4/2006/3). It also requests the Office of the High Commissioner to implement the recommendations, where appropriate;

25. *Requests* the Office of the High Commissioner to provide technical cooperation to States that wish to elaborate national legislation on indigenous issues drawing upon existing human rights law, as well as the Declaration;

26. *Reiterates its request* to Mr. Alfonso Martínez to prepare, without financial implications, a working paper on the present-day effects of the colonial era that continue to adversely affect the living conditions of indigenous peoples in various parts of the world, to be submitted to the Working Group at its twenty-sixth session and to the Sub-Commission at its fifty-ninth session or to the first session of any future expert advice mechanism;

27. *Recommends* that the Office of the High Commissioner organize, if possible before the end of 2008, a seminar on the contemporary effects of colonialism for indigenous peoples;

28. *Appeals* to all Governments, indigenous peoples, governmental and non-governmental organizations and other potential donors in a position to do so to contribute generously in 2007 to the United Nations Voluntary Fund for Indigenous Populations and the Voluntary Fund for the Second Decade of the World's Indigenous People;

29. *Recommends* that States consider asking the General Assembly to broaden the mandate of the Voluntary Fund so as to allow indigenous peoples to participate in the human rights treaty bodies and to provide funding for human rights projects to indigenous organizations;

30. *Requests* the Human Rights Council to authorize ten meetings for the Working Group on Indigenous Populations prior to the fifty-ninth session of the Sub-Commission or of the first session of any future expert advice mechanism in 2007;

31. *Recommends* to the Human Rights Council the following draft decision for adoption:

“The Human Rights Council, taking note of resolution 2006/... of .. August 2006 of the Sub-Commission on the Promotion and Protection of Human Rights, endorses the Sub-Commission's request to authorize ten meetings for the Working Group on Indigenous Populations prior to the fifty-ninth session of the Sub-Commission or of the first session of any future expert advice mechanism in 2007.”

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