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COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and
Protection of Human Rights
Working Group on Indigenous Populations
Twenty-third session
18-22 July 2005

ANNOTATIONS TO THE PROVISIONAL AGENDA

**Prepared by the Secretariat pursuant to the request of the Working Group
on Indigenous Populations at its twenty-second session**

1. Election of officers

1. Rule 23 of the rules of procedure of the functional commissions of the Economic and Social Council provides that, unless the Commission decides otherwise, its subsidiary organs shall elect their own officers.

2. Adoption of the agenda

2. Rule 7 of the rules of procedure provides that the agenda shall be adopted at the beginning of each session, after the election of officers, on the basis of the provisional agenda. The provisional agenda for the present session of the Working Group on Indigenous Populations, as drafted in consultation with the Chairperson-Rapporteur, Miguel Alfonso Martínez, is contained in document E/CN.4/Sub.2/AC.4/2005/1.

3. Organization of the work of the session

3. The attention of the Working Group is drawn to the provisional agenda and the need to complete discussion of the substantive items within the five working days allotted. At previous sessions, the Chairperson-Rapporteur has set strict time limits in order to ensure that all participants wishing to make a statement are given the opportunity to do so. Note should

be taken of Sub-Commission resolution 2004/15, which invites the Office of the United Nations High Commissioner for Human Rights (OHCHR), after consultations with the Chairperson-Rapporteur, to inform participants at the twenty-third session about the organization of issues under the item “Review of developments: general debate” in advance of the session in order to facilitate a more interactive dialogue among the various participants.

4. Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people

(a) General debate

4. In accordance with the mandate established under Economic and Social Council resolution 1982/34, the Working Group is authorized to review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous populations, to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind the final report of the Special Rapporteur of the Sub-Commission, José R. Martínez Cobo, entitled “Study of the problem of discrimination against indigenous populations” (E/CN.4/Sub.2/1986/7 and Add.1-4).

5. The item of the agenda reviewing developments affecting indigenous peoples provides invaluable information to members of the Working Group. The information provided is considered by them as strengthening ongoing efforts of the United Nations system to recognize, promote, protect and restore the rights of indigenous peoples. In its resolution 2005/49 the Commission on Human Rights invited the Working Group to take into account in its deliberations on developments pertaining to the promotion and protection of the human rights of indigenous peoples the work, within the framework of their respective mandates, of the Permanent Forum on Indigenous Issues, all thematic special rapporteurs, special representatives, independent experts, working groups and expert seminars as it pertains to the situation of indigenous people.

(b) Principal theme: “Indigenous peoples and the international and domestic protection of traditional knowledge”

6. In its report on the twenty-second session (E/CN.4/Sub.2/2004/28, para. 137), the Working Group decided to highlight the theme “Indigenous peoples and the international and domestic protection of traditional knowledge” at its twenty-third session. The Sub-Commission, in its resolution 2004/15, recommended that the Working Group at its twenty-third session adopt that theme and that OHCHR invite all relevant organizations and departments of the United Nations system to provide information and, if possible, participate in the meetings of the Working Group.

(c) Indigenous peoples and conflict prevention and resolution

7. In its resolution 2004/15, the Sub-Commission invited Miguel Alfonso Martínez to prepare an additional working paper on the issue of indigenous peoples and conflict prevention and resolution, with particular emphasis on conflicts between indigenous traditional sources of authority and State-designated institutions and representatives and on the positive role that may be played by domestic and international third parties in brokering a dialogue for the peaceful resolution of conflicts affecting indigenous peoples. Mr. Alfonso Martínez informed the secretariat of the Working Group that he will make an oral intervention on this topic.

5. Standard-setting

8. A draft United Nations declaration on the rights of indigenous peoples was elaborated in the Working Group on Indigenous Populations in the period 1985 to 1993 in cooperation with indigenous peoples, non-governmental organizations, experts, the United Nations system and Governments. The draft declaration was adopted by the Sub-Commission in 1994 and was under consideration by the open-ended intersessional working group on the draft declaration which was established in 1995 in accordance with Commission on Human Rights resolution 1995/32 and Economic and Social Council resolution 1995/32.

9. At its twenty-first session, the Working Group decided to consider possible new studies and standard-setting activities that might be undertaken by its members. In its resolution 2005/49, the Commission invited the Working Group to give special attention to its standard-setting activities throughout the Second Decade of the World's Indigenous People. In this regard, attention is drawn to the following papers prepared by the experts of the Working Group as requested by the Sub-Commission in its resolution 2004/15.

(a) Legal commentary on the concept of free, prior and informed consent

10. The Working Group invited Antoanella-Iulia Motoc, in cooperation with the Tebtebba Foundation, to prepare a paper offering guidelines to govern the practice of implementation of the principle of free, prior and informed consent (E/CN.4/Sub.2/AC.4/2005/2).

(b) Review of the draft principles and guidelines on the protection of the heritage of indigenous peoples

11. The Working Group invited Yozo Yokota, in cooperation with the Saami Council, to prepare an expanded working paper to serve as a guideline for the review of the draft principles and guidelines on the heritage of indigenous peoples (E/CN.4/Sub.2/AC.4/2005/3).

6. International Decade of the World's Indigenous People

12. At its fifty-fifth session, the Commission on Human Rights, in its resolution 1999/51, requested the High Commissioner for Human Rights, in her capacity as Coordinator of the first Decade, to submit to the General Assembly at its fifty-fourth session a midterm report

reviewing the implementation of the programme of activities for the Decade, including identification of obstacles to the achievement of the goals of the Decade and recommendations for solutions. The latest report of the Secretary-General to the General Assembly on the review of the Decade can be found in document A/59/277. The Commission also invited the Working Group to submit its views on the activities of the Decade to the High Commissioner. The latest report of the High Commissioner to the Commission on Human Rights on the International Decade is contained in document E/CN.4/2005/87. A preliminary review of the Decade was submitted to the Economic and Social Council (E/2004/82).

13. The General Assembly, in resolution 59/174, proclaimed the Second International Decade of the World's Indigenous People to commence on 1 January 2005. The Under-Secretary-General for Economic and Social Affairs has been appointed as the Coordinator of the Second Decade and a voluntary fund has been established as a successor to the Voluntary Fund for the first Decade.

14. In its resolution 2005/49, the Commission on Human Rights invited the Working Group to submit in due course to the Coordinator for the Second Decade, through OHCHR, a list of activities to be considered for possible inclusion as part of the human rights component of the comprehensive programme of action for the Second Decade that the Secretary-General has been requested to submit to the General Assembly at its sixtieth session.

7. Other matters

(a) Cooperation with other United Nations bodies

15. The Sub-Commission, in its resolution 2003/29, noted the decision taken by the Working Group at its twenty-first session to include in its agenda a sub-item entitled "Cooperation with other United Nations bodies in the sphere of indigenous issues". Under this agenda item, participants have an opportunity to provide information and comments on cooperation among the United Nations mechanisms relating to indigenous peoples and the United Nations system. In this regard, attention is drawn to Commission on Human Rights resolution 2005/49, in which it recommended that the Chairperson-Rapporteur of the Working Group be authorized by the Economic and Social Council to attend the fourth session of the Permanent Forum.

(b) State of the Voluntary Fund for Indigenous Populations

16. The eighteenth session of the Board of Trustees was held at the Palais Wilson in Geneva from 28 February to 4 March 2005. All the members of the Board attended the session. After having examined the applications in the light of established criteria, the Board recommended: 26 grants for representatives of indigenous communities and organizations to attend the Permanent Forum on Indigenous Issues; 25 grants for representatives of indigenous communities and organizations to attend the Working Group on Indigenous Populations; 9 grants for representatives of indigenous communities and organizations to attend the working group on the draft United Nations declaration on the rights of indigenous peoples. The information on the state of the Voluntary Fund is contained in document E/CN.4/Sub.2/AC.4/2005/5.

(c) The human rights situation of indigenous peoples in States and territories threatened with extinction for environmental reasons

17. The Sub-Commission, in its resolution 2003/29, noted the decision taken by the Working Group at its twenty-first session to include in its agenda a sub-item entitled “The human rights situation of indigenous peoples in States and territories threatened with extinction for environmental reasons” and recommended that Françoise Hampson, member of the Working Group, prepare a working paper containing suggestions on possible follow-up by the Working Group on this issue. In its resolution 2004/15, the Sub-Commission invited Ms. Hampson to prepare an additional working paper developing further the information and the ideas contained in her first paper (E/CN.4/Sub.2/AC.4/2004/CRP.1). The paper will be presented as document E/CN.4/Sub.2/AC.4/2005/7.

8. Presentation of elements for the conclusions and recommendations of the Working Group at its twenty-second session

18. The Working Group will discuss elements for the conclusions and recommendations to be included in the report on the twenty-third session.

9. Adoption of the report

19. Under rule 37 of the rules of procedure, the Working Group is to report to the Sub-Commission on the work of its session. The report of the Working Group, which is prepared while the Sub-Commission is in session, will be contained in document E/CN.4/Sub.2/2005/26.
