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INDIGENOUS ISSUES

Argentina, Bolivia*, Brazil, Costa Rica, Chile, Democratic Republic of the Congo*, Denmark*, Ecuador*, Equatorial Guinea*, Estonia*, Finland*, France, Greece*, Guatemala, Honduras, Italy, Luxembourg*, Mexico, New Zealand*, Norway*, Panama*, Paraguay, Peru, Portugal*, Romania*, South Africa, Sweden, Switzerland*, Togo: draft resolution

2004/... Human rights and indigenous issues

The Commission on Human Rights,

Bearing in mind that the Charter of the United Nations establishes as one of the purposes of the Organization the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights, that all are entitled to equal protection against any discrimination and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, national origin, birth or other status,

Guided by the relevant norms and standards of international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Discrimination against Women,

Recalling the Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169), of the International Labour Organization,

Bearing in mind the recommendations of the World Conference on Human Rights held in Vienna in June 1993,

Recalling the provisions relevant to the present resolution contained in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Recalling that the objective of the International Decade of the World's Indigenous People is the strengthening of international cooperation for the solution of the problems they face in areas such as human rights, the environment, development, education and health,

Underlining the importance of concluding, at the latest in 2004, the "Draft United Nations declaration on the rights of indigenous peoples", for consideration and adoption by the General Assembly prior to the conclusion of the International Decade of the World's Indigenous People,

Welcoming the important contributions made so far by the Permanent Forum on Indigenous Issues and its report on its second session (E/2003/43-E/C.19/2003/22) and recalling that the mandate of the Permanent Forum consists of discussing indigenous issues within the mandate of the Economic and Social Council relating to economic and social development, culture, the environment, education, health and human rights,

Taking into account the mandate of the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights to review developments pertaining to the promotion and protection of their human rights and fundamental freedoms, giving special attention to the evolution of standards concerning their rights,

Taking note of the first report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (E/CN.4/2002/97 and Add.1), in which he identified seven issues that synthesize the main human rights concerns affecting indigenous people in all regions of the world and which must be further analysed,

Noting with appreciation the outcomes of the Expert Seminar on Indigenous Peoples and Administration of Justice (E/CN.4/2004/80/Add.4 and Corr.1) organized by the Office of the United Nations High Commissioner for Human Rights with the participation of governmental, indigenous, non-governmental and independent experts, and inviting all States to take into account those outcomes in the elaboration of public policies on the subject,

Deeply concerned about the precarious levels of economic and social development that indigenous people endure in many parts of the world and the disparities in their situation in comparison to the overall population, as well as about the persistence of grave violations of their human rights,

Reaffirming the urgent need to recognize, promote and protect more effectively the human rights and fundamental freedoms of indigenous people,

Encouraged by the renewed commitment and growing interest of the international community to ensure the full respect and equal enjoyment by indigenous people of all human rights and fundamental freedoms,

Recalling its resolution 2003/56 of 24 April 2003,

1. *Decides* to extend the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people for a further period of three years;
2. *Takes note* of the report of the Special Rapporteur (E/CN.4/2004/80 and Add.1-4 and Add.4/Corr.1), submitted pursuant to Commission resolution 2003/56 as well as the official visits he has made during the last year, and encourages Governments to respond positively to requests by the Special Rapporteur to visit their country;
3. *Encourages* the Special Rapporteur to continue to examine ways and means of overcoming existing obstacles to the full and effective protection of the human rights and fundamental freedoms of indigenous people, in conformity with his mandate, and to pay special attention to violations of the human rights and fundamental freedoms of indigenous children and women, and to take into account a gender perspective;
4. *Requests* the Special Rapporteur, in performing his work, to consider the recommendations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on matters concerning his mandate, as well as the recommendations, observations and conclusions of the Committee on the Elimination of Racial Discrimination;
5. *Also requests* the Special Rapporteur, in carrying out his mandate and within the framework of the Universal Declaration of Human Rights and all other international human rights instruments, to request, receive and exchange information on violations of the human rights of indigenous people, wherever they may occur, from Governments, United Nations human rights treaty bodies, specialized agencies, special mechanisms of the Commission and the Sub-Commission on the Promotion and Protection of Human Rights, as well as from intergovernmental organizations, other relevant organizations of the United Nations system and civil society, including indigenous organizations, and to respond effectively to such information;
6. *Further requests* the Special Rapporteur to continue working on the topics included in his first report, in particular, those that impact on the situation of the human rights and fundamental freedoms of indigenous people, which may contribute to advancing the debate on fundamental issues of the “Draft United Nations declaration on the rights of indigenous peoples”;

7. *Invites* the Special Rapporteur, in carrying out his task, to take into account all the recommendations of the Permanent Forum on Indigenous Issues and of the Working Group on Indigenous Populations of the Sub-Commission relevant to his mandate;

8. *Requests* the Office of the United Nations High Commissioner for Human Rights to facilitate the attendance of the Special Rapporteur at the third annual session of the Permanent Forum on Indigenous Issues to be held at United Nations Headquarters in May 2004;

9. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, to furnish all information requested and to react promptly to his urgent appeals;

10. *Takes note* of the intention of the Office of the High Commissioner for Human Rights to organize, making use of voluntary contributions, a seminar on indigenous education, with the participation of indigenous and governmental and non-governmental experts, to assist the Special Rapporteur in examining the main topic of his annual report to the Commission in 2005;

11. *Encourages* the United Nations, including its specialized agencies, regional intergovernmental organizations, Governments, independent experts, interested institutions, non-governmental organizations and, in particular, indigenous people to cooperate to the fullest extent possible with the Special Rapporteur in the fulfilment of his mandate;

12. *Encourages* the World Summit on the Information Society to take indigenous issues duly into account in its declaration of principles and action plan and in all other relevant programmes to be adopted by the Summit in its second phase, to be held in Tunis in 2005;

13. *Urges* those States that have not yet done so to consider, as a matter of priority, signing, ratifying or acceding to the Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169);

14. *Requests* the Special Rapporteur to submit a report on his activities to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session;

15. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the Special Rapporteur for the effective fulfilment of his mandate;

16. *Decides* to continue consideration of this question at its sixty-first session, under the same agenda item;

17. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/... of ... April 2004, approves the decision of the Commission to extend, for three years, the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people for a further period of three years and the request to the Special Rapporteur to submit a report to the General Assembly at its fifty-ninth session and to the Commission at its sixty-first session. The Council also endorses the Commission’s request to the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human, technical and financial assistance to the Special Rapporteur for the effective fulfilment of his mandate.”
