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COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and
Protection of Human Rights
Working Group on Indigenous Populations
Twenty-second session
19-23 July 2004

ANNOTATIONS TO THE PROVISIONAL AGENDA

**Prepared by the Secretariat pursuant to the request of the Working Group
on Indigenous Populations at its twenty-first 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, Mr. Miguel Alfonso Martínez, is contained in document E/CN.4/Sub.2/AC.4/2004/1.

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. Such time limits will again be necessary in order to ensure that all items of the agenda are comprehensively

discussed. Note should be taken of Sub-Commission resolution 2003/29, which invites the United Nations Office of the High Commissioner for Human Rights (OHCHR), after consultations with the Chairperson-Rapporteur, to inform participants of the twenty-second 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.

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, Mr. 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 2004/58, 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) Principle theme: “Indigenous peoples and conflict resolution”

6. In its report on the twenty-first session (see E/CN.4/Sub.2/2003/22, para. 120), the Working Group decided to highlight the theme “Indigenous peoples and conflict resolution” at its twenty-second session. The Sub-Commission on the Promotion and Protection of Human Rights, in its resolution 2003/29, recommended that the Working Group at its twenty-second 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. A working paper (E/CN.4/Sub.2/AC.4/2004/2) by Mr. Alfonso Martínez, Chairperson-Rapporteur of the Working Group, was prepared to serve as a framework for the discussion on the principal theme under agenda item 4 (b).

(c) Globalization and indigenous peoples

7. Additionally, the Sub-Commission in its resolution 2003/29 recommended that Mr. Guissé, member of the Working Group, prepare a supplementary working paper on “Globalization and indigenous peoples” (E/CN.4/Sub.2/AC.4/2004/3), including suggestions for future follow-up that could be considered by the Working Group and its parent bodies that will be presented and discussed under agenda item 4 (c).

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 is now 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 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 2003/29:

(a) 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 (E/CN.4/Sub.2/AC.4/2004/4);

(b) 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 (E/CN.4/Sub.2/AC.4/2004/5).

It should be noted that the Working Group has taken the initiative to build research partnerships with indigenous organizations for the preparation of these working papers on standard-setting.

6. Other matters

(a) Cooperation with other United Nations bodies in the sphere of indigenous issues

10. 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 2004/58, in which it approved the participation of the Chairperson-Rapporteur of the Working Group in the third session of the Permanent Forum.

(b) Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

11. 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 "Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance". Under this agenda item, participants have an opportunity to provide information and comments on this topic.

(c) Review of activities undertaken under the International Decade of the World's Indigenous People

12. The recommendation to proclaim an international decade of the world's indigenous people was made by the World Conference on Human Rights in the Vienna Declaration and Programme of Action (Part II, para. 32). The General Assembly, in its resolution 48/163, proclaimed the International Decade of the World's Indigenous People, to commence on 10 December 1994. The General Assembly decided, in its resolution 49/214, to observe 9 August of every year as the International Day of the World's Indigenous People. The United Nations Office at Geneva traditionally holds the celebration of the International Day during the session of the Working Group. In 2004, the celebration will take place on Thursday, 22 July in the morning.

13. At its fiftieth session, the General Assembly, in its resolution 50/157, adopted the programme of activities for the International Decade of the World's Indigenous People contained in the annex to the resolution. The Commission on Human Rights, in its resolution 1996/39, welcomed the decision of the Assembly to adopt the programme of activities for the Decade; it also welcomed the establishment by the Coordinator of the Decade of an advisory body to provide guidance with regard to the projects and programmes financed from the Voluntary Fund for the Decade. The report on the "Administration of justice and indigenous peoples" seminar, held within the framework of the Decade in November 2003 in Madrid, as recommended by the Advisory Group of the Voluntary Fund and the Commission on Human Rights in its resolution 2003/56, is contained in document E/CN.4/Sub.2/AC.4/2004/6. The recommendations of the Advisory Group at its latest session, which took place from 22 to 26 March 2004 in Geneva, are presented to this session of the Working Group in document E/CN.4/Sub.2/AC.4/2004/9.

14. In its resolution 2002/19, the Sub-Commission on the Promotion and Protection of Human Rights recommended that the United Nations High Commissioner for Human Rights organize, before the end of the International Decade of the World's Indigenous People, a seminar on treaties, agreements and other constructive arrangements between States and indigenous peoples to explore ways and means to follow up on the recommendations included in the final report of the Special Rapporteur, Mr. Miguel Alfonso Martínez (E/CN.4/Sub.2/1999/20). The Commission on Human Rights endorsed the recommendation of the Sub-Commission in its decision 2003/117. This decision was subsequently endorsed by the Economic and Social Council in its decision 2003/271. The report of the seminar on treaties, agreements and other constructive arrangements between States and indigenous peoples held in December 2003 in Geneva can be found in document E/CN.4/Sub.2/AC.4/2004/7.

15. 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 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/58/289. 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.4/2004/79. A preliminary review of the Decade will be submitted to the Economic and Social Council at its July 2004 session.

16. The Sub-Commission, in its resolution 2002/19, invited the High Commissioner to explore the possibility of convening a world conference on indigenous peoples in 2004 to review the achievements of the Decade and recommend future action in relation to indigenous peoples. Under this agenda item, participants are invited to make comments on this proposal.

(d) State of the Voluntary Funds

17. Under this item, members of the Working Group consider a range of questions including meetings and seminars which have been held or are due to be held in the near future. In this connection, it may be noted that the seventeenth session of the Board of Trustees of the Voluntary Fund for Indigenous Populations met from 11 to 19 March 2004 and recommended that travel grants be given to 47 representatives of indigenous organizations and communities to attend the Working Group on Indigenous Populations and to 13 representatives of indigenous organizations and communities authorized to attend the working group of the Commission on Human Rights to review the draft United Nations declaration on the rights of indigenous peoples. These recommendations were approved by the High Commissioner on behalf of the Secretary-General. The General Assembly, in its resolution 56/140, expanded the mandate of the Fund by deciding that the Fund should also be used to assist representatives of indigenous communities and organizations in attending, as observers, the sessions of the Permanent Forum on Indigenous Issues. In this respect, the Board of Trustees also recommended that travel grants be given to 46 indigenous representatives to attend the third session of the Permanent Forum on Indigenous Issues, which was held from 10 to 21 May 2004 in New York. Information relating to the Voluntary Fund is contained in document E/CN.4/Sub.2/AC.4/2004/8.

18. The information on the state of the Voluntary Fund for the International Decade of the World's Indigenous Peoples is presented to this session of the Working Group in document E/CN.4/Sub.2/AC.4/2004/9.

(e) The United Nations draft declaration on the rights of indigenous peoples (update)

19. 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 "Draft declaration on the rights of indigenous peoples". Under this agenda item, participants have an opportunity to provide information and comments on this topic. The report (E/CN.4/2004/81 and Add.1) on the ninth session of Working Group on the draft declaration established in accordance with Commission on Human Rights resolution 1995/32 is available as a background document.

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

20. 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 Ms. Françoise Hampson, member of the Working Group, prepare a working paper containing suggestions on possible follow-up by the Working Group on this issue. Under this agenda item, participants have an opportunity to comment on her paper and to provide information and comments on this topic.

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

21. 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.2/2004/25.
