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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on the Promotion  
and Protection of Human Rights  
Working Group on Indigenous Populations  
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Item 5 of the provisional agenda

**STANDARD-SETTING**

**List of standard-setting activities which could be considered by  
the Working Group on Indigenous Populations, submitted by  
Antoanella-Iulia Motoc**

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## **Introduction**

1. By its resolution 2002/21, the Sub-Commission on the Promotion and Protection of Human Rights invited Ms. Antoanella-Iulia Motoc to draw up a list with commentaries of possible standard-setting activities that might be considered by the Working Group on Indigenous Populations. The present document is submitted in response to that invitation.
2. In the author's opinion, before identifying areas in which standard-setting activities could be considered by the Working Group, attention should be given to the issue of how to understand standard-setting activities in the context of indigenous peoples, as well as the arrangements by which the Working Group could become involved in the future in such standard-setting activities.
3. The best way of commenting on future standard-setting activities relating to indigenous peoples is by first outlining the analytical framework of the sources of international law in this area, surveying the current sources of this law and considering the means by which the Working Group could formulate proposals regarding such activities.
4. After analysing the existing standard-setting framework, proposals relating to future standard-setting activities would be prepared in accordance with criteria relevant to the protection of indigenous peoples, including the preservation and well-being of indigenous communities and the safeguarding of their culture and identity. The relationship between indigenous peoples and international policy and law is aptly illustrated by this stanza from an indigenous poem:

*"Why do you take by force what you could obtain by love? Tell them how we loved all that was beautiful. Have a vision not clouded by fear. We will be known forever by the tracks we leave."*

## **I. SOURCES OF INTERNATIONAL LAW AND PROTECTION OF INDIGENOUS PEOPLES**

5. In 1993, in an analysis of issues relating to the sources of international law, one of the most hotly debated problems at the current time in international law, Weil introduced a distinction which has subsequently gained wide currency: he suggested that sources of international law containing peremptory norms of a precise legal nature, which could be considered as forming "hard law" or *jus cogens*, should be differentiated from norms of a vague or more flexible nature, based on nascent rights and obligations, which form so-called "soft law".<sup>1</sup> In contrast to these two categories of norms, according to Weil, in international law there are certain norms which do not have mandatory force and which would not therefore be considered as norms of international law. The classic example of this is the Final Act of the Conference on Security and Cooperation in Europe, held in Helsinki in 1992. According to Weil and other authors, such as Brownlie,<sup>2</sup> the proliferation of soft norms is impeding efforts to strengthen international law. These norms create a grey area in international law, which gives rise to a certain amount of instability and uncertainty.

6. According to an opposing view, a special meaning in law has been acquired by norms derived from international instruments which combine soft and hard law and from provisions which, in terms of article 38 of the Statute of the International Court of Justice, lack legal force.<sup>3</sup> In practice, it often happens that States negotiate agreements which combine aspects of both hard and soft law and which, as a result, have a special legal meaning. The process of drafting and adopting instruments which lack legal force is fairly widespread among States. One might therefore accept two different ways of understanding international law. First, taking the traditional approach, the issue may be viewed from the point of view of the dichotomy between what is legal and what is illegal, between law and non-law. Then there is a second viewpoint, in which particular importance is attached to soft norms, which are often based on the concept of voluntary obligation and legal norms of varying degrees of intensity which have an operational nature. If we adopt this latter standpoint, also known as the “modern” standpoint of international law, the existence of soft norms has the advantage of contributing to the development of norms relating to international law.<sup>4</sup>

7. A middle position has recently been identified, which - while criticizing the use of imperfect instruments, including agreements which have not been ratified - recognizes the need to formulate new ways of interpreting international law, so that prominence can be given to instruments under international law which have not reached the threshold of normativity and which are not covered by article 38 of the Statute of the International Court of Justice. One characteristic of international law is its perpetual capacity for change, which demonstrates the constant need to create such law. Given this characteristic, there is a discrepancy between, on the one hand, its rapid change and, on the other, its legalistic formalism. Often the legal solutions proposed erase any distinctions between the law and soft law. The task of analysing unperfected acts and their legal value, as well as custom, is more a matter of doctrine, however. International justice should apply only the law.<sup>5</sup>

8. An analysis of the sources of international law relating to protection of indigenous peoples demonstrates the importance of this conceptual framework; it also shows its non-dichotomous nature. Most authors make no distinction between law and soft law. According to experts in the protection of indigenous peoples, due regard must be had for the need to develop and promote these peoples’ own values, including the preservation and well-being of their communities and the safeguarding of their culture and identity. Accordingly, the development of the law of indigenous peoples should be based not only on sources of hard law, but also those of soft law, or even norms deriving from texts which are not of a mandatory nature.

9. An initial picture of the general framework of the subject can be gained from an analysis of human rights treaties. These include in particular treaties prohibiting any form of racial discrimination, genocide and torture, upholding the right to the freedom of religion and guaranteeing the self-determination and preservation of the cultural heritage. This framework is, however, manifestly inadequate for the protection of indigenous peoples.<sup>6</sup>

10. The only treaty exclusively concerned with the situation of indigenous peoples remains Convention 169 of the International Labour Organization (ILO), adopted by the ILO Conference in 1989. This convention sets out rights relating to the ownership of the traditional land and territories of indigenous peoples, recognition of their cultures, their lifestyles and their traditional forms of organization. Fundamental issues covered by this convention include the participation

and consultation of indigenous peoples in all matters relating to their lives and administration. In article 2, Convention 169 stipulates that Governments shall have the responsibility for developing, with the participation of indigenous peoples, coordinated and systematic action to protect their rights and to guarantee respect for their integrity. This action shall include measures to ensure that these peoples enjoy the same rights and opportunities as other members of the population, on an equal footing. At the same time, Convention 169 recognizes the collective and specific rights of indigenous peoples, including their right to development, their right to cultural and territorial integrity and their right to a healthy environment.<sup>7</sup>

11. Other international treaties also contain provisions relating to the protection of indigenous peoples. Thus, the Convention on Biological Diversity, adopted in 1992, stipulates, in its article 8, that regulatory provisions relating to the knowledge, innovations and practices of indigenous communities embodying traditional lifestyles are of importance for the conservation and sustainable use of biological diversity.

12. There are not many legal standards of direct relevance to indigenous peoples to be found in international treaties. Most such documents take the form of declarations or directives.

13. In 1993, the United Nations Conference on Environment and Development adopted the Rio Declaration on Environment and Development and Agenda 21. Following the Rio Conference, several documents relevant to the protection of indigenous peoples were adopted, including the plan of implementation of the World Summit for Sustainable Development, and the Forest Principles. Principle 22 of the Rio Declaration recognizes indigenous peoples as social and political partners in the achievement of sustainable development and stresses the special nature of indigenous cultures.

14. Agenda 21 contains a chapter encouraging States to establish, in partnership with indigenous peoples, a process to ensure the greater participation of indigenous peoples in the development of laws designed to strengthen their control over their own territories.

15. The Vienna Declaration and Programme of Action, adopted by the 1993 World Conference on Human Rights, encourages States to take concerted steps, in accordance with international law, to ensure respect for all human rights and fundamental freedoms of indigenous peoples.

16. The Declaration and Programme of Action adopted by the World Conference Against Racism, held in 2002 in Durban, stresses the rights of indigenous peoples; it also records that, over the course of history, indigenous peoples have been the victims of discrimination and reaffirms the principle of non-discrimination.

17. The Working Group on Indigenous Populations, established in 1982, has prepared a draft United Nations declaration on the rights of indigenous peoples. This draft, which is of particular importance, recognizes the right to self-determination, and also other rights, such as the right of indigenous peoples to preserve and develop their own political, cultural and social identity and to participate, if they so choose, in the political, social and cultural life of the State. At the same time, the draft declaration urges States to refrain from any measures which could affect the identity and values of these peoples, through the dispossession of their land, their assimilation, the imposition of ways of life and the spreading of propaganda. The rights guaranteed by the

draft declaration include the right to observe and promote their social, cultural and spiritual practices. In addition, the declaration stipulates the right of indigenous peoples to shape their own development strategy. Their treaties with States must be recognized, observed and enforced. The declaration recognizes the right of indigenous peoples to develop, control and use the land which they have traditionally occupied, including the right to the restitution of land taken without their consent. With regard to such issues as self-determination, land and resources, and political autonomy, the declaration goes beyond the provisions contained in ILO Convention 169, concerning indigenous and tribal peoples in independent countries.<sup>8</sup>

18. The draft United Nations declaration has been cited by indigenous organizations in defence of their rights. There is general acceptance that, even though the declaration may not be binding in the strict sense of the term, it still has considerable practical significance. It has also been pointed out that the ability to invoke an international instrument is an essential tool at the disposal of those defending the rights of indigenous peoples, whether this be a treaty or a declaration.<sup>9</sup>

19. At the regional level, the Inter-American Commission on Human Rights also adopted a draft declaration in 1997. Even though indigenous peoples constitute an important factor in many American States, it was only in 1989 that the Commission started drafting a regional working document on the issue, on its own initiative and following the recommendation of the General Assembly of the Organization of American States.

20. The draft by the Inter-American Commission has certain additional elements not found in the draft United Nations declaration. It defines the scope of the document without defining the notion of "indigenous people". In the preamble, it states that indigenous peoples constitute an organized, distinctive and integral segment of the population. The options of separation and secession are excluded. Indigenous populations are recognized as a subject of international law. The draft also affirms the importance of the right to development for the future of indigenous peoples, as well as their right to a healthy environment.

21. In recent years, the Inter-American Commission has accepted the admissibility of complaints lodged by indigenous peoples. Thus, it brought the Awas Tingni community case before the Inter-American Court of Human Rights, which passed a judgement in the matter which is binding on the parties involved.<sup>10</sup>

22. To date, the European organizations have shown little interest in the protection of indigenous peoples. That said, indigenous peoples have been taken into consideration in Europe since the 1990s. Thus, the 1992 Helsinki Conference recognized that persons belonging to indigenous populations might have special problems and should not be subject to discrimination. Bodies responsible for monitoring compliance with treaties, such as the Consultative Committee of the Framework Convention for the Protection of National Minorities, established in 1995, have also started to talk about standards for the protection of indigenous peoples.

23. It has rightly been stressed that international standards relating to the protection of indigenous peoples have started to influence the work of the treaty monitoring bodies: thus, these standards are being applied by the Human Rights Committee and the Committee on the Elimination of Racial Discrimination; this now routine approach shows that standards relating to the protection of these peoples are increasingly widely recognized.<sup>11</sup>

24. The internal policies and directives of international organizations constitute a particularly important source of international law for the protection of indigenous peoples.<sup>12</sup> Before analysing the activities in this area of the international financial institutions, attention should be drawn to initiatives taken by other specialized agencies, such as the United Nations Development Programme (UNDP), the United Nations Education, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), and the World Intellectual Property Organization (WIPO). Thus, the Universal Declaration of Cultural Diversity, adopted in 2001 by UNESCO, states, in its article 4, that the defence of cultural diversity is essential to the promotion of human rights, in particular those of indigenous peoples.

25. In 2001, UNDP adopted a new policy, entitled “UNDP and indigenous peoples: a policy of engagement”, containing fundamental principles for the support of indigenous peoples. This policy identifies five main areas: participation; self-determination; conflict prevention and peace building; environment and sustainable development; and globalization. UNDP stresses the need to ensure the participation of indigenous peoples in the taking of any decisions which affect them.

26. The first efforts by the World Bank to develop operational policies geared towards the needs of indigenous peoples date to the 1980s, as a response to the adverse consequences of bank-funded projects in the Amazon region. A 1982 study reveals the disastrous effect of the Bank’s policies on indigenous peoples.<sup>13</sup>

27. In 1991, the World Bank developed its operational directive 4.20, in which the term “indigenous people” is defined to cover the following social groups: indigenous peoples, indigenous ethnic minorities, tribal groups and scheduled tribes. These terms are said to describe: “social groups with a social and cultural identity distinct from the dominant society, that makes them vulnerable to being disadvantaged in the development process”.

28. At the same time, the Bank asserts that there is no single universal definition of the term “indigenous peoples”. In the same operational directive, it considers indigenous peoples in particular geographical areas by the presence in varying degrees of the following characteristics:

- (a) Close attachment of ancestral territories and the natural resources in those areas;
- (b) Presence of customary social and political institutions;
- (c) Primarily subsistence-oriented production;
- (d) An indigenous language, often different from the national language; and
- (e) Self-identification and peer-recognition.

29. This directive was revised in 2001 and then reviewed in consultations open to all parties concerned. One of the major criticisms was that the consultative process was too short and would not enable any genuine consultation with the indigenous peoples.

30. Consultation and participation occupy an important place in the Bank's overall system of provisions, particularly in its lending system:

“To ensure meaningful consultation, the Borrower provides relevant information to indigenous groups affected by Bank-assisted projects, in a timely and culturally appropriate manner. To facilitate such consultation, the Borrower:

“(a) Establishes an appropriate framework for dialogue, including adequate gender and generational representation;

“(b) Involves local representative indigenous organizations in discussion, as appropriate; and

“(c) Uses culturally appropriate consultation methods which allow indigenous peoples - both men and women - to express their views and preferences.

“The Borrower considers the views and preferences of indigenous peoples in deciding whether to proceed with the project and what additional measures, including modification of project design, are required to address adverse impacts and enhance project benefits. The Bank reviews the Borrower's project proposal to ensure its consistency with this policy.”<sup>14</sup>

31. It is very important that the views of the affected groups should be taken into account during the process of developing standards, a requirement which is also included in several national legislations and is probably rooted in the articles of agreement of the World Bank and general principles applicable to international law.<sup>15</sup>

32. Despite the improved situation of indigenous peoples in political discourse since the 1980s, these peoples reproach the Bank for its lack of will in applying and ensuring respect for its own policies, which are therefore often interpreted as mere window-dressing.<sup>16</sup> It has been stressed that it is essential for the World Bank to take due account<sup>17</sup> of the right of indigenous peoples to their own land,<sup>18</sup> as well as their right to participation. As an integral part of the United Nations system, the Bank should respect customary law and the general principles of international law.

33. In political dialogue considerable importance also attaches to the responsibility of the Bank vis-à-vis the policies of borrowing States which fail to provide protection for indigenous peoples from the impact of World Bank projects. In that context, we should note that the World Bank has undertaken to be bound by the provisions of Convention 169.<sup>19</sup>

34. An examination of the relationship between indigenous peoples and the World Bank suggests that the procedure for the development, dissemination and enforcement of its standards is not based solely on the sources of international law enumerated in article 38 of the Statute of the International Court of Justice. International law is not exclusively the result of the policy of States, it derives also from the interaction between States, and between indigenous peoples, States and international organizations. Recourse can also be had to traditional sources of

international law and to an analysis of the way the operational policies and practices of international organizations develop within customary law or the general principles of law. This shows us that the general principles of law do not evolve purely through the practices of States, but also through those of international organizations.<sup>20</sup>

35. Inter-institutional dialogue covers not only operational policies, but also the setting of standards. In the international organizations the adoption of one policy is always influenced by the development of another. A case in point is the revision of ILO Convention 107, which has been replaced by Convention 169 of 1989, responding to a change in the normative practices of States. Both the Asian Development Bank and the Inter-American Development Bank have been influenced by the policies of the World Bank, including the Bank's lending model, a process which has been described as a copycat response. The coordination process has been developed on the example of the Working Group on Indigenous Populations, which has been seen as having a liberating effect, since it has made possible the participation of indigenous peoples.<sup>21</sup>

## **II. AREAS OF FUTURE STANDARD-SETTING ACTIVITIES BY THE WORKING GROUP**

36. The Office of the United Nations High Commissioner for Human Rights has drawn up a list of proposals for future standard-setting activities suggested over the last few years by indigenous peoples and experts, which may be found in the annex below. The following proposals are of particular interest:

- (a) Question of free, prior and informed consent of indigenous peoples;
- (b) Social and environmental impact of projects relating to indigenous peoples;
- (c) Protection of intellectual property rights and traditional knowledge;
- (d) Creation of a juridical process of dispute and conflict resolution, including access to international juridical bodies;
- (e) Possible mechanisms for the resolution of self-determination claims in the United Nations system;
- (f) Issue of displacement and forced evictions;
- (g) Standards relating to the health of indigenous peoples;
- (h) Issue of the protection of indigenous peoples from the impact of extractive industries; and
- (i) Food security, including the issue of genetic resources.



### III. WAYS IN WHICH THE WORKING GROUP COULD BE INVOLVED IN DEVELOPING STANDARDS

37. It is important that the Working Group continue to forge links with indigenous organizations and give due attention to reports submitted by indigenous representatives. In addition, it is vital for the Working Group to maintain close relations with Governments and international organizations. The working documents should also be edited by the Working Group; these documents are destined to be discussed with indigenous representatives and with the States concerned. Due attention should be given to the views of indigenous peoples in the process of developing standards, in line with their own request, namely, that national laws should require their consent. In addition, it is essential that the standards developed in the United Nations should be taken up in discussions within individual countries about indigenous peoples, with a view to encouraging the authorities to take this issue into consideration at the national level.

38. There was a danger in the 1990s of indigenous peoples being transformed into a stereotype. Once the idea of the protection of indigenous peoples was taken up by the United Nations, it risked being reduced to a cliché. There is a danger that discussions of indigenous peoples might turn into pure rhetoric or yet another bureaucratic issue on the United Nations agenda. Indigenous peoples are currently facing the problem of competition between institutions.<sup>22</sup>

39. It is to be hoped that the United Nations declaration on indigenous peoples will be adopted at the earliest possible date; the Working Group will then be able to take up the issues outlined above. Its tasks of clarifying and codifying these issues could lead, in the medium term, to the preparation of a draft convention on the protection of indigenous peoples.

#### Notes

<sup>1</sup> P. Weil, "Towards Relative Normality in International Law?", *American Journal of International Law* No. 77, 1983, pp. 413 and 423-430.

<sup>2</sup> I. Brownlie, *Principles of Public International Law* (5th ed.), Oxford, Clarendon Press, 1998.

<sup>3</sup> M.E. O'Connell, "The Role of Soft Law in the Global Order", in: D. Shelton, *Commitment and Compliance: The Role of Non-Binding Norms in the International Legal System*, Oxford, Oxford University Press, 2000, p.106.

<sup>4</sup> J. Charney, "Compliance with Soft Law", in *ibid.*, p. 116.

<sup>5</sup> W.M. Reisman, "Unratified Treaties and Other Unperfected Acts in International Law: Constitutional Functions", *Vanderbilt Journal of Transnational Law*, vol. 35, No. 3, May 2002, p. 729.

<sup>6</sup> S. Wiessner, "Rights and Status of Indigenous Peoples: A Global Comparative and International Legal Analysis", *Harvard Human Rights Journal*, vol. 12, Spring 1999, p. 57.

<sup>7</sup> R.L. Barsh, "Indigenous Peoples in the 1990s: From Object to Subject of International Law", *Harvard Human Rights Journal*, vol. 7, Spring 1994, p. 33.

<sup>8</sup> Wiessner, loc. cit.

<sup>9</sup> Barsh, loc. cit.

<sup>10</sup> S.J. Anaya and R.A. Williams, "The Protection of Indigenous Peoples' Rights over Lands and Natural Resources under the Inter-American Human Rights System", *Harvard Human Rights Journal*, vol. 14, Spring 2001, p. 33.

<sup>11</sup> Ibid.

<sup>12</sup> B. Kingsbury, "Operational Policies of International Institutions as Part of the Law-Making Process: The World Bank and Indigenous Peoples", in: G.S. Goodwin-Gill and S. Talomon, *The Reality of International Law - Essays in Honour of Ian Brownlie*, Oxford, Clarendon Press, 1999, pp. 323-342.

<sup>13</sup> World Bank, *Tribal Peoples and Economic Development*, Washington, World Bank, 1982.

<sup>14</sup> World Bank, Draft policy on indigenous peoples (OP/BP 4.10), Washington, World Bank, 2001.

<sup>15</sup> Kingsbury, op. cit.

<sup>16</sup> F. MacKay, "Universal Rights or a Universe unto Itself? Indigenous Peoples' Human Rights and the World Bank's Draft Operational Policy 4.10 on Indigenous Peoples", *American University International Law Review*, vol. 17, p. 527.

<sup>17</sup> Ibid.

<sup>18</sup> E.-I. Daes, final working paper on indigenous peoples and their relationship to land (E/CN.4/Sub.2/2001/21).

<sup>19</sup> Kingsbury, op. cit.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Barsh, op. cit.

## Annex

### PROPOSALS FOR FUTURE STANDARD-SETTING ACTIVITIES

The following list includes proposals received by the Office of the High Commissioner for Human Rights (OHCHR) and those recorded in the reports of the Working Group on Indigenous Populations (WGIP) from 1997-2002, as well as a proposal made by the members of the Permanent Forum on Indigenous Issues at its first session in 2002:

#### A. Proposals received by OHCHR

Proposal/recommendation	Suggested by
Review of human rights of indigenous peoples in existing international mechanisms	Indigenous caucus at the twentieth session of WGIP.
Corporate accountability to indigenous peoples concerning their land and territories	Idem
Free, prior and informed consent	Idem
Environmental and social impact assessments of development projects	Idem
Protection of "indigenous knowledge" and/or "traditional knowledge" as a follow-up to Ms. Daes's report (E/CN.41/Sub.2/2000/26)	Idem
Forced relocation of indigenous peoples, including property rights, militarization of lands and territories and other effects	Idem
Creation of a juridical process of dispute and conflict resolution for indigenous peoples, including access to international juridical bodies	Idem
Seminar on practical implementation of treaties and instruments related to intellectual property rights	Idem
Possible mechanisms for peaceful solutions of self-determination claims in the United Nations system	Idem
Workshop: "Follow-up on the private sector and indigenous peoples"	Idem
Workshop on the future fellowship programme	Idem
Review to consider a second International Decade of the World's Indigenous People	Idem

Proposal/recommendation	Suggested by
Review to consider a World Conference on Indigenous Peoples	Idem
Establish Indigenous Olympic Games	Idem
Standard-setting in specific areas:	Almáciga, Grupo de Trabajo Intercultural, Madrid, in a letter of 9 Nov. 2002
<ul style="list-style-type: none"> <li>• land and territorial rights</li> </ul>	
<ul style="list-style-type: none"> <li>• corporate responsibility towards indigenous peoples</li> </ul>	
<ul style="list-style-type: none"> <li>• free, informed and prior consent of indigenous peoples</li> </ul>	
<ul style="list-style-type: none"> <li>• social and environmental impact of development programmes</li> </ul>	
<ul style="list-style-type: none"> <li>• protection of traditional knowledge, innovations and practices of indigenous peoples</li> </ul>	
<ul style="list-style-type: none"> <li>• displacement and forced evictions</li> </ul>	
<ul style="list-style-type: none"> <li>• militarization</li> </ul>	
<ul style="list-style-type: none"> <li>• conflict resolution</li> </ul>	
Design of a specific strategy for the promotion of indigenous rights in broader United Nations activities, such as the Convention on Biodiversity and WIPO	Idem
Elaboration of a draft convention on the rights of indigenous peoples	Association Tamanyut, Rabat, Morocco, in a letter dated 9 Dec. 2002
Biannual report of the High Commissioner on State actions or undertakings which have impact on the promotion of the human rights of indigenous peoples.	Mililani Trask, indigenous member of the Permanent Forum on Indigenous Issues, in a letter in 2002
Indigenous peoples, human rights and extractive industries	Indigenous participants at the international workshop “Indigenous Peoples, the Extractive Industries and the World Bank”, held in Oxford, United Kingdom, on 14 and 15 April 2003

**B. Proposals recorded in the reports on the sessions of WGIP, 1997-2002**

<b>Proposal/recommendation</b>	<b>Suggested by</b>
Further work on the right to development and the principle of free, prior and informed consent	Indigenous caucus, in the report on the twentieth session (2002) (E/CN.4/Sub.2/2002/24, para. 18)
Standards on relations between indigenous peoples and mining and logging companies	WGIP (ibid., para. 54)
Environmental and development policy guidelines	Idem
Standards on intellectual property rights of indigenous peoples	Idem
Standards on indigenous health	Idem
Juvenile justice	Idem
Guidelines for political participation of indigenous communities	Idem
Food security and genetic resources	Indigenous representatives (ibid., para. 21)
Impact of extractive industries on indigenous peoples	Idem
Annual reports on indigenous peoples' situations, involving indigenous researchers in their preparation	Idem (ibid., para. 22)
A legally binding instrument to monitor the activities of the private sector, and international as well as regional financial institutions	Idem (ibid., para. 30)
Relationship of indigenous peoples with international bodies	Ms. Hampson (ibid., para. 77)
Review of implementation and monitoring practices	Idem
Rules for political, economic and social rights of indigenous peoples	Mr. Guissé (ibid., para. 79)
Inclusion of indigenous and other external experts in developing standards	Ms. Motoc (ibid.)
Further analysis of treaties	Mr. Yokota (ibid., para. 68)
Elaboration of the definition of "indigenous peoples"	Idem

Proposal/recommendation	Suggested by
Drafting of a code of conduct for transnational corporations involved in activities that affect the lives, health and environment of indigenous peoples	Idem
Collecting human development indicators for indigenous peoples and assisting indigenous groups in formulating their own human development projects	Idem, then endorsed by the Working Group (ibid., para. 69)
Establishment of a United Nations body to negotiate land issues between indigenous peoples and Governments	RAIPON, in the report on the nineteenth session (2001) (E/CN.4/Sub.2/2001/17, para. 106)
Review of States' practices concerning indigenous lands and resources	Indian Law Resource Centre (ibid., para. 40)
Consultations between multinationals and indigenous peoples about development activities on indigenous lands	PRODECAP (ibid., para. 133)
Review of the proliferating codes of conduct and work to promote standards for corporations that promote and protect indigenous peoples' rights	Philippines Indigenous Peoples Link (ibid., para. 134)
Setting of clear and definite health standards when corporate farms are built on indigenous peoples' lands	Lakota Nation (ibid., para. 136)
Establishment of negotiating mechanisms between indigenous peoples, the State and other stakeholders in order to facilitate the resolution of conflicts that arise from the use or potential use of natural resources	World Conservation Union (ibid., para. 138)
Need to develop standards to regulate access to and use of natural resources on indigenous lands by which Governments, mining companies and transnational corporations would have to abide	Various indigenous representatives, in the report on the eighteenth session (2000) (E/CN.4/Sub.2/2000/24, para. 161)

<b>Proposal/recommendation</b>	<b>Suggested by</b>
Means of identifying the issues that arise when mineral resources on indigenous territories are exploited and elaboration of a code of ethics for transnational corporations	Indigenous representatives, in the report on the seventeenth session (1999) (E/CN.4/Sub.2/1999/19, para. 119)
Establishment of a new “indigenous jurisdiction” in societies where indigenous peoples live, with advisory, adjudicative and administrative functions as well as a capacity to propose legislation	Special Rapporteur on treaties, agreements and other constructive arrangements between States and indigenous populations (ibid., para. 131)
Cooperation between WIPO, UNESCO and other relevant agencies and the WGIP on integrated protection of indigenous peoples’ linguistic, cultural, land and resource rights	Indigenous representatives, in the report on the sixteenth session (1998) (E/CN.4/Sub.2/1998/16, para. 52)
Restructuring of WGIP in order to broaden the dialogue, including issues such as the environment, health, education and economic development	Representative of the United States of America (ibid., para. 58)
Preliminary working paper on possible principles and guidelines for private-sector energy and mining concerns	WGIP (ibid., para. 152) (entrusted to Mr. Alfonso Martínez).
Guidelines or codes of conduct for private sector energy and mining concerns	WGIP, in the report on its fifteenth session (1997) (E/CN.4/Sub.2/1997/14, para. 130)

### C. Proposals by the Permanent Forum on Indigenous Issues

<b>Proposal/recommendation</b>	<b>Suggested by</b>
Technical seminar with members of the Permanent Forum, WGIP and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people on their collaboration	Report of the first session of the Permanent Forum on Indigenous Issues (E/2002/42-E/CN.18/2002/14)

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