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CONSEIL DES DROITS DE L'HOMME
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**PROMOTION ET PROTECTION DE TOUS LES DROITS DE L'HOMME,
CIVILS, POLITIQUES, ÉCONOMIQUES, SOCIAUX ET CULTURELS,
Y COMPRIS LE DROIT AU DÉVELOPPEMENT**

**Rapport du Rapporteur spécial sur la situation des droits de l'homme
et des libertés fondamentales des populations autochtones,
M. James Anaya ***

Additif

**CONCLUSIONS ET RECOMMANDATIONS DU SÉMINAIRE INTERNATIONAL
D'EXPERTS SUR LE RÔLE DES MÉCANISMES DES NATIONS UNIES
INVESTIS D'UN MANDAT PORTANT SPÉCIFIQUEMENT
SUR LES DROITS DES PEUPLES AUTOCHTONES****

* Soumission tardive.

** Le résumé du présent rapport sera distribué dans toutes les langues officielles. Le rapport proprement dit, qui est joint en annexe au résumé, sera distribué dans la langue originale seulement.

Résumé

Le Conseil des droits de l'homme, dans sa résolution 6/12, a décidé de proroger le mandat du Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, chargeant notamment celui-ci de travailler en étroite coopération avec les procédures spéciales et les organes subsidiaires du Conseil des droits de l'homme, les organismes compétents des Nations Unies, les organes conventionnels et les organisations régionales des droits de l'homme et d'établir un dialogue constructif continu avec toutes les parties prenantes.

Le Rapporteur spécial, ainsi que les membres du Mécanisme d'experts sur les droits des peuples autochtones, quatre membres de l'Instance permanente des Nations Unies sur les questions autochtones et un groupe d'experts provenant de diverses régions, parmi lesquels figuraient l'ancien Rapporteur spécial, M. Rodolfo Stavenhagen, ont participé au Séminaire international d'experts sur le rôle des mécanismes des Nations Unies investis d'un mandat portant spécifiquement sur les droits des peuples autochtones, qui était organisé par le Groupe de travail interculturel Almaciga et le Groupe de travail international sur les questions autochtones et qui s'est tenu du 4 au 6 février 2009 à Madrid, dans les locaux de l'Agence espagnole de coopération internationale pour le développement.

Cette rencontre visait essentiellement à favoriser un dialogue informel entre les membres des trois mécanismes afin de mieux coordonner leurs travaux et leurs activités avec ceux des autres institutions et organes des Nations Unies. Les participants ont débattu des méthodes qui permettraient de rationaliser les travaux menés au titre des trois mécanismes en examinant le ou les domaines prioritaires sur lesquels portent ceux-ci et en recherchant les moyens de développer au maximum les divers volets de leurs mandats respectifs. Les membres des trois mécanismes ont formulé un certain nombre de recommandations, qui figurent dans le présent document.

Annexe

CONCLUSIONS AND RECOMMENDATIONS OF THE INTERNATIONAL EXPERT SEMINAR ON THE ROLE OF UNITED NATIONS MECHANISMS WITH A SPECIFIC MANDATE REGARDING THE RIGHTS OF INDIGENOUS PEOPLES

(Madrid, 4-6 February 2009)

I. INTRODUCTION

1. Article 42 of the United Nations Declaration on the Rights of Indigenous Peoples states that the United Nations and its bodies, including the Permanent Forum on Indigenous Issues, “shall promote respect for and full application of the provisions of [the] Declaration and follow up the effectiveness of [the] Declaration”. In the context of the process of institutional reform of the United Nations human rights machinery, the Declaration has been specifically identified as part of the normative framework of the mechanisms of the Human Rights Council with a specific mandate regarding the rights of indigenous peoples: the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples¹ and the expert mechanism on the rights of indigenous peoples.²

2. An important innovation in the new United Nations institutional design concerning the rights of indigenous peoples is the emphasis on cooperation among these different mechanisms with a view to avoiding unnecessary duplication and enhancing the effectiveness of the system as a whole.³ Reinforced cooperation among the mechanisms requires in-depth reflection on ways to improve existing channels of communication and to generate new methodologies of interaction.

3. At the initiative of Bartolomé Clavero, a member of the Permanent Forum, and the Special Rapporteur, members of the United Nations mechanisms with a mandate regarding indigenous peoples, as well as a number of indigenous experts, were invited to participate in an informal meeting to discuss issues of coordination in their work to promote the rights of indigenous peoples within the framework of the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. The meeting took place at the Spanish Agency for International Cooperation in Madrid, from 4 to 6 February 2009. It was organized jointly by the

¹ Resolution 6/12, para. 1 (g).

² See resolution 6/36.

³ The mandate of the Special Rapporteur calls upon him/her to “work in close cooperation with the Permanent Forum on Indigenous Issues and to participate in its annual session” (resolution 6/12, para. 1 (e)). Similarly, the Human Rights Council decided, “in order for the expert mechanism to enhance cooperation and avoid duplicating the work of the Special Rapporteur ... and the Permanent Forum, that it shall invite the Special Rapporteur and a member of the Permanent Forum to attend and contribute to its annual meeting” (resolution 6/36, para. 5).

non-governmental organizations, the International Work Group on Indigenous Affairs and the Almaciga Intercultural Working Group. The seminar was attended by all the members of the expert mechanism and four members of the Permanent Forum, as well as representatives of the secretariats of the three United Nations mechanisms and a group of experts from and members of indigenous peoples' organizations from various regions. The members of the three mechanisms put forth the following conclusions and recommendations.

II. CONCLUSIONS AND RECOMMENDATIONS

United Nations Declaration on the Rights of Indigenous Peoples

- 4. The United Nations Declaration on the Rights of Indigenous Peoples provides the framework for action towards the full protection and implementation of indigenous peoples' rights.**
- 5. The United Nations Declaration on the Rights of Indigenous Peoples is the principal normative framework for the three United Nations mechanisms with a specific mandate regarding indigenous peoples' rights, and it should also constitute an important frame of reference for the United Nations treaty bodies and other relevant international and regional human rights mechanisms.**
- 6. Article 42 of the United Nations Declaration on the Rights of Indigenous Peoples requires the three mechanisms to apply the Declaration universally, irrespective of the positions of individual States on the Declaration.**

General coordination

- 7. The three mechanisms should take advantage of their participation at the annual sessions of the Permanent Forum and Expert Mechanism to meet and coordinate their work agendas. In any case, the three mechanisms should consider holding an annual meeting to coordinate their work.**
- 8. The Chairperson, or, if this is not possible, a designated member of the Permanent Forum and of the Expert Mechanism, and the Special Rapporteur should always participate in the annual sessions of the Permanent Forum and the Expert Mechanism.**
- 9. The three mechanisms should consult with the Inter-Agency Support Group to develop methods for strengthening coordination and cooperation with United Nations agencies.**

Division of labour among mechanisms

- 10. Taking into account the specific terms of their respective mandates, each of the three mechanisms should avoid engaging in work that is the special focus of the mandates of the other mechanisms or that would more adequately be addressed by other bodies and agencies of the United Nations system, including the treaty bodies.**
- 11. In the aftermath of the adoption of the United Nations Declaration, the Permanent Forum should review its working methods in order to promote cooperation with the other**

two mechanisms and enhance its responsibilities under article 42 of the Declaration. A greater role could be given to the Permanent Forum's interaction with the United Nations agencies, including in public meetings, particularly those that carry out activities regarding the rights of indigenous peoples at the country level.

12. The sessions of the Permanent Forum and the Expert Mechanism should strive to focus the participation of Governments, indigenous representatives and other stakeholders on the specific issues and functions falling within their respective mandates.

Thematic research

13. The Expert Mechanism has a specific mandate to carry out thematic research. The Special Rapporteur has adopted the view that his role in thematic research will be secondary, contributing to the thematic research of the other mechanism on the basis of his experience engaging with Governments on country situations.

14. The Permanent Forum should reflect on its role in carrying out thematic research and avoid duplication of the work of the Expert Mechanism to prevent "thematic fatigue".

15. The Expert Mechanism and the Permanent Forum should seek to collaborate closely on research projects of shared interest. The participation of indigenous experts should always be promoted.

Specific situations of human rights violations

16. This is a priority area of work for the Special Rapporteur.

17. The Permanent Forum and the Expert Mechanism should develop measures to channel the specific allegations of human rights violations presented by indigenous peoples during their annual sessions, including to the Special Rapporteur and other relevant mechanisms mandated to address such allegations.

18. The Special Rapporteur should develop methodologies for receiving allegations of human rights violations and, as required, for direct dialogue between Governments and indigenous peoples, during his participation at the annual sessions of the Permanent Forum and the Expert Mechanism.

Country visits

19. Country visits to assess the human rights conditions of indigenous peoples is one of the principal work methods of the Special Rapporteur pursuant to his mandate.

20. The Permanent Forum has an important role to develop in relation to the work of the United Nations agencies and programmes at the country level, enhancing knowledge of indigenous issues among the different agencies.

21. The Permanent Forum should develop internal guidelines to orient the activities and scope of work carried out by its individual members during country visits.

22. The Permanent Forum's secretariat could seek methods of enhancing cooperation and information-sharing among the Forum's individual members in order to strengthen their roles and the effectiveness of their activities as members between sessions. The Forum's members should be actively involved in intersessional activities, including those carried out by the secretariat.

Role of the secretariats

23. The secretariat staff should periodically share information regarding the activities of the three mechanisms and the secretariats themselves, coordinate workplans regularly, and collaborate on research and other areas as appropriate.

24. The secretariats should enhance efforts for training of United Nations staff members on indigenous rights and issues at headquarters and in the field, in coordination with efforts made by the three mechanisms.

25. Where possible, more resources, both financial and human, should be dedicated to the secretariats. In particular, the secretariat of the Expert Mechanism needs to be strengthened considerably. Priority should be given to the recruitment of indigenous staff.

26. The secretariat of the Permanent Forum and the Office of the United Nations High Commissioner for Human Rights should consider utilizing the members of the Permanent Forum and the Expert Mechanism as resource persons in the elaboration of their own policies, guidelines and publications on indigenous issues.
