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COMMISSION ON HUMAN RIGHTS
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Agenda item 5 (b)

PREVENTION OF DISCRIMINATION

**PREVENTION OF DISCRIMINATION AND PROTECTION
OF INDIGENOUS PEOPLES**

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

2003/... 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 1993 World Conference on Human Rights, 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 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

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-first session (E/CN.4/Sub.2/2003/22) and, in particular, of its conclusions and recommendations,

Welcoming the ample discussions in the Working Group on Indigenous Populations during its twenty-first 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: “Indigenous peoples and globalization”, and standard-setting, as well as on cooperation with other United Nations bodies in the sphere of indigenous issues,

Recalling 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 people,

Taking note of Commission on Human Rights resolution 2003/55 of 24 April 2003 and Economic and Social Council decision 2003/... of 23 July 2003,

Welcoming the contribution made by the fourth international workshop on indigenous children and youth, convened by non-governmental organizations from 17 to 18 July 2003,

Recalling its resolution 2002/21 of 14 August 2002,

1. *Expresses its deep appreciation* to all members of the Working Group on Indigenous Populations for the important and constructive work accomplished during its twenty-first session and for the new working methods introduced with the purpose of facilitating a more interactive dialogue during its annual sessions;

2. *Requests* the Secretary-General to transmit the report of the Working Group on its twenty-first session (E/CN.4/Sub.2/2003/22) to the United Nations High Commissioner for Human Rights, indigenous organizations, Governments and intergovernmental and non-governmental organizations concerned, as well as to treaty bodies and all thematic rapporteurs, special representatives, independent experts and working groups;

3. *Invites* 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;

4. *Requests* that the report of the Working Group on its twenty-first session be made available to the Commission on Human Rights at its sixtieth session;

5. *Reiterates its recommendation* that the Working Group, upon request, cooperate as a body of experts in any conceptual clarification or analysis that might assist the open-ended intersessional working group established by the Commission in its resolution 1995/32 of 3 March 1995 to complete as soon as possible the final version of the draft United Nations declaration on the rights of indigenous peoples;

6. *Decides* that the Working Group at its twenty-second session shall adopt as the principal theme "Indigenous peoples and conflict resolution", as agreed upon by the Working Group (E/CN.4/Sub.2/2003/22, para. 120), and that the Office of the High Commissioner for Human Rights shall invite all relevant organizations and departments of the United Nations system to provide information and, if possible, to participate in the meetings of the Working Group;

7. *Requests* the Working Group to review at its twenty-second session the revised draft principles and guidelines on the heritage of indigenous people, elaborated by Ms. Erica-Irene Daes (E/CN.4/1995/26, annex);

8. *Invites* the members of the Working Group to prepare the following working papers and commentaries for its twenty-second session:

(a) Mr. Yozo Yokota - a working paper to serve as a guideline for the review of the draft principles and guidelines on the heritage of indigenous peoples to be undertaken by the Working Group under its agenda item on standard-setting;

(b) Mr. El-Hadji Guissé - a supplementary working paper on “Globalization and indigenous peoples”, including suggestions for future follow-up that could be considered by the Working Group and its parent bodies;

(c) Ms. Iulia-Antoanella Motoc - a preliminary working paper on the principle of free, prior and informed consent of indigenous peoples in relation to development affecting their lands and natural resources that would serve as a framework for the drafting of a legal commentary by the Working Group on this concept;

(d) Ms. Françoise Hampson - a working paper containing suggestions on possible follow up by the Working Group on the human rights situation of indigenous peoples in States and territories threatened with extinction for environmental reasons;

(e) Mr. Miguel Alfonso Martínez - a working paper on “Indigenous peoples and conflict resolution” to provide a framework for the discussions to be held under the principle theme;

9. *Decides*, in the light of the discussions held under the principal theme “Globalization and indigenous peoples”, to invite the Office of the High Commissioner for Human Rights to organize, as a matter of priority, 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 and traditions of these communities and the principle of free, prior and informed consent;

10. *Decides* that the Working Group's agenda for its twenty-second session would be as follows: 1. Election of officers; 2. Adoption of the agenda; 3. Organization of the work of the session; 4. Review of developments: (a) General debate; (b) Principal theme: "Indigenous peoples and conflict resolution"; (c) Globalization and indigenous peoples; 5. Standard-setting: (a) legal commentary on the concept of free, prior and informed consent; (b) review of draft principles and guidelines on the protection of the heritage of indigenous peoples; 6. Other matters: (a) cooperation with other United Nations bodies in the sphere of indigenous issues; (b) follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; (c) review of activities undertaken under the International Decade of the World's Indigenous People; (d) state of the voluntary funds; (e) the draft declaration on the rights of indigenous peoples; (f) States threatened with extinction for environmental reasons;

11. *Agrees* with the Working Group's decision in principle to establish as principal themes for its twenty-third (2005) and twenty-fourth (2006) sessions, respectively, the following matters: "Domestic and international protection of indigenous traditional knowledge" and "Indigenous children and youth";

12. *Invites* the Office of the High Commissioner for Human Rights, after consultations with the Chairperson-Rapporteur, to inform participants at the twenty-second session of the Working Group 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;

13. *Requests* the Office of the High Commissioner for Human Rights to invite Governments, intergovernmental organizations and indigenous and non-governmental organizations to provide information and data, in particular on the principal theme, relevant to the Working Group's agenda at its twenty-second session;

14. *Also requests* the Office of the High Commissioner for Human Rights, in consultation with interested Governments, to continue efforts to organize meetings on indigenous issues in different parts of the world so as to provide greater opportunity for participation by indigenous peoples and to raise public awareness about issues affecting them, in particular in the African, Asian, Oceanian and Latin American regions;

15. *Requests* the High Commissioner to encourage studies with respect to the rights to food and adequate nutrition of indigenous peoples and indigenous peoples and poverty, stressing the linkage between their present general situation and their land rights, and to develop further cooperation with the Food and Agriculture Organization of the United Nations and the World Food Programme on indigenous issues;

16. *Reiterates* its recommendation that the Commission on Human Rights, in view of the adoption of Economic and Social Council resolution 2002/28 of 25 July 2002 that permits indigenous organizations to participate in the work of the Permanent Forum on Indigenous Issues on the same basis as the Working Group on Indigenous Populations, adopt a similar procedure for participation in the Working Group established in accordance with Commission resolution 1995/32, in order to ensure consistency in matters relating to the participation of indigenous peoples in the work of the United Nations affecting them;

17. *Requests* the Chairperson-Rapporteur to present the report of the Working Group on its preceding session to the annual meetings of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations, without financial implications, and to inform the Board of the Working Group's agenda for its next session, so that the Board can bear this in mind when it meets;

18. *Appeals* to all Governments, organizations, including non-governmental organizations and indigenous groups, and other potential donors in a position to do so to contribute generously to the United Nations Voluntary Fund for Indigenous Populations in order to assist representatives of indigenous communities and organizations to participate in the deliberations of the Working Group and the open-ended intersessional working group on the draft United Nations declaration on the rights of indigenous peoples;

19. *Requests* the Secretary-General to prepare an annotated agenda for the twenty-second session of the Working Group on the basis of paragraph 9 of the present resolution;

20. *Reiterates* its view that the Economic and Social Council, in reviewing at its substantive session for 2004 all United Nations mechanisms relating to indigenous peoples, should take into account the fact that the mandates of the Working Group, the Special

Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Permanent Forum on Indigenous Issues are distinct and complementary and requests the Commission, in the light of the ongoing cooperation of these three mechanisms, to endorse this view;

21. *Requests* the Commission on Human Rights to endorse the participation of the Chairperson-Rapporteur of the Working Group at the third session of the Permanent Forum on Indigenous Issues, as recommended by the Working Group (E/CN.4/2003/22, para. 113), to enable him to present the report of the Working Group on its twenty-first session, and recommends to the Economic and Social Council that it approve said participation;

22. *Also requests* the Commission on Human Rights to request the Economic and Social Council to authorize the Working Group on Indigenous Populations to meet for five working days prior to the fifty-sixth session of the Sub-Commission in 2003;

23. *Recommends* to the Commission on Human Rights the following draft decision for adoption:

“The Commission on Human Rights, taking note of resolution 2003/... of ... August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, endorses the Sub-Commission’s request that the Economic and Social Council authorize the Working Group on Indigenous Populations to meet for five working days prior to the fifty-sixth session of the Sub-Commission in 2004.”
