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PREVENTION OF DISCRIMINATION

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

**Report of the Working Group on Indigenous Populations on its twenty-fourth session
(Geneva, 31 July-4 August 2006)****

Chairperson-Rapporteur: Mr. Yozo Yokota

* Pursuant to General Assembly resolution 60/251 of 15 March 2006 entitled "Human Rights Council", all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights, including the Sub-Commission, were assumed, as of 19 June 2006, by the Human Rights Council. Consequently, the symbol series E/CN.4/Sub.2/_, under which the Sub-Commission reported to the former Commission on Human Rights, has been replaced by the series A/HRC/Sub.1/_ as of 19 June 2006.

** Annexes I and II are circulated in English only.

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Summary

The Working Group on Indigenous Populations held its twenty-fourth session from 31 July to 4 August 2006. The session was attended by the five members of the Working Group, representatives of States, United Nations bodies and specialized agencies, academics and a large number of non-governmental organizations, including participants supported by the United Nations Voluntary Trust Fund for Indigenous Populations (see annex I).

The Working Group reviewed developments pertaining to the promotion and protection of the rights of indigenous peoples, including their human rights and fundamental freedoms, with a focus on the principal theme, "Utilization of indigenous peoples' land by non-indigenous authorities, groups or individuals for military purposes". In the field of standard-setting, it held discussions on: (a) future priorities: a review of the draft principles and guidelines on the protection of the heritage of indigenous peoples; and (b) possible new studies.

A new item 8, "The future of the Working Group on Indigenous Populations", was included into the agenda. Under this item, a discussion took place on the recommendations of the Working Group with regard to the two documents which the Human Rights Council asked the Sub-Commission on the Promotion and Protection of Human Rights to submit. The recommendations are attached as annex III, and the statement of the Indigenous Peoples' Caucus on this topic can be found in annex IV.

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Introduction

1. The Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982 and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In its resolution the Economic and Social Council authorized the Sub-Commission to establish annually a working group to meet in order to:

(a) 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 (NGOs) in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions and recommendations to the Sub-Commission, bearing in mind, inter alia, the conclusions and recommendations contained in the 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);

(b) Give special attention to the evolution of standards concerning the rights of indigenous populations, taking into account both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world.

I. ORGANIZATION OF THE SESSION

A. Attendance

2. The twenty-fourth session of the Working Group on Indigenous Populations was held in Geneva from 31 July to 4 August 2006. The expert members who participated in the session were Mr. Miguel Alfonso Martínez (Cuba), Mr. Gáspár Bíró (Hungary), Ms. Françoise Hampson (United Kingdom), Ms. Christy Mbonu (Nigeria) and Mr. Yozo Yokota (Japan).

3. The Working Group was attended by representatives of 33 Member States, the Holy See, one United Nations organization and a large number of indigenous delegates and NGOs. A total of 583 participants were accredited (see annex I), although the number of actual participants attending the session was ostensibly larger. This constitutes an important increase in participation from 2005. Three members of the United Nations Permanent Forum on Indigenous Issues, Ms. Vicky Tauli-Corpuz, Mr. Hassan Id Balkassm and Mr. Wilton Littlechild, attended the session and actively participated in the debates. The Chairperson of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations also attended. The Working Group would like to express its special thanks to the Indigenous Peoples' Centre for Documentation, Research and Information and Mandat International, two Geneva-based NGOs, for their excellent support to indigenous participants and the Working Group itself.

B. Documentation

4. A number of documents relevant to the session were made available (see annex II).

C. Opening of the session

5. Mr. Julian Burger, Head of the Indigenous and Minority Unit of the Research and Right to Development Branch of the Office of the United Nations High Commissioner for Human Rights, opened the twenty-fourth session of the Working Group. He welcomed the five members of the Working Group, the representatives of States and indigenous peoples. He then drew attention to the creation of the Human Rights Council and its adoption of the United Nations Declaration on the Rights of Indigenous Peoples by its resolution 2006/2 on 29 June 2006.

D. Election of officers

6. Mr. Yokota was elected by acclamation Chairperson-Rapporteur for the twenty-fourth session. He referred to the recent creation of the Human Rights Council and noted that many issues were still to be defined, in particular regarding the Sub-Commission for the Promotion and Protection of Human Rights and its subsidiary bodies. He expressed, however, full confidence in the future of the Working Group which had proved its value over many years.

E. Adoption of the agenda

7. The Working Group considered its provisional agenda (E/CN.4/Sub.2/AC.4/2006/1) and programme of work and decided to include a new item 8 entitled "The future of the Working Group on Indigenous Populations". The agenda as adopted read as follows:

1. Election of officers.
2. Adoption of the agenda.
3. Organization of work.
4. Review of developments:
 - (a) General debate;
 - (b) Principal theme: Utilization of indigenous peoples' lands by non-indigenous authorities, groups or individuals for military purposes;
 - (c) Indigenous peoples and conflict prevention and resolution.
5. Standard-setting:
 - (a) Future priorities for standard-setting activities;
 - (b) Possible new studies to be undertaken.
6. Other matters:
 - (a) Second International Decade of the World's Indigenous People;
 - (b) Cooperation with other United Nations bodies;

- (c) Follow-up to the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance;
 - (d) The draft United Nations declaration on the rights of indigenous peoples (update).
7. The human rights situation of States and territories threatened with extinction for environmental reasons, with particular reference to indigenous peoples.
 8. The future of the Working Group on Indigenous Populations.
 9. Adoption of the report.

II. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF THE RIGHTS OF INDIGENOUS PEOPLES, INCLUDING THEIR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

A. General debate

8. Under this sub-item, 35 indigenous organizations and two States made statements. Indigenous representatives raised a wide range of concerns. These included the lack of participation of indigenous peoples in decision-making processes; the presence of extractive companies which carried out activities without consulting the indigenous peoples, often impacting on health; land confiscations and/or occupations without compensation, and the granting of land titles to non-indigenous settlers; destruction of properties; and degradation of sacred sites. Policies of assimilation of indigenous peoples, as well as population transfers and issues of forced resettlement, were also raised. Cases of ill-treatment, unlawful detention, torture, massacres and ethnic cleansing were reported and denounced. Some indigenous delegations lamented the lack of effort by States to help preserve indigenous cultural traditions, and pointed to the risk of extinction of their languages.

9. The observer for Canada called upon the Human Rights Council to focus on the implementation of human rights obligations, and noted that the challenges faced by the new body were enormous and that it was not surprising that the creation of the Council had created some uncertainty. Canada expressed its satisfaction with the first session of the Council and the fact that the mandates of all mechanisms, including the Working Group on Indigenous Populations, had been extended, and would continue their work uninterrupted during the period of review called for by the General Assembly.

B. Principal theme: “Utilization of indigenous peoples’ lands by non-indigenous authorities, groups or individuals for military purposes”

10. The Working Group had before it a note by the Secretariat on the principal theme: “Utilization of indigenous peoples’ lands by non-indigenous authorities, groups or individuals for military purposes” (E/CN.4/Sub.2/AC.4/2006/2). Three governmental observers and 66 indigenous representatives addressed the Working Group under this item. Several other States exercised a right of reply.

11. Many indigenous representatives emphasized the cultural and spiritual importance of their traditional lands. They said that the militarization of their lands was a threat to their lifestyles and had had a number of adverse effects on their communities. They called the attention of the Working Group to specific cases of militarization in many regions of the world.

12. Militarization often involved the use of weapons and vehicles that polluted ancestral and sacred lands, forests and water, and harmed wildlife. Participants expressed their strong opposition to the dumping of toxic military waste, and even nuclear waste, on their lands, which rendered them unproductive and forced people from their traditional lands. Unexploded ordnance and landmines from conflicts or training exercises also contaminated indigenous peoples' lands and caused injuries, ill-health and even death to the civilian indigenous population.

13. One issue that was raised frequently by indigenous people during the session was the use of militarization as a pretext to gain control over the natural resources in indigenous traditional lands without adequate compensation. A large number of participants from many different countries and regions cited cases of the use of the military to ensure access to land, minerals, oil and other resources on their ancestral lands.

14. Indigenous representatives also voiced their opposition to development projects, which they said were used as a justification for controlling areas that belong to their communities, as well as a justification for the presence of large numbers of soldiers on those lands. Many indigenous representatives spoke of long histories of forced resettlement for military use of their lands. Often this was done with neither consultation nor redress.

15. A number of participants cited the war on terror as a pretext for militarization, in particular in Arab regions. It was noted that a large military presence was often accompanied by human rights abuses by the military, including rape and sexual harassment that disproportionately affected women and children in indigenous communities. Indigenous representatives gave examples of the resulting climate of violence and fear. They cited a number of cases of military forces committing human rights abuses with impunity. Several indigenous participants expressed their concern about military recruitment of indigenous youth, which, they said, was a threat to their way of life. Whilst in some cases, recruitment might appear to be voluntary, indigenous youth who were living in poverty might see military service as their only option to earn a living.

16. The observer for Bolivia expressed her pride at representing her Government, which had been headed by an indigenous president since January 2006. She said that the Government of Bolivia intended to build a culture of dialogue, and reported that this year coca crops would be voluntarily replaced in consultation with farmers, rather than by military means, which had led to human rights abuses in the past.

17. The observer for Canada gave information on ways that Canada had taken into account the interest of indigenous peoples regarding the use of ancestral lands for military purposes. This included consultation, prior information, and negotiation of treaties for access and compensation.

18. The observer for Venezuela cited the working document produced by the Secretariat that highlighted Venezuela's laws requiring free, prior and informed consent of indigenous peoples in military activities that involved their communities. They called attention to the many advances in their country with regard to indigenous peoples.

C. Indigenous peoples and conflict prevention and resolution

19. A number of indigenous organizations stated that conflicts involving indigenous peoples were most often related to the denial of the right to self-determination, the lack of recognition of their human rights and freedoms, issues of land dispossession and the loss of natural resources, discrimination, marginalization and exclusion.

20. Many representatives pointed out that conflicts could arise over the issue of multinational companies' direct exploitation of natural resources on their traditional lands without their free, prior and informed consent. Specific cases of conflicts with mining companies in the Philippines, the United States of America, Indonesia (West Papua) and New Caledonia (France) were mentioned. The vast majority of indigenous organizations took the view that the recognition and implementation of the right to self-determination was the best way to prevent or resolve conflicts.

21. Many indigenous representatives also emphasized the lack of adequate domestic mechanisms to resolve conflicts and called for the creation of an international independent dispute-resolution mechanism to promote constructive dialogue between States and indigenous peoples.

22. Most indigenous organizations welcomed the recent adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the Human Rights Council, and underlined the former's role in solving and preventing conflicts. In addition, many indigenous representatives mentioned the need to elaborate a juridical framework for conflict resolution. The role the Human Rights Council could play in peace processes and resolution of conflicts between States and indigenous peoples was underlined. Finally, participants emphasized the importance of the work of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in investigating conflicts involving indigenous peoples.

III. STANDARD-SETTING

A. Future priorities: presentation of the revised guidelines on cultural heritage

23. The Working Group on Indigenous Populations decided, as part of its standard-setting activities, to review the draft principles and guidelines for the protection of the heritage of indigenous peoples (E/CN.4/Sub.2/1995/26) drafted by Mrs. Erica-Irene Daes, Special Rapporteur of the Sub-Commission. In its resolution 2003/29, the Sub-Commission had invited Mr. Yokota to prepare a working paper that would serve as a guideline for the review of the draft principles and guidelines by the Working Group under its agenda item on standard-setting

(E/CN.4/Sub.2/AC.4/2004/5). The paper was prepared jointly with the Saami Council, an organization of the indigenous peoples from Fennoscandinavia and the Kola Peninsula in the Russian Federation. At its twenty-third session, the Working Group invited Mr. Yokota to present his final version of the principles and guidelines on the heritage of indigenous peoples to the twenty-fourth session.

24. Mr. Yokota, together with a representative from the Saami Council, introduced the expanded working paper (E/CN.4/Sub.2/AC.4/2006/5), explaining that the guidelines should not be seen as duplicating initiatives elsewhere in the United Nations. They pointed out that other United Nations bodies, such as the World Intellectual Property Organization and the Convention on Biological Diversity, etc., had not adopted a rights-based approach to the issue. They also mentioned the changes that had been incorporated into the text and the topics that had been removed such as the direct reference to land and resource rights. They recommended that the guidelines be published and widely distributed and be followed by a legally binding instrument in the form of a convention.

25. Mr. Alfonso Martínez expressed the view that the term “in good faith” needed to be further explored in paragraph 8 of the guidelines, and also referred to paragraph 24 and subsequent paragraphs on national legislations, which he felt should be further clarified.

26. A proposal was made to include traditional sports and games, so that all manifestations of cultural traditions would be covered. The need to explore further the concepts of “consent” and “third party”, as well as the issue of “intellectual” v. “cultural” property rights, was also raised.

B. Possible new studies

27. Indigenous representatives took the floor under this sub-item and proposed, inter alia, the following studies and new standards to be elaborated:

(a) Practical guidelines and codes of conduct on indigenous peoples’ rights and private sector activities;

(b) A study on the impact of landmines on indigenous peoples, with particular emphasis on the rights to life, health and freedom of movement, and social, economic and cultural rights;

(c) A study on the participation of indigenous peoples in international sports and games;

(d) A global mapping exercise on the occupation of indigenous lands for military purposes, including an estimation of the costs of the restoration and rehabilitation of lands and redress for human rights violations committed in connection with this occupation;

(e) A comprehensive study on constructive elements for the cooperation between States and indigenous peoples;

- (f) A study on best practices regarding affirmative action for indigenous peoples;
- (g) Commentaries on the provisions of the United Nations Declaration on the Rights of Indigenous Peoples, following its adoption by the General Assembly.

IV. OTHER MATTERS

A. Second International Decade of the World's Indigenous People

28. Representatives of indigenous organizations spoke of some of the achievements of the first International Decade of the World's Indigenous People in their respective communities, but also underlined that much remained to be done. Some participants noted that the first International Decade had brought positive outcomes and insisted that the Second International Decade of the World's Indigenous People needed more financial support in order to implement its programme of action. A suggestion was put forward to establish national institutions in each country to disseminate knowledge about the objectives of the Second International Decade and to develop activities at the national level to implement them. Reference was also made to the recent adoption by the Human Rights Council of the United Nations Declaration on the Rights of Indigenous Peoples as an important achievement of the Second Decade, and to the prospect of its adoption by the General Assembly. It was proposed that the elaboration of a convention on the rights of indigenous peoples should be a further objective of the Second Decade.

B. Cooperation with other United Nations bodies

29. Indigenous representatives underlined the importance of cooperation between the United Nations Permanent Forum on Indigenous Issues, the Working Group on Indigenous Populations and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and said that this cooperation should be reinforced. Others called for full cooperation between the Working Group and the new Human Rights Council.

30. The need for cooperation of indigenous communities and organizations with United Nations bodies for the planning and implementation of activities at the national level was emphasized. One indigenous representative recommended that indigenous peoples be given the opportunity to enter into genuine tripartite partnerships between Governments, indigenous peoples' organizations and relevant United Nations agencies, to implement activities aimed at improving indigenous communities' living standards. Other representatives underlined that national implementation of internationally ratified conventions was often non-existent, and that domestic remedies for the protection of indigenous peoples' rights were lacking.

C. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

31. Several participants stressed the lack of implementation of the outcome of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (the Durban Declaration and Programme of Action). They underlined the persistence of racism, racial discrimination, xenophobia, and related intolerance, which were often expressed in the lack of access to adequate housing, multilingual and intercultural education, land and natural resources, and employment, as well as visas. They further emphasized that racism resulted in

conflicts, increased poverty, marginalization, exclusion and criminality. One participant underlined the progress that had been made in some countries, notably with the creation of national legislation aiming to eliminate racial discrimination, and praised the work of the Committee on the Elimination of Racial Discrimination.

D. State of the United Nations Voluntary Fund for Indigenous Populations

32. On behalf of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations, Mr. Nadir Bekirov welcomed the 41 beneficiaries of travel grants from the Voluntary Fund present at the session. He stressed the importance of the Voluntary Fund that had, since its establishment, provided assistance to about 1,000 indigenous representatives. He noted the increasing number of applications and the limited amount of funding available. At the nineteenth session of the Board of Trustees, 177 admissible applications were received for the Working Group alone. These applications were examined by the 5 independent indigenous experts who recommended 45 grants.

33. Mr. Bekirov mentioned further two recommendations made by the Board of Trustees regarding the possible broadening of the mandate of the Voluntary Fund: to include financial support for human rights projects, in addition to the provision of travel grants; and to support indigenous peoples' participation in the meetings of human rights treaty bodies. He also expressed the hope that the Working Group would be maintained, or a similar body would be created, to ensure that the human rights of indigenous peoples will be addressed in an adequate and consistent manner.

34. Mr. Alfonso Martínez welcomed the recommendations of the Chairman of the Board of Trustees regarding the broadening of the mandate of the Voluntary Fund and recommended further study of these proposals in the light of future changes that would occur in the Human Rights Council. He also highlighted that only the General Assembly could authorize the broadening of the mandate of the Voluntary Fund by means of a resolution.

E. United Nations Declaration on the Rights of Indigenous Peoples

35. Most participants welcomed the adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the Human Rights Council on 29 June 2006. They further called for the adoption of the Declaration by the General Assembly without further amendment. One representative stressed that the Declaration set an international framework for the development of positive relationships and strengthened partnerships.

36. Indigenous representatives from the Russian Federation and Canada expressed their disappointment with regard to the position of their respective Governments and expressed their hopes that both Governments would change their positions before the next session of the General Assembly.

37. The observer for Mexico expressed the support of the Government for the Declaration and underlined its role in improving cooperation and creating harmonious relationships between States and indigenous peoples. Mexico further called on all government delegations to support the adoption of the declaration in the General Assembly.

38. The observer for the Russian Federation expressed support for the drafting process, but expressed concerns about the Chairman's unilateral decision to interrupt the drafting process and to submit his own text directly to the Human Rights Council. He reiterated the view that the Government could not support the text in its current form.

39. Mr. Alfonso Martínez acknowledged that the Declaration was not a perfect document, but stressed the view that the document contained minimum standards. He expressed his hope that the document would be adopted by the General Assembly. He further recalled that it was the first time that indigenous peoples had participated in the drafting process of an international instrument.

V. THE HUMAN RIGHTS SITUATION OF INDIGENOUS PEOPLES IN STATES AND TERRITORIES THREATENED WITH EXTINCTION FOR ENVIRONMENTAL REASONS

40. Ms. Hampson introduced her paper on the issue (E/CN.4/Sub.2/AC.4/2006/CRP.2) followed by a plenary discussion. Many indigenous representatives underlined the importance of this topic. Others explained how environmental factors were impacting on their human rights situation, which was related to but outside the scope of the study.

VI. THE FUTURE OF THE WORKING GROUP ON INDIGENOUS POPULATIONS

41. Ms. Hampson submitted a preliminary paper on behalf of the members of the Working Group containing a draft contribution of the Working Group to the Sub-Commission's paper, as requested by the Human Rights Council. The paper was then discussed in the plenary. The revised recommendations of the Working Group are contained in annex III of this report.

42. The Indigenous Peoples' Caucus commented on the recommendations in a communication to the President of the Human Rights Council on future United Nations mechanisms to protect and promote the human rights of indigenous peoples, which can be found in annex IV of this report.

VII. CONCLUSIONS AND RECOMMENDATIONS

Review of developments: general statements

43. **The Working Group on Indigenous Populations noted the continuing difficulties faced by indigenous peoples in many countries in exercising their rights, as well as some encouraging improvements. The Working Group, although not able to submit recommendations to its superior bodies in connection with specific situations raised by participants, agreed to continue its cooperation with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. The Working Group underlined the vital importance of its mandate to review developments in relation to indigenous peoples.**

Review of developments: principal theme - “Utilization of indigenous peoples’ lands by non-indigenous authorities, groups or individuals for military purposes”

44. The Working Group expressed concern about information provided under this agenda item, in particular relating to the violations of indigenous peoples’ rights, including their human rights, resulting from the militarization of indigenous peoples’ lands, and expressed the view that the international community should play a more active role in conflict prevention and resolution. The Working Group expressed appreciation to the Secretariat for its working paper on the principal theme.

45. The Working Group recommended to its parent bodies that they consider ways and means to protect indigenous peoples in armed conflict, including situations in which United Nations peacekeeping forces take part.

46. The Working Group agreed to request the treaty bodies to pay specific attention to armed conflicts and militarization involving indigenous peoples.

Indigenous peoples and conflict prevention and resolution

47. The Working Group repeated its request that the Office of the United Nations High Commissioner for Human Rights organize, if possible in 2007, a workshop on indigenous peoples and conflict resolution, and requested that the necessary funds be allocated in the Office of the United Nations High Commissioner for Human Rights budget.

48. The Working Group welcomed the organization by the Office of the United Nations High Commissioner for Human Rights of a seminar on the implementation of treaties, agreements and other constructive arrangements in cooperation with Treaty 6 in Canada in September 2006.

49. The Working Group requested again that Mr. Miguel Alfonso Martínez submit, under item 4 at its twenty-fifth session, a working paper on indigenous peoples and the prevention and resolution of conflict, dealing in particular with conflicts between indigenous traditional sources of authority and State-designated institutions and representatives, and exploring the possible role that may be played by domestic and international third parties in brokering agreements for the peaceful resolution of conflicts affecting indigenous peoples.

Standard-setting and research activities

50. The Working Group, noting that it is the only United Nations mechanism addressing indigenous issues that includes standard-setting as part of its mandate, expressed appreciation to Mr. Yokota and the Saami Council who collaborated in the preparation of the working paper on the protection of the heritage of indigenous peoples.

51. The Working Group decided to ask the Office of the United Nations High Commissioner for Human Rights to further consult with States, indigenous organizations, the United Nations system and NGOs during a technical workshop to be

convened as soon as possible, and to produce a final draft of the guidelines relating to indigenous peoples' heritage to be submitted to the next session of the Working Group or to the relevant body.

52. The Working Group decided to recommend that the Office of the United Nations High Commissioner for Human Rights consult further with States, indigenous organizations, other United Nations bodies and NGOs during a technical workshop to be convened as soon as possible, and that it prepare guidelines on the principle of free, prior and informed consent based on the work undertaken by the Working Group during recent years, and that it publish and disseminate them widely.

Second International Decade of the World's Indigenous People

53. The Working Group welcomed General Assembly resolution 59/174 which proclaimed the Second International Decade of the World's Indigenous People and noted that OHCHR had forwarded the contents of annex IV of its report (E/CN.4/Sub.2/2005/26) to the Coordinator of the Second Decade in accordance with Commission on Human Rights resolution 2005/49. It proposed that the Working Group or any new expert body that may be established include an item on the Second Decade on its agenda in order to consider how it can contribute to the implementation of the programme of action related to human rights.

Seminars, workshops and regional activities

54. The Working Group expressed its appreciation to the Office of the United Nations High Commissioner for Human Rights for having organized an expert seminar on indigenous peoples' permanent sovereignty over natural resources and their relationship to land, and took note of the report on this workshop presented to the Working Group (E/CN.4/Sub.2/AC.4/2006/3). It also requested the Office of the United Nations High Commissioner for Human Rights to implement the recommendations, where appropriate.

55. The Working Group reiterated its recommendation that the Office of the United Nations High Commissioner for Human Rights organize a second workshop on indigenous peoples, mining companies and human rights with a view to preparing guidelines in relation to the private sector, based on respect for the cultures and traditions of these communities and the principle of free, prior and informed consent, and requested that the necessary funds be allocated in the OHCHR budget.

56. The Working Group recommended that the Office of the United Nations High Commissioner for Human Rights provide technical cooperation to States that wish to elaborate national legislation on indigenous issues drawing upon existing human rights law, as well as the Declaration.

57. The Working Group recommended that the Office of the United Nations High Commissioner for Human Rights organize, if possible before the end of 2008, a seminar on the contemporary sequels of colonialism for indigenous peoples, as suggested by a large number of indigenous participants.

Cooperation with other United Nations bodies

58. The Working Group decided to recommend to its parent bodies that the Chairperson of the Permanent Forum on Indigenous Issues and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people be invited to participate in the twenty-fifth session of the Working Group. It expressed appreciation to the Permanent Forum for having invited the Chairperson-Rapporteur of the Working Group to its fifth session.

59. The Working Group further recommended to its parent bodies that they decide that the Chairperson-Rapporteur of its twenty-fourth session should submit the present report to the sixth session of the Permanent Forum, to be held in New York in May 2007.

60. The Working Group stressed the importance of securing the effective participation of indigenous peoples in all United Nations bodies. It also invited the Office of the United Nations High Commissioner for Human Rights to explore ways and means of providing guidance to new participants in the Working Group to increase the effectiveness of their contributions.

State of the United Nations Voluntary Fund for Indigenous Populations

61. The Working Group decided to invite all Member States and other potential donors to contribute to the Voluntary Fund for Indigenous Populations in 2007.

62. The Working Group recommended that States consider asking the General Assembly to broaden the mandate of the Voluntary Fund so as to allow indigenous peoples to participate in the human rights treaty bodies and to provide funding for human rights projects to indigenous organizations.

United Nations Declaration on the Rights of Indigenous Peoples

63. The Working Group welcomed the adoption by the Human Rights Council of the United Nations Declaration on the Rights of Indigenous Peoples in its resolution 2006/2 and supports its adoption by the General Assembly at its sixty-first session.

States and territories threatened with extinction for environmental reasons

64. The Working Group decided to recommend that the Secretariat provide assistance to Ms. Hampson in contacting all Governments, including by means of a questionnaire, in order to obtain further information about the scale, nature and urgency of the problem, as approved by the Commission on Human Rights in its decision 2005/112.

65. The Working Group recommended that the work on this issue be continued.

Twenty-fifth session of the Working Group

66. The Working Group proposed that its principal theme at its twenty-fifth session should be “The impact of private sector activities on indigenous peoples’ rights”. The Working Group will invite Governments, indigenous peoples, other United Nations bodies, NGOs and the private sector to provide relevant information.

67. The Working Group adopted the following provisional agenda for its 2007 session pending a decision by the Human Rights Council on the future of the Working Group:

1. Election of officers.

2. Adoption of agenda.

3. Organization of work.

Review of developments: (a) general debate; (b) principal theme - “The impact of private sector initiatives on indigenous peoples’ rights”; (c) “Utilization of indigenous peoples’ land by non-indigenous authorities, groups or individuals for military purposes”.

4. **Standard-setting: review and approval of the final drafts of the guidelines on cultural heritage and on free, prior and informed consent.**

5. **Other matters: (a) Second International Decade of the World’s Indigenous People; (b) cooperation with other United Nations bodies; (c) state of the United Nations Voluntary Fund for Indigenous Populations; (d) the United Nations Declaration on the Rights of Indigenous Peoples (update).**

6. **The human rights situation of indigenous peoples in States and territories threatened with extinction for environmental reasons.**

7. **Presentation of elements for conclusions and recommendations.**

8. **Adoption of the report.**

68. The Working Group invited the High Commissioner for Human Rights to attend its twenty-fifth session to celebrate a quarter of a century’s work promoting indigenous peoples’ rights.

ANNEXES

Annex I

LIST OF PARTICIPANTS

The following 33 States Members of the United Nations were represented by observers: Angola, Argentina, Bangladesh, Bolivia, Bhutan, Cameroon, Canada, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Estonia, Denmark, Finland, France, Haiti, Japan, Lesotho, Luxembourg, Maluku, Mauritius, Nepal, Nigeria, Panama, Philippines, Russian Federation, Spain, Timor-Leste, Turkey, United States of America, Ukraine and Venezuela.

The following non-Member State was represented by an observer: Holy See.

The following United Nations body was also represented by an observer: United Nations Institute for Training and Research (UNITAR).

The following non-governmental organizations in consultative status with the Economic and Social Council (general consultative status, special consultative status and Roster) were represented by observers: World Council of Churches, African Commission of Health and Human Rights Promoters (CAPSDH), Asian Forum for Human Rights and Development, Association of Indigenous Peoples of the North, Siberia and Far East of the Russian Federation (RAIPON), Comisión Jurídica para el Auto Desarrollo de los Pueblos Originarios Andinos (CAPAJ), Foundation for Aboriginal and Islander Research Action (FAIRA), Indian Movement “Tupaj Amaru”, Indigenous Peoples of Africa Coordination Committee (IPACC), International Committee for the Indians of the Americas (INCOMINDIOS), International Indian Treaty Council, International League for the Rights and Liberation of Peoples, International Organization for the Development of Freedom of Education (OIDEI), International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), International Organization of Indigenous Resource Development (IOIRD), International Service for Human Rights, International Work Group on Indigenous Affairs (IWGIA), Interfaith International, Inuit Circumpolar Conference, Mandat International, Minority Rights Group International, Netherlands Centre for Indigenous Peoples, Society for Threatened Peoples, Tebtebba Foundation, Association of World Citizens, Ecospirituality Foundation, Indian Council of South America (CISA), International Federation of Rural Adult Catholic Movements (FIMARC), Indigenous Peoples’ Centre for Documentation, Research and Information (DOCIP), and Metis National Council.

The following indigenous peoples’ organizations and nations, as well as other organizations and groups, were represented at the twenty-fourth session: African Indigenous Women Organization, Ahwaz Human Rights Organization, Aktionsgruppe Indianer und Menschenrechte, Alianza Verde, All Boro Peace Forum, All Boro Post-Graduate Youth Federation, All India Santal Welfare and Cultural Society, Almaciga, Aotearoa Indigenous Rights Trust, Arameans of Aram-Naharaim Foundation, Asociación Boliviana Yanapana, Asociación para la Salud de los Pueblos Aborígenes, Association Culturelle Ath Koudia, Association Culturelle et Scientifique de Khenchela, Association for the Reconstruction and Development of the Moko-Oh Peoples, Cameroon, Association Huaman Poma, Association of Indigenous Peoples in the Ryukyus, Association Tamaynut, Association Tin Hinan, Autoridades

Indígenas de Colombia Aico, Bangladesh Hindu Buddhist Christian Unity, Bangladesh Indigenous People's Forum, Big Mountain-Dene Nation, Boro Women Justice Forum, Buffalo River Dene Nation, Bureau of Consultation for West Papua Indigenous Community Development, Camara Artesana de Pelileo, Cappel, Capitania Alto Parapeti, Centre d'Accompagnement des Autochtones Pygmées et Minoritaires Vulnérables, Centre d'Action pour le Développement Durable des Autochtones Pygmées (CADDAP), Centre de Documentation sur les Peuples Menacés, Centre for Organisation, Research & Education (CORE), Centro de Cooperación al Indígena (CECOIN), Centro de Cultura Indígena Mapuche Pelon Xaru, Centro de Estudios en Migraciones, España, Chin Human Rights Organization, Comisión de Instrumentos Internacionales del Enlace, Comité de Développement du Quartier Hanoukope, Togo, Comité pour la Revendication Indigène, Nouvelle-Calédonie, Comité Rheebeu Nu, Nouvelle-Calédonie, Comité Suisse de Soutien aux Chagossiens, Comunidad de Patapatani, Bolivia, Comunidad Integradora del Saber Andino, Confederación Indígena Tayrona, Confédération des Associations Amazighes du Sud Marocain, Congrès Mondial Amazigh, Conseil National des Droits des Peuples Autochtones (CNDPA), Consejo de las Mujeres Indígenas del Ecuador, Coordinadora Nacional Criadores de Alpacas Llamas del Peru, Coordinadora Nacional de Viudas de Guatemala, Csia-Nitassinan, Culture of Afro-Indigenous Solidarity, Delegation Femmes Celtes (AEDACS), Dodo's Egg, Embajadora de los Pueblos Indígenas de Venezuela, Espacio Afroamericano, Etar-Etoile Touareg, Mali, Fédération des Organisations Autochtones de Guyane, Fédération Rhone-Alpes de Protection de la Nature, Fondation Alexander Humboldt, Friends of People Close to Nature, Fund of Research and Support of Indigenous Crimean Peoples, Fundación de Ayuda y Promoción de las Culturas Indígenas (FAPCI), Fundación para el Desarrollo Comunitario "Intiñan", Geneva Call, Global Development for Pygmée Minorities, Green Peoples Environmental Network, Grepnet, Habitat Pro Association, Peru, Hawai'i Institute for Human Rights, Hill Peoples' Council, Hill Tracts Ngo Forum, Himalayan Indigenous Women Network, Hiroshima Peace Institute, Hmong Chaofa Federated State, Ikouss Ntakarett, ONG pour un Développement Intégré, Niger, Indian Confederation of Indigenous and Tribal Peoples North East Zone (Icftp-Nez), Indigenous Movement for Peace Advancement, Indigenous Peoples and Nations Coalition, Information & Educational Network of Indigenous People, International Support Centre for Sustainable Tourism, International Treaty 4 Secretariat, Iraqi Turkmen Human Rights Research Foundation, Jharkhand Adivasi Garm Vikas Kendra, Juno Pawr, Junta Pacha Proucciones & "Revista Ecuamundo", Junta Parroquial del Pueblo Salasaca, Kirat Chamling Language and Cultural Development Association, Nepal, Kuki Indigenous People, Kwia, Flemish Support Group for Indigenous Peoples, Lao Human Rights Council, Lauravetlan Information and Education Network For Indigenous Peoples (LIENIP), Leonard Peltier Defense Committee, Madre, Maison Andine, Maori Rapa-Nui, Mapuche International Link, Mena Muria Foundation, Menschenrechte 3000 ("Human Rights 3000") E.V., Mohawk Nation at Kahnawake, Mouvement des Indigènes, Autochtones dits Pygmées du Gabon, Mpido, Namus Organization, National Commission on Indigenous Peoples, National Network of Indigenous Women's Legal Services, Native Future, Negev Coexistence Forum for Civil Equality, Nepal Federation of Indigenous Nationalities, Nepal Kirat Kulung Language and Cultural Development, Olmaa Pastoralist Development Programme, Organización Indígena Aymara Quechua Taypi Ceqe, Pacific Concerns Resource Centre, Fiji, Pagkakaisa Ng Aeta Ng Pinatubo, Inc., Papua Customary Council, Picun Dungun, Popdev Organization, Mauritania, Projet "6 Millions D'autres", Red Comunidades Mapuche, Rehoboth Community of Namibia, Research and Support of Indigenous Peoples of Crimea, Rural Community Development Programme,

Pakistan, Société pour les Peuples Menacés - Germany, Société pour les Peuples Menacés - Suisse, Solidarité avec les Peuples Autochtones D'Amérique (SOPAM), SOS Oasis Organisation, SRG Welfare Society, Tamang Sewa Kendra, Teton Sioux Nation Treaty Council, Ti Tlanizke, Timuay Justice and Governance, Traditional Council of the P'egg'ig'lha, United World of Indigenous Peoples, United ZO Indigenous Peoples (UZIP), Unrepresented Nations and Peoples Organizations (UNPO), Voceros de la Tierra, West Papua Indigenous Community Development, Western Sumi Hoho, Working Circle Indians of North America, World Adivasi Council, Yois Nigeria and ZO Reunification Organization.

In addition to the above-mentioned participants, a number of individual scholars and observers attended the meetings.

Annex II

LIST OF DOCUMENTS

<u>Document symbol</u>	<u>Title</u>	<u>Item</u>
E/CN.4/Sub.2/AC.4/2006/1	Provisional agenda	1
E/CN.4/Sub.2/AC.4/2006/1/Add.1	Annotations to the provisional agenda	1
E/CN.4/Sub.2/AC.4/2006/2	Note by the Secretariat - Principal theme: "Utilization of Indigenous Peoples' Lands by Non-Indigenous Authorities, Groups or Individuals for Military Purposes"	4 (b)
E/CN.4/Sub.2/AC.4/2006/3	Report on the expert seminar on indigenous peoples' permanent sovereignty over natural resources and their relationship to land	6 (a)
E/CN.4/Sub.2/AC.4/2006/4	Note by the Secretariat - The Voluntary Fund for Indigenous Populations	6 (d)
E/CN.4/Sub.2/AC.4/2006/5	Working paper submitted by Yozo Yokota and the Saami Council on the review of the draft principles and guidelines on the heritage of indigenous peoples	5 (a)
E/CN.4/Sub.2/AC.4/2006/CRP.1	Note by the Secretariat - Information on achievements of the Working Group	
E/CN.4/Sub.2/AC.4/2006/CRP.2	Working paper prepared by Ms. Françoise Hampson - The human rights situation of indigenous peoples in States and other territories threatened with extinction for environmental reasons	

Annex III

RECOMMENDATIONS OF THE WORKING GROUP ON INDIGENOUS POPULATIONS WITH REGARD TO THE TWO DOCUMENTS WHICH THE HUMAN RIGHTS COUNCIL ASKED THE SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS TO SUBMIT

1. The Working Group on Indigenous Populations recommends the Sub-Commission on the Promotion and Protection of Human Rights to take into account the following comments when preparing the documents requested by the Human Rights Council.
2. Pursuant to paragraph 6 of General Assembly resolution 60/251 of 15 March 2006, the Human Rights Council is required to undertake a two-stage process. First, it must review all mandates, mechanisms, functions and responsibilities of the Commission. On the basis of that review, which should be completed by the spring of 2007, the Council may improve and rationalize the mandates, mechanisms, etc. Any modification to existing practices and procedures must maintain a system of special procedures, expert advice and a complaint procedure and requires a specific decision of the Council. In other words, where no such decision has been taken, the existing system will remain in place.
3. The Human Rights Council in its decision 2006/102 requested the Sub-Commission to produce a paper giving its own vision and recommendations for future expert advice to the Council and a list indicating the status of ongoing studies and an overall review of activities.
4. This document relates specifically to expert advice in the field of indigenous issues.
5. It is essential to ensure that, through its future institutional arrangements, the Human Rights Council will continue to provide means and mechanisms to address effectively the struggle for the eradication of societal alienation, the “legal” deprivation of rights, the ethnic/national discrimination and the social exclusion that continue to afflict indigenous peoples throughout the world. This means, first and foremost, that the item “Indigenous issues” should be automatically included in the agenda of all the substantive sessions of the Council as a separate agenda item, as was the case of the annual regular sessions of the Commission on Human Rights since 1996.

A. Recommendations for future expert advice

6. The Human Rights Council, and the United Nations more generally, needs the following types of advice with regard to the rights of indigenous peoples:
 - Advice directly from indigenous experts. At a general level, that occurs in the Permanent Forum on Indigenous Issues, but the representatives of the indigenous peoples are appointed by the President of the Economic and Social Council (Economic and Social Council resolution 2002/22, para. 1). There are supposed to be mechanisms in place to enable consultation with indigenous organizations, but that does not, in fact, appear to be the case in every United Nations-recognized region.

It might be useful if mechanisms permitting them to be nominated by indigenous groups themselves were created in every region. The present system allows only for the indirect representation of the concerns of particular indigenous groups. The Permanent Forum is not an expert human rights body.

- Advice on the implementation in practice of the norms applicable to indigenous groups. This is principally the role of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples. Whilst all Special Rapporteurs and treaty-monitoring bodies have been requested to include, with regard to every issue under their respective consideration, the situation of the indigenous peoples, that does not occur systematically, as should be the case.
- Advice on recent developments. An expert body may receive information from a variety of sources, which suggests the need to bring a matter to the attention of the Human Rights Council, where there has not yet been a study of the issue. The expert body needs to deal with current developments in as dynamic a way as possible, including by means of interactive exchanges.
- Action-oriented in-depth studies of specific issues affecting the rights of indigenous peoples. Such studies explore what is needed to achieve full legal recognition and implementation in practice of the rights of indigenous peoples. The reports contain conclusions and recommendations which are submitted to a superior body for discussion and action. This is not within the mandate and/or the current practice of the Permanent Forum or the Special Rapporteur.
- The Working Group on Indigenous Populations has identified issues which still require to be studied in depth (see E/CN.4/Sub.2/AC.4/2003/4), and new issues are arising all the time. Possible issues for further study, based on suggestions from both members of the Working Group and from indigenous representatives, include: the impact of the activities of transnational corporations and other business enterprises on the rights of indigenous peoples; the rights of indigenous peoples and private sector activities; the concept of property and ownership in an indigenous context; a global mapping exercise on the occupation of indigenous lands for military purposes; obligations of international financial institutions with regard to indigenous peoples; the meaning of self-determination in the context of indigenous peoples; the definition of indigenous peoples in an urban environment; indigenous medicine; indigenous peoples and the media (including access to and coverage by); the impact of landmines on indigenous peoples; the protection of the rights of indigenous children; the participation of indigenous peoples in international sports and games; constructive elements for the cooperation between States and indigenous peoples; the structural prevention of violence between and against indigenous peoples; best practices regarding affirmative action for indigenous peoples; the use and application of democracy to indigenous peoples; dispute settlement mechanisms and indigenous peoples; the impact of globalization on indigenous peoples; and the effective protection of the intellectual property of indigenous peoples. The understanding of the Declaration on the Rights of Indigenous Peoples will be assisted by conducting studies on some of its provisions and gathering together evidence of best practice

(e.g. with regard to health; education; housing; women, children and youth). There is every reason to believe that this will be an ongoing need. Such studies require to be undertaken by human rights experts in close consultation with as wide a range of indigenous groups as possible. There are precedents for jointly authored reports (e.g. human rights expert and representative of an indigenous group), which could be more widely used. The Office of the United Nations High Commissioner for Human Rights should be required to provide assistance in the research and writing of such reports, as occurred in the past. This has implications for the use of resources by the Office of the United Nations High Commissioner for Human Rights. The Special Rapporteur and the Permanent Forum do not have the time or the adequate mandates or resources to engage in such studies.

- **Standard-setting.** The adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the Council is not the end of standard-setting activities within the United Nations system in the field of indigenous rights. There is a need for the drafting of, inter alia, codes of good practice and guidelines with regard to implementation. Such codes are a bridge between a norm and its implementation in practice. The contents of codes/guidelines are not legally binding but they often deal with the implementation of a norm which is itself legally binding. Codes are a useful tool for States, special procedures, treaty-monitoring bodies and, in some cases, international, regional and national courts. Examples of possible subjects for codes include “free, prior and informed consent”; the protection of cultural heritage; and the exploitation of natural resources above, on, in or under indigenous land. Certain concepts in the United Nations Declaration on the Rights of Indigenous Peoples would benefit from guidelines on implementation. Such codes need to be drafted by experts in human rights generally, as well as by experts in indigenous issues, with the close involvement of the representatives of as many indigenous peoples and organizations as possible. Standard-setting and the drafting of such codes or guidelines is not within the mandate of either the Permanent Forum or the Special Rapporteur, and they would not have the time to undertake the task. In addition, drafting requires a collegial environment. Again, the Permanent Forum is not an expert human rights body.
- There are a range of specific areas where the advice of an expert body in the human rights of indigenous peoples could be useful. They include contributing to securing the implementation of the goals of the Second International Decade of the World’s Indigenous People, assisting the Office of the United Nations High Commissioner for Human Rights in the field of technical assistance in relation to indigenous peoples and possibly contributing to the process of Universal Periodic Review.

7. Means to deliver the expert advice:

- The advice to be received by the Council is basically about human rights and therefore needs to come from human rights experts and experts on indigenous issues. In order to secure the widest possible indigenous involvement, the meetings at which studies and codes are discussed need to be open to as wide a participation as possible and should be as interactive as practicable.

- There would also be an argument (see E/CN.4/Sub.2/1994/10, paras. 81-82) for including representatives of indigenous peoples with expertise in human rights generally in an advisory body on issues concerning indigenous rights, on condition that that did not serve as a pretext for reducing the participation in meetings of as wide a range of indigenous representatives as possible. The body providing expert advice on indigenous issues could consist of five non-indigenous experts, one from each of the United Nations-recognized regions, and a number of indigenous experts. The indigenous representatives who addressed the issue were all in favour of parity of representation. Whether or not that is done, the precedent of jointly-authored reports (see above) could be further developed. This advisory body would meet in annual session. The length of the annual session would need to be flexible, so that, when drafting of standards is being undertaken, the group have additional time for closed sessions, when authorized by its parent body.
- The work of the Permanent Forum, the Special Rapporteur and such an expert advisory body would be complementary. They need to work in partnership. This would be assisted by the participation of a member of the Permanent Forum and of the expert advisory body in the work of the other body.
- In order to mainstream indigenous issues within the field of human rights, it is important that the expert advice on indigenous issues should be part of the wider advice in the human rights field generally. It would be preferable for an advisory body dealing with indigenous rights to report to a general human rights advisory body rather than for it to report directly to the Council. There is otherwise a risk of the compartmentalization, and therefore marginalization, of indigenous rights.

8. **Recommendations:**

1. **The item “Indigenous issues” should be automatically included in the agenda of all the substantive sessions of the Human Rights Council as a separate agenda item;**
2. **All special procedures should be requested and treaty-monitoring bodies should be recommended to include the indigenous dimension of any issue under consideration, where applicable;**
3. **There should be an expert body providing advice on the promotion, implementation and protection of the rights of indigenous peoples;**
4. **Its principal functions would be to produce in-depth, action-oriented reports and studies and to engage in the elaboration of norms and other international standards relating to the promotion and protection of the rights of indigenous peoples;**
5. **Members (with a recommended number of five) of the body should be experts in human rights, including indigenous issues. Consideration should be given to a number of additional members drawn from indigenous peoples and organizations;**

6. **The expert body should be assisted by the widest possible participation of indigenous peoples and organizations;**
7. **The expert body should report to the Council through a wider human rights advisory expert body, one dealing with human rights generally.**

B. Status of existing studies and an overall review of activities

9. The achievements of the Working Group have been set out in E/CN.4/Sub.2/AC.4/2006/CRP.1.
10. The following is the list of current studies, together with their current status:
 - The human rights situations of indigenous peoples in States and territories threatened with extinction for environmental reasons. The Commission on Human Rights authorized the sending out of a questionnaire in its decision 2005/112. The subsequent request of the Sub-Commission for the appointment of a special rapporteur (E/CN.4/Sub.2/2004/10) has not, as yet, been acted upon. The questionnaire has been submitted to the Sub-Commission (E/CN.4/Sub.2/AC.4/2006/CRP.2). States are to be requested to reply by 30 October 2006. There will be a need for a mechanism to enable the results of the questionnaire to be disseminated and further acted upon.
 - Revised draft guidelines on the protection of the cultural heritage of indigenous peoples. The guidelines need to be finalized and, following their adoption, there will be a need for follow-up to ensure their dissemination as widely as possible (see E/CN.4/Sub.2/AC.4/2006/5).
 - An expanded working paper on guidelines for the implementation of the principle of free, prior and informed consent. The working paper on the issue was prepared jointly by a member of the working group and an indigenous group (The Tebtebba Foundation) (E/CN.4/Sub.2/AC.4/2004/4). An expanded working paper was submitted the following year (E/CN.4/Sub.2/AC.4/2005/WP.1). It was decided that the next step was to distil legal principles and guidelines from the evidence of best practice available (Report of the Working Group, E/CN.4/Sub.2/2005/26 at para. 40). A recent expert seminar, organized by the Office of the United Nations High Commissioner for Human Rights, on indigenous peoples' permanent sovereignty over natural resources and their relationship to land (E/CN.4/Sub.2/AC.4/2006/3 at para. 48) requested that the work on the legal commentary on free, prior and informed consent be completed. That still remains to be finalized.
 - A working paper on the "sequels of colonialism" (E/CN.4/Sub.2/2005/26, para. 106). The study was approved at the twenty-third session of the Working Group. Submission of the working paper is awaited.
 - Utilization of the land of Indigenous Peoples by non-indigenous authorities, groups or individuals for military purposes. In the early stages of discussion, on the basis of the note by the Secretariat on this topic (E/CN.4/Sub.2/AC.4/2006/2).

Annex IV

COMMUNICATION OF THE INDIGENOUS PEOPLES' CAUCUS TO THE PRESIDENT OF THE HUMAN RIGHTS COUNCIL ON FUTURE UNITED NATIONS MECHANISMS TO PROTECT AND PROMOTE THE HUMAN RIGHTS OF INDIGENOUS PEOPLES

The Indigenous Peoples' Caucus, meeting on the occasion of the twenty-fourth session of the Working Group on Indigenous Populations, wishes to communicate to the Human Rights Council its initial proposals for future mechanisms to protect and promote the human rights of indigenous peoples. The Indigenous Peoples' Caucus is also eager to contribute further details to its proposal at a later time, when the Human Rights Council has advanced its consideration of various options for restructuring its overall work.

1. The Indigenous Peoples' Caucus warmly congratulates the Human Rights Council for the successful conclusion of its first session, and its resolution 2006/2 adopting the United Nations Declaration on the Rights of the Indigenous Peoples, which it recommended to the General Assembly for final adoption.
2. A necessary next step in support of these positive developments is for the Human Rights Council to affirm that the human rights of indigenous peoples will continue to be a distinct and ongoing thematic area of its work and that it lay to rest any insecurities among indigenous peoples that the United Nations reform process and ongoing reorganization of the United Nations human rights structures could lead to the diminution or disappearance of existing positive functions which are central to the advancement of the rights of indigenous peoples.
3. The General Assembly, in its resolution 60/251 of 15 March 2006, mandated the Human Rights Council, *inter alia*, to:
 - (a) Promote human rights education and learning as well as advisory services, technical assistance and capacity-building, to be provided in consultation with and with the consent of Member States concerned;
 - (b) Serve as a forum for dialogue on thematic issues on all human rights;
 - (c) Make recommendations to the General Assembly for the further development of international law in the field of human rights;
 - (d) Promote the full implementation of human rights obligations undertaken by States and follow-up to the goals and commitments related to the promotion and protection of human rights emanating from United Nations conferences and summits;
 - (e) Undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building

needs; such a mechanism shall complement and not duplicate the work of treaty bodies; the Council shall develop the modalities and necessary time allocation for the universal periodic review mechanism within one year after the holding of its first session;

(f) Contribute, through dialogue and cooperation, towards the prevention of human rights violations and respond promptly to human rights emergencies;

(g) Assume the role and responsibilities of the Commission on Human Rights relating to the work of the Office of the United Nations High Commissioner for Human Rights, as decided by the General Assembly in its resolution 48/141 of 20 December 1993;

(h) Work in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions and civil society;

(i) Make recommendations with regard to the promotion and protection of human rights;

(j) Submit an annual report to the General Assembly.

The Indigenous Peoples' Caucus considers all the above areas of work highly desirable and directly applicable towards addressing the concrete human rights situations of indigenous peoples.

4. The newly established Human Rights Council can best fulfil its mandate for the effective protection and promotion of the rights of indigenous peoples by considering how each of its mandated areas of work could be applied to the situation of indigenous peoples. The Indigenous Caucus recommends that the Human Rights Council establish an appropriate subsidiary body of the Council on Indigenous Peoples, in fulfilment of all areas of its mandate. In doing so, the Human Rights Council should draw on the advice and assistance of human rights experts, including the growing number of experts among indigenous peoples.

5. The Indigenous Peoples' Caucus expresses its appreciation for the existing United Nations arrangements for indigenous peoples and their differentiated functions, underscoring that these have complementary mandates which do not duplicate each other. Any future arrangements should enhance and not diminish the existing functions provided by the Working Group on Indigenous Populations, the Special Rapporteur on the human rights and fundamental freedoms of indigenous peoples and the United Nations Permanent Forum on Indigenous Issues. The General Assembly has included indigenous issues as an agenda item in its work, as evidenced by its report on the programme of activities for the first International Decade of the World's Indigenous People (A59/500) and its resolution 59/174 of 20 December 2004.

6. The adoption of the United Nations Declaration on the Rights of Indigenous Peoples means that the Human Rights Council could undertake useful work to promote its implementation, e.g. by providing guidelines for the implementation of specific articles or rights within the Declaration. The Declaration warrants the continuation and enhancement of appropriate mechanisms within the United Nations human rights system with the necessary focus

and expertise on the rights of indigenous peoples. Moreover, the Second International Decade of the World's Indigenous Peoples (2005-2014) enjoins all United Nations bodies and Governments to work closely in partnership with indigenous peoples on an equal footing, in furtherance of the goals of the Second Decade, including in the field of human rights.

7. The Indigenous Peoples' Caucus has identified a number of areas in which further standard-setting and/or review of developments on indigenous peoples' rights is needed, including:

- Guidelines for the implementation of free, prior and informed consent of indigenous peoples to policies, programmes and projects affecting their rights, lands and welfare, drawing on concrete experiences from around the world;
- The human rights of indigenous women and children and youth;
- Indigenous health, housing, education and other economic, social and cultural rights, including reviews of the enjoyment of indigenous rights within different global regions;
- Examining international standards applicable to development programmes and projects affecting indigenous peoples, and their adequacy for protecting and promoting their human rights;
- The human rights impacts on indigenous peoples in relation to the production, export and unregulated use of banned toxics and pesticides;
- The impacts of militarization on the human rights of indigenous peoples, remediation and compensation;
- The ongoing human rights impacts of colonial laws and policies on indigenous peoples and possible remedies;
- The marginalization of indigenous peoples in the negotiation and implementation of peace accords and agreements between Governments and armed groups, and their impacts on the human rights of indigenous peoples;
- Administration of justice for indigenous peoples.

8. The Indigenous Peoples' Caucus strongly supports the strengthening of research activities carried out through research partnerships between United Nations experts and indigenous experts and organizations on the above topics and others to be identified.

9. Access to all future mechanisms should be open to all indigenous peoples' organizations, and fostering their full and effective participation through written and oral interventions. Indigenous peoples' attendance and full participation at these meetings should continue to be supported by the United Nations Voluntary Fund for Indigenous Populations, and that the mandate of the Voluntary Fund be amended to enable this to happen.

10. The Human Rights Council should take the necessary steps to enhance indigenous peoples' knowledge, access and use of all human rights bodies within the United Nations, including the Office of the United Nations High Commissioner on Human Rights and the United Nations treaty-monitoring bodies.

11. The Indigenous Peoples' Caucus reiterates its desire and intention to make further contributions at a later time, when the Human Rights Council has considered the various options for restructuring its overall work.

We thank you for your attention.
