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Draft study on treaties, agreements, and other constructive arrangements, including peace accords and reconciliation initiatives, and their constitutional recognition

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Cualiteotatic, Good Afternoon, and congratulations Binota Dhamai, in your appointment as Chair for this session.

My name is Rosalee Gonzalez, Im Xicana-Kickapoo from the US, and I am the Co-Coordinator for the Continental Network of Indigenous Women of the Americas, North Region. I'd like to thank the UN Voluntary Fund for supporting my participation at this session and last weeks interventions at the CEDAW Committee. Your support to enhance IP participation is invaluable.

I am also grateful for this time in our shared history and for the opportunity to address you on behalf of the American Indian Movement – West along with other indigenous peoples, including Xicanos, within the defined territories covered by the Treaty of Guadalupe Hidalgo signed on February 2, 1848, but never ratified by the US.

These indigenous peoples organizations developed an elaborate report which was not included in your draft study before us. Therefore, we respectfully request that the EMRIP include the following edits to the draft study on Treaties.

We respectfully assert that EMRIP's recommendation to include the further study of the Treaty of Guadalupe Hidalgo will advance treaties, agreements, and other constructive arrangements between the Indigenous Peoples and States. We believe that the recognition, observance, enforcement, honouring and respect of the Treaty of Guadalupe Hidalgo will improve the Indigenous Peoples and States' partnerships within the territories covered by this Treaty.

The Treaty, signed on February 2, 1848, concluded armed conflict between the United States of America (U.S.) and the United Mexican States (Mexico). By its terms, Mexico ceded 55 percent of its territory, including parts of present-day Arizona, California, New Mexico, Texas, Colorado, Nevada, and Utah, to the U.S. In the "Study on treaties, agreements and other constructive arrangements between States and indigenous populations: final report" by Special Rapporteur Miguel Alfonso Martínez, Martínez highlights that the Treaty warrants further scrutiny because "of apparent special significance for the indigenous nations along the borders of the United States"

Please include the following changes:

Over two decades ago, the Special Rapporteur Adolfo Martinez concluded that existing State mechanisms, either administrative or judicial, are unable to satisfy their aspirations and hopes for redress towards Indigenous Peoples. This is an ongoing challenge, as evidenced by the examples provided to the Expert Mechanism, including the Special Rapporteur's recognition and recommendation that further scrutiny is warranted of both the Jay Treaty (1794) and the Treaty of Guadalupe Hidalgo (1948). It should be noted that many of his recommendations are yet to be implemented.

We recommend in **Page 3, Paragraph 5**:

The Treaty is a bilateral agreement between two States that denied the participation of the affected peoples living in the "conquered" territory. Specifically, it excluded Mexicans of indigenous origin and the indigenous peoples that have populated the area since time immemorial, termed "Indians" and "savage tribes."

The Treaty codified international legal obligations for each State to fulfill toward the peoples living in the newly

annexed territory. Once the Treaty went into effect, these obligations were immediately abrogated and disregarded over time. Thus, the Treaty was not just an instrument to end war or set a new State borderline; it conveys international human rights affecting indigenous peoples.

Page 8, Paragraph 28:

The effective exercise of indigenous peoples' right to establish and have enforced consensual agreements relies on several enabling conditions and the respect for human rights, non-discrimination, good faith, and the principle of free, prior, and informed consent. The Special Rapporteur Martinez recognized that the Treaty of Guadalupe Hidalgo was a bilateral agreement between Mexico and the United States of America and includes articles and provisions covering indigenous peoples negotiated without the indigenous peoples' free, prior, and informed consent and recommends further scrutiny of the Treaty, for example.