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人权理事会
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增进和保护所有人权、公民、政治、经济、
社会和文化权利，包括发展权

土著人民人权和基本自由情况特别报告员

詹姆斯·安纳亚的报告 *

增 编

担负涉及土著人民权利的具体任务的联合国各机制的作用
国际专家研讨会的结论和建议**

* 迟交。

** 本报告的摘要以各正式语文分发。报告正文附在摘要之后，仅以提交所用的原文分发。

摘 要

人权理事会在其第 6/12 号决议中，决定将土著人民人权和基本自由情况特别报告员的任期延长，以便除其他外，与人权理事会的其他特别程序和附属机关，相关的联合国机构、条约机构和区域人权组织密切合作，与所有相关的行为者进行定期的合作对话。特别报告员与土著人民权利专家机制的成员、联合国土著问题常设论坛的四名成员以及来自各个地区的专家，包括前特别报告员罗道夫·斯泰芬哈根，参加了担负涉及土著人民权利的具体任务的联合国各机制的作用国际专家研讨会。这次会议由阿尔马西加跨文化工作小组和土著事务国际工作组组织由西班牙国家发展合作署任东道主，于 2009 年 2 月 4 日至 6 日在马德里举行。

这次会议的主要目的是推动这三个机制的成员之间展开非正式对话，以便更好地协调其工作及其与其他联合国机构和机关的活动。与会者讨论了简化这三个机制工作的方法，审查了各自任务的优先工作领域，并确定使各自任务的这些方面发挥最大效应的方法。三个机制的成员提出了若干建议，载于本文件。

Annex

**CONCLUSIONS AND RECOMMENDATIONS OF THE INTERNATIONAL
EXPERT SEMINAR ON THE ROLE OF UNITED NATIONS MECHANISMS
WITH A SPECIFIC MANDATE REGARDING THE RIGHTS OF
INDIGENOUS PEOPLES**

(Madrid, 4-6 February 2009)

I. INTRODUCTION

1. Article 42 of the United Nations Declaration on the Rights of Indigenous Peoples states that the United Nations and its bodies, including the Permanent Forum on Indigenous Issues, “shall promote respect for and full application of the provisions of [the] Declaration and follow up the effectiveness of [the] Declaration”. In the context of the process of institutional reform of the United Nations human rights machinery, the Declaration has been specifically identified as part of the normative framework of the mechanisms of the Human Rights Council with a specific mandate regarding the rights of indigenous peoples: the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples¹ and the expert mechanism on the rights of indigenous peoples.²

2. An important innovation in the new United Nations institutional design concerning the rights of indigenous peoples is the emphasis on cooperation among these different mechanisms with a view to avoiding unnecessary duplication and enhancing the effectiveness of the system as a whole.³ Reinforced cooperation among the mechanisms requires in-depth reflection on ways to improve existing channels of communication and to generate new methodologies of interaction.

3. At the initiative of Bartolomé Clavero, a member of the Permanent Forum, and the Special Rapporteur, members of the United Nations mechanisms with a mandate regarding indigenous peoples, as well as a number of indigenous experts, were invited to participate in an informal meeting to discuss issues of coordination in their work to promote the rights of indigenous peoples within the framework of the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. The meeting took place at the Spanish Agency for International

¹ Resolution 6/12, para. 1 (g).

² See resolution 6/36.

³ The mandate of the Special Rapporteur calls upon him/her to “work in close cooperation with the Permanent Forum on Indigenous Issues and to participate in its annual session” (resolution 6/12, para. 1 (e)). Similarly, the Human Rights Council decided, “in order for the expert mechanism to enhance cooperation and avoid duplicating the work of the Special Rapporteur ... and the Permanent Forum, that it shall invite the Special Rapporteur and a member of the Permanent Forum to attend and contribute to its annual meeting” (resolution 6/36, para. 5).

Cooperation in Madrid, from 4 to 6 February 2009. It was organized jointly by the non-governmental organizations, the International Work Group on Indigenous Affairs and the Almaciga Intercultural Working Group. The seminar was attended by all the members of the expert mechanism and four members of the Permanent Forum, as well as representatives of the secretariats of the three United Nations mechanisms and a group of experts from and members of indigenous peoples' organizations from various regions. The members of the three mechanisms put forth the following conclusions and recommendations.

II. CONCLUSIONS AND RECOMMENDATIONS

United Nations Declaration on the Rights of Indigenous Peoples

- 4. The United Nations Declaration on the Rights of Indigenous Peoples provides the framework for action towards the full protection and implementation of indigenous peoples' rights.**
- 5. The United Nations Declaration on the Rights of Indigenous Peoples is the principal normative framework for the three United Nations mechanisms with a specific mandate regarding indigenous peoples' rights, and it should also constitute an important frame of reference for the United Nations treaty bodies and other relevant international and regional human rights mechanisms.**
- 6. Article 42 of the United Nations Declaration on the Rights of Indigenous Peoples requires the three mechanisms to apply the Declaration universally, irrespective of the positions of individual States on the Declaration.**

General coordination

- 7. The three mechanisms should take advantage of their participation at the annual sessions of the Permanent Forum and Expert Mechanism to meet and coordinate their work agendas. In any case, the three mechanisms should consider holding an annual meeting to coordinate their work.**
- 8. The Chairperson, or, if this is not possible, a designated member of the Permanent Forum and of the Expert Mechanism, and the Special Rapporteur should always participate in the annual sessions of the Permanent Forum and the Expert Mechanism.**
- 9. The three mechanisms should consult with the Inter-Agency Support Group to develop methods for strengthening coordination and cooperation with United Nations agencies.**

Division of labour among mechanisms

- 10. Taking into account the specific terms of their respective mandates, each of the three mechanisms should avoid engaging in work that is the special focus of the mandates of the other mechanisms or that would more adequately be addressed by other bodies and agencies of the United Nations system, including the treaty bodies.**

11. **In the aftermath of the adoption of the United Nations Declaration, the Permanent Forum should review its working methods in order to promote cooperation with the other two mechanisms and enhance its responsibilities under article 42 of the Declaration. A greater role could be given to the Permanent Forum's interaction with the United Nations agencies, including in public meetings, particularly those that carry out activities regarding the rights of indigenous peoples at the country level.**
12. **The sessions of the Permanent Forum and the Expert Mechanism should strive to focus the participation of Governments, indigenous representatives and other stakeholders on the specific issues and functions falling within their respective mandates.**

Thematic research

13. **The Expert Mechanism has a specific mandate to carry out thematic research. The Special Rapporteur has adopted the view that his role in thematic research will be secondary, contributing to the thematic research of the other mechanism on the basis of his experience engaging with Governments on country situations.**
14. **The Permanent Forum should reflect on its role in carrying out thematic research and avoid duplication of the work of the Expert Mechanism to prevent "thematic fatigue".**
15. **The Expert Mechanism and the Permanent Forum should seek to collaborate closely on research projects of shared interest. The participation of indigenous experts should always be promoted.**

Specific situations of human rights violations

16. **This is a priority area of work for the Special Rapporteur.**
17. **The Permanent Forum and the Expert Mechanism should develop measures to channel the specific allegations of human rights violations presented by indigenous peoples during their annual sessions, including to the Special Rapporteur and other relevant mechanisms mandated to address such allegations.**
18. **The Special Rapporteur should develop methodologies for receiving allegations of human rights violations and, as required, for direct dialogue between Governments and indigenous peoples, during his participation at the annual sessions of the Permanent Forum and the Expert Mechanism.**

Country visits

19. **Country visits to assess the human rights conditions of indigenous peoples is one of the principal work methods of the Special Rapporteur pursuant to his mandate.**
20. **The Permanent Forum has an important role to develop in relation to the work of the United Nations agencies and programmes at the country level, enhancing knowledge of indigenous issues among the different agencies.**

21. **The Permanent Forum should develop internal guidelines to orient the activities and scope of work carried out by its individual members during country visits.**

22. **The Permanent Forum's secretariat could seek methods of enhancing cooperation and information-sharing among the Forum's individual members in order to strengthen their roles and the effectiveness of their activities as members between sessions. The Forum's members should be actively involved in intersessional activities, including those carried out by the secretariat.**

Role of the secretariats

23. **The secretariat staff should periodically share information regarding the activities of the three mechanisms and the secretariats themselves, coordinate workplans regularly, and collaborate on research and other areas as appropriate.**

24. **The secretariats should enhance efforts for training of United Nations staff members on indigenous rights and issues at headquarters and in the field, in coordination with efforts made by the three mechanisms.**

25. **Where possible, more resources, both financial and human, should be dedicated to the secretariats. In particular, the secretariat of the Expert Mechanism needs to be strengthened considerably. Priority should be given to the recruitment of indigenous staff.**

26. **The secretariat of the Permanent Forum and the Office of the United Nations High Commissioner for Human Rights should consider utilizing the members of the Permanent Forum and the Expert Mechanism as resource persons in the elaboration of their own policies, guidelines and publications on indigenous issues.**
