INDIGENOUS PEOPLES’ CENTRE FOR DOCUMENTATION, RESEARCH AND INFORMATION
doCip

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1. EDITORIAL

At the beginning of the 57th session of the Commission on Human Rights, the States on the whole were not in favour of appointing a Special Rapporteur on Indigenous Issues. Among them were also States which usually help promote and defend the rights of indigenous peoples. They often backed up their opposition to this idea by saying that a Special Rapporteur could be nominated only after the Permanent Forum starts to function. Some States even went as far as to say that the indigenous peoples had already received a lot and were now demanding too much.

For the supporters of the resolution presented by Guatemala and Mexico, it was clear that it would take a few years for the Permanent Forum to really start functioning, for its activity on behalf of the indigenous peoples to become effective and for its scope to be evaluated. During this period, numerous indigenous peoples would continue to live in very difficult circumstances often marked by deep conflict, which could threaten their physical existence as well as their cultural existence. Furthermore, they underlined that the two mandates were completely different, and that they complemented each other. The mandate of the Permanent Forum consists in...
providing advice and recommendations, raising awareness, informing and encouraging the coordination of activities with reference to indigenous issues between the different international organizations within the United Nations system. On the other hand, the mandate of the Special Rapporteur is to investigate violations of human rights with regard to indigenous peoples on the spot. His function does not in any way overlap with that of the Working Group of Indigenous Populations and of the Working Group on the Draft Declaration.

Midway through the session, we noted that the attitude of certain governments had become much more positive. At the end of the session, the resolution was adopted by consensus (see details on page...). This remarkable result, which took many by surprise, did not fall from the heavens. According to one of the authors of the resolution, indigenous peoples from all over the world, particularly those of the Americas and Africa, had been negotiating with their governments on this issue for years. Besides that, the indigenous delegations participating in the Commission worked tirelessly and gained the wide support of NGOs which promoted their cause in oral and written form, by lobbying and making useful contacts.

Besides the summary of indigenous issues brought up at the Commission on Human Rights, the present number of Update includes a review of the First Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The Committee found it difficult to get started as a Chairman was elected only after a day and a half of discussion. It also took some time to decide whether NGOs would be admitted as observers or not. Only three indigenous delegates were present while the economic milieu was extensively represented. The report of this meeting will be available on the WIPO website <www.wipo.int/traditionalknowledge> in English, Spanish and French as of 20 May.

In order to convey information to our readers faster, we have opted this time for a shorter newsletter. The results of the last Preparatory Conference of the World Conference against Racism will appear in the next number of Update.

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2. COMMISSION ON HUMAN RIGHTS, 57th session
19 March - 27 April 2001

The Commission decides to appoint a special rapporteur on the situation of indigenous peoples.

2.1. RESOLUTIONS AND DECISIONS CONCERNING INDIGENOUS PEOPLES

Human rights and indigenous issues
Resolution 2001/57

The Commission:
• Decides to appoint, for a three-year period, a special rapporteur on the situation of human rights and fundamental freedoms of IPs, with the following functions:
  (a) To gather, request, receive and exchange information and communications from all relevant sources, including Governments, IPs themselves and their communities and organizations, on violations of their human rights and fundamental freedoms;
  (b) To formulate recommendations and proposals on appropriate measures and activities to prevent and remedy violations of the human rights and fundamental freedoms of IPs;
  (c) To work in close relation with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and of the Sub-Commission on the Promotion and Protection of Human Rights, taking into account the request of the Commission contained in resolution 1993/30;
• Invites the special rapporteur to take into account a gender perspective while in carrying out her/his mandate, paying special attention to discrimination against indigenous women;
• Also invites the special rapporteur to pay special attention to violations of the human rights and fundamental freedoms of indigenous children;
• Further invites the special rapporteur, in carrying out his/her task, to take into account all the recommendations of the WGIP and of the Permanent Forum on Indigenous Issues relevant to her/his mandate;
• Encourages the World Conference against Racism to give special attention to discrimination against IPs and requests the special rapporteur to consider, in performing his/her work, the recommendations of the World Conference on matters concerning his/her mandate;
• Encourages the UN, including its specialized agencies, other regional intergovernmental organizations, Governments, independent experts, interested institutions, NGOs and, in particular, IPs to cooperate to the fullest extent possible with the special rapporteur in the fulfilment of his/her mandate;
• Requests all Governments to cooperate fully with the special rapporteur in the performance of the tasks and duties mandated, to furnish all information requested and to react promptly to his/her urgent appeals;
• Encourages all Governments to give serious consideration to the possibility of inviting the special rapporteur to visit their countries so as to enable him/her to fulfil the mandate effectively;
• Requests the Chairperson of the Commission, following formal consultations with the Bureau and the regional groups through the regional coordinators, to appoint as special rapporteur an individual of recognized international standing and experience;
• Requests the special rapporteur to submit annual reports on his/her activities to the Commission, starting at its 58th session;
• Requests the Secretary-General and the HCHR to provide all the necessary human, technical and financial assistance to the special rapporteur for the fulfilment of her/his mandate;
• Decides to consider the follow-up to this question, as a matter of priority, at its 58th session, under item 15 of its agenda.

Working Group of the Commission on Human Rights to elaborate a Draft Declaration
Resolution 2001/58

The Commission:
• Welcomes the decisions of the Council approving the participation of organizations of IPs in the work of the working group and urges the Council to process all pending applications as soon as possible, taking strictly into account the procedures set out in the annex to Commission resolution 1995/32;
• Recommends that the working group meet for ten working days prior to the 58th session of the Commission;
• Invites the Chairperson-Rapporteur of the working group and all interested parties to conduct broad informal inter-sessional consultations with a view to facilitating progress in drafting a declaration on the rights of IPs at the next session of the working group.

Working Group on Indigenous Populations and the International Decade
Resolution 2001/59

I. REPORT OF THE WGIP
The Commission:
• Welcomes the proposal to focus on the theme of "Indigenous peoples and their right to development, including their right to participate in development affecting them’’;
• Recommends that the ECOSOC authorize the Working Group to meet for five working days prior to the 53rd session of the Sub-Commission;

II. INTERNATIONAL DECADE
The Commission:
• Welcomes the decision by the ECOSOC in its resolution 2000/22 of 28 July 2000 to establish a Permanent Forum for Indigenous Issues as a subsidiary organ of the Council;
• Requests the High Commissioner to ensure that the indigenous people's unit in the OHCHR is adequately staffed and resourced;
• Takes note of the decision of the Sub-Commission proposing an international conference to evaluate the International Decade of the World's Indigenous People and suggests that this proposal be considered in the context of the review by the ECOSOC without prejudging any outcome, of all existing mechanisms, procedures and programmes within the UN concerning indigenous issues including the WGIP, with a view to rationalizing activities, avoiding duplication and overlap and promoting effectiveness, that will take place once the Permanent Forum on Indigenous Issues has been established and has held its first annual session.

Working Group on Indigenous Populations
Decision 2001/110

The Commission decided to recommend that the ECOSOC authorize the former Chairperson-Rapporteur of the Working Group, Ms. Erica-Irene Daes, to continue to participate in all meetings in preparation for the World Conference against Racism, and in the World Conference itself, and to authorize the Chairperson-Rapporteur of the 18th session of the Working Group, Mr. Miguel Alfonso Martínez, to participate in the World Conference.
2.2. INDIGENOUS ISSUES (ITEM 15)

2.2.1. Special Rapporteur (SR)

The resolution entitled "Human rights and indigenous issues" concerning the appointment of a SR on the situation of human rights and fundamental freedoms of indigenous peoples (IPs) was adopted without a vote. Introducing the resolution, MEXICO pointed out the need to strengthen the protection of IPs rights and monitor the human rights of specific vulnerable groups, while GUATEMALA stated that IPs could not wait until the adoption of the Draft Declaration (DD) to have their rights protected. EL SALVADOR, PERU and DENMARK supported this initiative.

Other countries had reservations concerning the appointment of a SR. CANADA said that the Permanent Forum (PF) and the DD were priority issues, which would have a major impact on the consideration of any future mechanism or process with regards to indigenous issues. ARGENTINA was of the opinion that the creation of new mechanisms to promote and protect IPs rights when other initiatives were still pending was not the best way to reach these aims. AUSTRALIA also considered it premature to establish any new mechanisms until the establishment of the PF. SOUTH AFRICA insisted that duplication of work should be avoided and specified that the SR mandate should include an advocacy, awareness-raising and outreach dimension.

IITC, ICC, SC, AN, FWCC, LAHRA and LIDLIP expressed strong support for the resolution. IITC pointed out that the SR mandate would focus on immediate response and country visits and would therefore complement the work of the Working Group on Indigenous Populations (WGIP) and the PF. It was an opportunity to seek a quick and immediate end to violations. SC pointed out that other groups such as minorities and women also had a SR and other bodies. AN said that the Secretary-General had clearly indicated that there was no mechanism within the UN for the protection and promotion of the human rights of IPs. AN and FWCC stated that it was a matter of urgency, which could not wait for completion of the negotiations on the DD. LIDLIP said that the SR would be instrumental in ensuring that IPs tribal customs and laws be preserved as a precious heritage of the world. ATSIC/FAIRA called for maintaining the language of "peoples" in the resolution.

On the other hand, IMTA found it more reasonable to further the consideration of the DD instead of establishing a new mechanism. However, if the resolution were accepted, the SR should be an indigenous expert.

2.2.2. Permanent Forum (PF)

DENMARK stated that the decision to establish a PF was the first tangible result of the Decade. Encouraged the UN system and the HCHR to pursue the idea of setting up an inter-agency secretariat to reflect the PF broad mandate. Consultations should be made on institutional linkages, budget and location of the secretariat. Like CANADA and NEW ZEALAND, hoped that the PF could hold its first meeting in 2002.

EL SALVADOR and PERU were of the opinion that in order for the PF to be established as soon as possible consultations between States and indigenous representatives on the method for the election of experts should be intensified. ECUADOR insisted on adequate universal representativeness.

CANADA said that the administrative and financial foundations of the PF still required work. AUSTRALIA said that funding required further discussion.

SOUTH AFRICA expressed concern about the lack of resources available to IPs to conduct their own consultations and requested assistance of the OHCHR.

SWITZERLAND supported the location of the PF in Geneva.

The World Bank said that the PF was a major step forward in expanding the debate on economic and social policies in all countries.

FWCC strongly supported the PF in order to enable IPs to actively participate in UN bodies and to be directly involved in decision-making on matters that affect them.

CISA stated that the resolution on the establishment of the PF had been adopted unilaterally by governments without taking into account indigenous representatives' discussions. Governments had presented their proposals as if they were the outcome of a consensus. For instance, the name of the PF had been changed into "PF for indigenous issues" and the PF was denied any political role and intervention power in conflicts. Its establishment amounted to the strengthening of indigenous international bureaucracy. IMTA said that the name "PF for indigenous issues" meant that IPs continued to be a problem for the international community. In the spirit of the Vienna Declaration, the PF should have been an advisory body with sufficient power to adopt decisions and make recommendations. There was no clear process for the selection of the indigenous members of the PF. Was of the opinion that the indigenous experts should be elected or appointed by their communities and grassroots organizations.
ICC referred to the suggestions made by indigenous representatives, among them the regional division of the world and the establishment of an independent secretariat, which had been submitted to the HCHR. SC suggested to have the secretariat located in New York, which would be independent from the OHCHR. The PF should be based in New York for an efficient co-functioning with its parent bodies. The full and equal participation of indigenous members should be guaranteed. The selection of IP members by indigenous organizations should take place on a regional basis. No parallel selection process should be allowed.

2.2.3. Draft Declaration (DD)

Mr Chávez, Chairman-Rapporteur of the Working Group of the Commission on the Draft Declaration (WGCD), presented his report (E/CN.4/2001/85). Although it had not been possible to formally adopt any of the articles, progress had been made and inter-sessional consultations had been helpful. Hoped that the Commission would adopt a similar resolution this year. Requested additional support for translation and interpretation services during the WGCD. Reported that participants preferred to have the WG meet at the end of year, after the work of the GA Third Committee.

Canada said that the working methods introduced in the past two sessions had facilitated genuine dialogue. Alternative texts were an important step forward, a transparent means to detail and compile the emerging views of States on articles of the DD. The pace should be increased through informal inter-sessional meetings. Peru welcomed additional contributions by governments in a language close to consensus. The WG needed more support by the Commission. Consultations before the next session should continue.

El Salvador stated that fears and prejudices which prevented consensus on the concepts of indigenous peoples, territories and natural resources, and the implementation of the right of self-determination, must be overcome.

Guatemala stated that the concept of indigenous peoples, the recognition of collective rights, self-determination, and land and resource rights had to be agreed on before discussing the articles.

Denmark said that the WGCD was an important forum to build on the emerging consensus with a view to improving and strengthening the existing Draft and accommodating reasonable concerns of interested parties (also Cyprus). New Zealand called upon all participants of the WGCD to intensify their negotiating efforts.

Australia remained firmly committed to developing a suitable and effective instrument by the end of the Decade. Estonia said that all efforts should be made for adoption of the DD as soon as possible. Switzerland regretted the lack of progress. Ecuador insisted on political will and commitment to make progress towards a final agreement.

The NGOs mentioned below expressed grave concern in relation to the processes that had developed in the WGCD, such as the retrograde bracketing of the term “indigenous peoples” and the closed informal State drafting sessions (ATSIC/FAIRA). ATSIC/FAIRA further stated that the "Annex on the term indigenous peoples" proposed by the Indigenous Caucus had not received any response from the States. This was a matter of fundamental importance to the integrity of the entire process. Tangible progress could be made if the easier provisions were adopted at first reading.

ICC denounced the systemic racial discrimination against IPs taking place within the UN. The Chair and participating States had an obligation to reject discriminatory proposals. SC said that to deny IPs unqualified right to self-determination would be discriminatory and inconsistent with international law.

AN stated that the governments of the Americas had decided to adopt the term “indigenous peoples”, without defining it, which was a success for the inter-American community. The dialogue with the governments of this region had been transparent. IPs had great expectations concerning the results of the discussions on the DD and hoped that the Declaration would be above existing international instruments and mechanisms and represent the genuine aspirations of IPs.

According to IMTA, lack of progress was due to lack of political will from the States. Governments had decided not to decide anything about basic concepts, such as the right to self-determination, the exercise of the collective right of land ownership, permanent sovereignty over natural resources, legal protection of cultural and intellectual property, and self-identification. CISA stated that the discussions on the DD had amounted to an attack on the very existence of IPs. Feared that the governments’ aim was to create a new set of articles to be presented to the CHR as a consensual document, like the resolution on the PF.

LAHRA said that the adoption of the DD and the immediate initiation of the work for a Convention could not be delayed. Non-compliance with IPs human rights was the consequence of non-existence of adequate instruments to protect them.

BKWSU called upon governments to acknowledge IPs invaluable cultural heritage, such as their ecological knowledge.
LIDLIP said that the notion of self-determination, as it stood today, was totally outdated and practically gave carte blanche to governments to deal as they liked with IPs, quite often with disastrous results in terms of violence.

2.2.4. Decade/UN general

Ms Petersen, member of the Advisory Group of the Voluntary Fund for the International Decade and of the Board of Trustees of the Voluntary Fund for Indigenous Populations, presented the activities of both funds (see E/CN.4/2001/84). Recommended the funding of a workshop on IPs, private sector, natural resource, energy and mining companies and human rights; a round table on IPs, racism and the media to be held in South Africa in parallel to the World Conference against Racism; a human rights training seminar for IPs to promote human rights in Mexico, and a pilot human rights training course for indigenous communities. Called for States to support both Voluntary Funds.

ESTONIA said that a lot remained to be done to achieve the objective of strengthening international cooperation with IPs in the areas of human rights, environment, development, education and health.

CYPRUS asked the Commission to adopt the guidelines and principles for the protection of the heritage of IPs (E/CN.4/Sub.2/2000/26). Said that they actively support both Voluntary Funds.

EL SALVADOR was pleased that the indigenous fellowship programme was being extended with the participation of universities.

NEW ZEALAND was translating the major international instruments into the Maori language in support of the International Decade. NICARAGUA had set up a national committee to promote the objectives of the Decade.

WHO noted with grave concern the dearth of reliable data and information on IPs’ health, even in developed countries. This gap obstructed regional and national efforts to proceed with the establishment of workplans on IPs’ health, as called for by World Health Assembly Resolution 53.10 in May 2000. Despite the data gaps, patterns showed that IPs everywhere had higher morbidity and mortality rates than other population groups. Poverty and marginalization were the common denominators linking the types of ill-health experienced by IPs. The provision of and access to health-related information were an integral part of the right to health, to identify the root causes of IPs’ poor health. WHO intended to work with Member States and indigenous partners to strengthen systematic data collection by ethnicity, gender and age.

World Bank’s new policy explicitly recognized the rights of IPs. The objective of the policy was also to link the Bank’s actions to an overall strategy of poverty reduction and wealth creation of the IPs. It included meaningful consultation and informed participation of affected indigenous groups to avoid adverse impacts, as well as provisions on indigenous rights and resources. It recognized customary rights and tried to avoid involuntary resettlement.

FI pointed out the lack of real improvement in the condition of IPs since the beginning of the Decade. The situation of exclusion and misery remained one of the most serious and unresolved human rights issues.

IWA said that IPs were insulted by the demeaning and token interest that their concerns were being given. The Commission Bureau had scheduled Item 15 on the last day of the week as it had done on other occasions and the slightest delay pushed it back to another week. The majority of indigenous representatives would be gone and not be able to listen to the governments nor to respond to their statements. Asked for more respect for IPs particular needs.

CISA opposed the elimination of the WGIP which had proved its necessity. ATSIC/FAIRA supported the continuation of the WGIP, whose mandate was complementary to that of the PF and the proposed SR. IMTA suggested that the WGIP have another mandate in the normative area, and that membership be enlarged to include indigenous representatives.

2.2.5. World Conference Against Racism (WCAR)

SOUTH AFRICA said that the World Conference Against Racism (WCAR) represents a historic opportunity for States to officially recognize the identity and rights of IPs and adopt administrative, legislative and judicial measures to promote, protect and guarantee the exercise of their rights. It should send a signal to speedily conclude the negotiations of the DD.

EL SALVADOR stated that the WCAR should also give priority to the concerns of IPs. IPs faced discrimination both individually and collectively. It was important to facilitate their representation at the Conference.

ARGENTINA said that the WCAR should make further progress on initiatives aimed at promoting the rights of IPs.

ESTONIA said that the WCAR should in particular consider the IPs right to effective participation in decision-making processes.
AUSTRALIA was committed to work closely with the Special Rapporteur on Racism during his visit to Australia. SC stated that it was of paramount importance that the situation of IPs be given full attention in the WCAR. A full chapter in both the Declaration and the programme of action of the WCAR should be dedicated to IPs, as recommended by the Sub-Commission and the GA.

### 2.2.6. Country situations

**Central and South America**

FI welcomed the initiatives undertaken by the Mexican government aimed at framing a new development context for IPs. However, these initiatives should be accompanied by constitutional reforms recognizing the right of IPs to self-determination, as well as the right of participation in consultations. Militarization of indigenous areas was the cause of many human rights violations. In Chiapas, Guerrero and Oaxaca, prostitution, alcoholism and drug abuse were emerging problems. The paramilitary had caused the displacement of over 20,000 in Chiapas. The judicial system was biased, as IPs were victims of racial discrimination and had no access to interpreters or lawyers. There were economic problems related to land. Congress was now debating the San Andres Accords and the proposed Law on Indigenous Rights and Culture. IPs were requesting greater autonomy.

MEXICO announced that the government and EZLN had reinitiated dialogue for peace, and was about to demilitarize the area of Chiapas. It had taken the first step to settle its historical debt with IPs. To combat the poverty and marginalization of IPs was a national priority. Referred to the initiative for the recognition of IPs rights in the Constitution.

EL SALVADOR had made efforts to incorporate IPs into society and to promote their participation in various institutions of the State. NICARAGUA said that the right to cultural identity was a fundamental human right and the basis for coexistence and national unity. One of the main issues addressed by the government was land ownership by indigenous communities, which was currently before the National Assembly.

CISA denounced the continued repression and violation of basic human rights in Chile, whose government had still not ratified ILO Convention 169. CHILE informed that the President had announced 16 measures which should enhance and improve IPs quality of life. Three funds had been drawn up in relation with IPs. Acknowledged that legal and institutional obstacles had prevented the adoption of ILO Convention 169 and constitutional recognition of IPs.

LAHRA reported that the state of emergency had been lifted in Ecuador after the signing of an agreement between the government and the IPs. Several indigenous people had lost their lives in the mobilization last January. ECUADOR stated that IPs collective rights were recognized in the Constitution. Due to complex social situations inherited from the past, it was a challenge to implement such rights. Since a decade, IPs had been increasingly participating in political life.

PERU said that since November 1998, the Technical Secretariat on Indigenous Affairs had been promoting better understanding of the needs of IPs. PERU had initiated a consultative process aimed at drafting a legislative proposal on the protection of traditional knowledge associated with biodiversity and on the regulation of access to IPs’ genetic resources. The Congress was currently elaborating an indigenous law to strengthen self-identification, land rights and protection of ancestral knowledge.

ARGENTINA announced that they had ratified ILO Convention 169 in July 2000, which had become fundamental law in Argentina. A National Plan for IPs was launched, dealing with identity, land, education, sustainable development of indigenous communities, supply of drinkable water, and indigenous law. Important advances were made to regularize indigenous lands in Chaco (Tobas), Jujuy (Coyas and Ava-Guarani) and Rio Negro (Mapuche).

**Asia and the Pacific**

Reporting on the situation of Jumma refugees and internally displaced Jummas in Bangladesh, ABCP urged the Commission and BANGLADESH to help implement the Chittagong Hill Tracts Peace Accord.

GIS focused on the situation of the liberated Kamaiyas (bonded labourers) who lived in suffering in Nepal due to lack of proper management by the government for their rehabilitation.

NOVIB said that IPs in Indonesia had been systematically eliminated from the national political agenda, even though they were the largest element in the structure of the Indonesian State and society. The State had ignored their rights and implemented policies and legislation enforcing uniformity and centralization, as well as corrupt policies on natural resources. The transfer of the economic resources of the indigenous communities to private companies owned by a few politicians and their allies had resulted in violent conflicts. The military were
protecting corporate interests, such as in North Sumatra where several indigenous people were shot dead last summer when peacefully demonstrating to get their land back. NOVIB welcomed the recent implementation of the Regional Autonomy Laws and urged the Indonesian government to immediately ratify ILO Convention 169.

II reported on the situation of the indigenous Sindhis in Pakistan, who were under threat of extinction from terrorism, cultural dilution, persecution, discrimination, and population transfer.

NEW ZEALAND was firmly committed to eliminate the social and economic disparities between Maori and non-Maori, to strengthen the ability of Maori to have greater control over their own development, to foster Maori participation in the electoral system, and to settle claims arising from historical breaches of the Treaty of Waitangi.

Confronted with the legacy of its treatment of IPs, which had resulted in the marginalization of Aboriginal and Torres Strait peoples, AUSTRALIA was committed to addressing indigenous disadvantage. Programmes to improve IPs' health, housing, education, employment and training opportunities had been launched. Practical means to improve the well-being of IPs and raise living standards would be critical to the achievement of lasting reconciliation.

Other regions

SOUTH AFRICA reported that since the end of apartheid, the government had been committed to redressing past injustices: recognition of the San and Khoekhoe peoples, settlement of land claims, protection of language rights, process of drafting legislation to protect intellectual property rights and indigenous knowledge systems.

ESTONIA presented its programme for Uralic IPs covering the areas of culture, education and information.

SWITZERLAND said that, according to ILO, the Jenish minority, who was already protected by other instruments ratified by SWITZERLAND, could be covered by ILO Convention 169 as a tribal people.

SC reported that CERD had expressed deep concern over the Saami people's land rights, stressing the hunting and fishing rights and privatization of Saami traditional land in Sweden. The right to use the Saami language should be recognized in the traditional Saami territory. CERD also recommended that SWEDEN ratify ILO Convention 169. SC said that this was also relevant for FINLAND, NORWAY and RUSSIA.

FIMARC said that it was unfair that IPs and peasants should be dispossessed of their ancestral traditional knowledge by transnational companies from industrial countries which privatized these resources by patenting them for a maximum profit. The world's genetic heritage should remain a common heritage of humanity.

2.2.7. Abbreviations

ABCP: Asian Buddhists Conference for Peace
AN: Asociación Napguana
ATSIC/FAIRA: Aboriginal and Torres Strait Islander Commission/Foundation for Aboriginal and Islanders Research Action
BKWSU: Brahma Kumararis World Spiritual University/World Federation of United Nations Associations
CISA: Indian Council of South America
FI: Franciscans International/Dominicans for Justice and Peace/Fray Bartolomé de las Casas Human Rights Centre (Mexico)
FIMARC: International Federation of Rural Adult Catholic Movements
FWCC: Friends World Committee for Consultation
GIS: Group for International Solidarity (GRINSO-Nepal)
ICC: Inuit Circumpolar Conference
II: Interfaith International
IITC: International Indian Treaty Council
IMTA: Indian Movement ‘Tupaj Amaru’/Movimiento por la Paz y la Soberanía de los Pueblos/Organisation for the Solidarity of the Peoples of Asia, Africa and Latin America
IWA: Indigenous World Association
LAHRA: Latin American Human Rights Association
LIDLIP: International League for the Rights and Liberation of Peoples
NOVIB: Netherlands Organisation for International Development Cooperation
SC: Saami Council

2.2.8. Other statements presented at the Commission concerning indigenous peoples

Government statements on the resolutions

- MEXICO and GUATEMALA, CANADA, NEW ZEALAND introduced the resolutions.
- INDIA, on behalf of the Asian Group, commented on the need for a definition of indigenous peoples; said that it was premature to set up a new mechanism such as a special rapporteur.
- The RUSSIAN FEDERATION also expressed reservations about the appointment of a special rapporteur.
- The UNITED STATES said that the Working Group on Indigenous Peoples had fulfilled its mandate.

Other statements on/by indigenous peoples
Right to self-determination (Item 5)
- Pax Romana: Universal realization of this right requires the abolition of discriminatory appellations such as "state population" or "indigenous peoples".
- International Indian Treaty Council: Free choice of the right to self-determination should be a matter of basic respect for all peoples, including IPs.

Racism and racial discrimination (Item 6)
- Indigenous World Association: Colonialism as a form of racial discrimination.
- International Indian Treaty Council: Environmental racism in the United States.
- South Asia Human Rights Documentation Centre: IPs of Europe and World Conference against Racism.
- ARGENTINA
- MEXICO
- MEXICO, on behalf of the Latin American and Caribbean Group.

Right to development (Item 7)
- International Association Against Torture: Cuba provided 500 full medical scholarships to African, Latino and indigenous peoples in the United States.
- International Indian Treaty Council: IPs right to freely determine the processes and forms of development which maintain and strengthen their traditional cultures and spiritual, social and economic relationships with their lands and ecosystems.
- Centro para la Justicia y el Derecho Internacional: Extreme poverty in Mexico. Negotiations in Chiapas.

Human rights violations (Item 9)
- South Asia Human Rights Documentation Centre: Situation in the Chittagong Hill Tracts, Bangladesh.

Economic, social and cultural (ESC) rights (Item 10)
- International Indian Treaty Council: Cultural diversity and biodiversity among IPs.
- Centro de Estudios Sobre la Juventud: Illiteracy of Central and South American IPs.
- Indian Movement 'Tupaj Amaru': For IPs, ESC rights amount to the right to food, clothing and adequate shelter.
- Women's International Democratic Federation: Right of people to preserve their cultural heritage threatened with extinction.
- DENMARK
- MEXICO

Civil and political rights (Item 11)
- Indian Council of South America: A lifelong advocate of IPs' rights has been incarcerated in the United States for more than 25 years on a crime he did not commit.

Rights of the child (Item13)
- Indian Movement Tupaj Amaru: Critical situation of child labour.

Specific groups and individuals (Item 14)
- Worldview International Foundation: Massive forced relocations and displacement in the central Shan State, Burma.
- ALIRAN: Oppression of ethnic nationality and religious minorities and forced relocation in Burma.
- Franciscans International: Non-violent resistance of the tribal people in the state of Jharkhand in India to a mega project.
- International Federation of Free Journalists: Disinformation to influence world public opinion on national minorities and IPs.
- Latin American Human Rights Association: Forced displacements of IPs of Ecuador, Colombia, and Panama.

Promotion and protection of human rights (Item 17)
- LAHRA: Violations of IPs' human rights in Colombia.
- Rural Reconstruction Nepal: Indigenous activists subjected to harassment, intimidation and arrest in Malaysia.

Effective functioning of human rights mechanisms (Item 18):
• Human Rights and Equal Opportunity Commission of Australia
• Commission on Human Rights of Mexico

Special debate on tolerance and respect
• Indigenous Senator in the Parliament of Australia
• Indian Movement Tupaj Amaru
• Aboriginal and Torres Straits Islander Commission
• CANADA

Statements by:
• Secretary of State for Human Rights of Guatemala
• Minister for Foreign Affairs of Mexico

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3. WIPO COMMITTEE MEETS TO DISCUSS TRADITIONAL KNOWLEDGE

The first session of the Intergovernmental Committee shows that WIPO programme of work will have significant implications for indigenous and traditional peoples. Urgent preparatory work and awareness-raising are required.

The General Assembly of the World Intellectual Property Organization (WIPO) established in October 2000 an Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, which met for the first time in May 2001 in Geneva. The Committee is meant to be “a forum in which discussions could proceed among Member States on the three primary themes which they identified during the consultations: intellectual property issues that arise in the context of (i) access to genetic resources and benefit-sharing; (ii) protection of traditional knowledge, whether or not associated with those resources; and (iii) the protection of expressions of folklore”. The Committee will hold a total of five sessions in a period of two and a half years.

The First Session of the Committee was open to Member States and to organizations having specific observer status with WIPO. It has to be noted that WIPO does not accept ECOSOC consultative status for NGOs, even those in Category I. Organizations intending to follow WIPO negotiations, therefore, need to obtain specific WIPO observer status—which is granted usually only to industry and business associations. In fact, from the 15 institutions with observer status attending the Committee, only one (IUCN – The World Conservation Union) was not linked to industry or business bodies.

On request, the Committee also granted ad-hoc observer status to other organizations for its First Session, but according to the rules of procedure, it could only do so during the first day of the meeting itself, which made it impossible for many indigenous and traditional peoples’ organizations to plan to attend, since until the first day of the meeting they did not know if they would be allowed in. Thus, participation of environmental, indigenous and community organizations was extremely limited from the outset.

On the first day of the meeting, member countries met to decide on which organizations would be allowed to participate in an ad-hoc observer capacity, and to elect officers for the meeting. While there was agreement on the first item and all organizations having requested participation were allowed in, the second item proved much more difficult. Governments spent one and a half day discussing the chairmanship –out of a total of four days scheduled for the meeting. In the end, the compromise formula reached for the chairmanship was to have all candidates in the bureau - two chairs and two vice-chairs.

Once the meeting was installed, the chair opened a round of general interventions by governments, and then moved to discussions on the three substantive points on the agenda, i.e. genetic resources, traditional knowledge, and folklore. NGOs and other observers were allowed to make only one three-minute general intervention in the first round, and were not given the floor to discuss the specific items on the agenda.

Following the document tabled by the Secretariat, the focus of the discussion was essentially the mandate and the contents of the five-session programme of work for the Committee. However, it is not yet entirely clear what the results of the discussion were as regards to these two issues – and will not be so until Member States receive the documentation for the next meeting. The procedure for reaching an outcome of the meeting was significantly different from that of other processes where these subjects are discussed, mainly the Convention on Biological Diversity (CBD). In what was called “the WIPO tradition”, the chair would simply record opinions of countries, and would not submit any draft text for negotiation of resolutions, decisions, or conclusions. The draft report of the meeting contains indeed no conclusions, no recommendations, no decisions, no negotiated text – no outcome indeed. Based on this report, particularly on two paragraphs recording the views of the chair in relation to the tasks proposed for the Committee in the Secretariat's paper, it appears that the Secretariat and the bureau of the
meeting, perhaps through informal consultations with countries, will give the programme of work some structure that would follow what is indicated in the Annex below.

Many governments highlighted the need for this work to be closely coordinated with the CBD, which is indeed the instrument where issues of access to genetic resources and traditional knowledge are dealt with. It is not yet clear, however, if WIPO will put in place the coordination mechanisms that were suggested by countries.

In any case, the WIPO programme of work will have important implications for indigenous and traditional peoples, for developing countries, and for biodiversity conservation negotiations under the CBD. Urgent preparatory work and awareness-raising about these implications are required before the next session of the Committee, which will take place in the last quarter of 2001 in Geneva.

3.1. Annex: Possible programme of work of WIPO’s Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, to be developed in two years

A. Access to genetic resources

A.1: Develop “guide contractual practices,” guidelines, and model intellectual property clauses for contractual agreements on access to genetic resources and benefit-sharing, taking into account the specific nature and needs of different stakeholders, different genetic resources, and different transfers within different sectors of genetic resource policy.

A.2: Develop appropriate provisions or guidelines for national patent laws which facilitate consistency with measures of States concerning access to genetic resources and which are consistent with existing international intellectual property standards.

A.3: Consider, subject to the conclusion of the revision of the International Undertaking, the desirability and feasibility of practical and low-cost mechanisms to implement intellectual property-based benefit-sharing arrangements under multilateral systems for access to genetic resources and benefit-sharing, which are consistent with international intellectual property standards and focus in particular on plant genetic resources for food and agriculture.

A.4: Review, on the basis of information compiled in the summary of practices related to the protection of biotechnology inventions in Member States and recalling the work of the Standing Committee on the Law of Patents, the application of legal standards concerning the availability and scope of patent protection to structures and compositions derived or isolated from naturally occurring living organisms and to early stage biotechnology inventions, with a view to producing guidelines on the application of such standards in the field of genetic resources.

A.5: To consider if it is possible to improve the management of genetic resources by exploring methods by which the genetic resources in the form of protected varieties may be integrated into overall plans for effective conservation (Para. 60).

B. Traditional Knowledge

B.1: Delineate the scope of subject matter in respect of which the Member States wish to discuss the application of intellectual property protection for the purpose of having a definition of the term “traditional knowledge.”

B.2: Compile, compare and assess information on the availability and scope of intellectual property protection for traditional knowledge within the scope of subject matter which was delimited under Task B.1 and identify any elements of the agreed subject matter which require additional protection.

B.3: Revise existing criteria and developing new criteria which would allow the effective integration of traditional knowledge documentation into searchable prior art.

B.4: Consider ways of assisting traditional knowledge holders in relation to the enforcement of intellectual property rights, in particular by assisting them to strengthen their capacity to enforce their rights.

C. Folklore

C.1. As recommended in four Regional Consultations on the Protection of Expressions of Folklore, the Member States may wish to consider updating the UNESCO-WIPO Model Provisions on the Protection of Expressions of Folklore to take into account developments and new forms of commercial exploitation which have evolved since the adoption of the Model Provisions in 1982.

C.2. The Member States may wish to consider improving the protection of handicrafts and other tangible expressions of folklore by undertaking the tasks proposed by a certain Group of WIPO Member States.

C.3. The Member States may wish to take up the recommendations and resolutions which they developed in the Regional Consultations on the Protection of Expressions of Folklore and discuss ways forward with those recommendations.
4. NEWS

4.1. The implementation of the Permanent Forum

The implementation of the Permanent Forum is following its course. It is difficult, however, to discern the rules according to which this process is developing. We are giving an indicative provisional synthesis of information that we have been able to obtain. At the request of the Secretary-General of the United Nations, the High Commissioner for Human Rights (HCHR) has taken charge of the implementation of the Permanent Forum. Subsequently, she has written to governments, indigenous peoples and intergovernmental organizations telling them to proceed with their consultations. In a letter to the indigenous people, she urges them:

1. To organize their consultations according to their own procedures in view of appointing candidates answering the usual criteria of geographic distribution and gender balance;
2. To send to the HCHR the name of the candidates thus appointed as well as information on the circumstances of their appointment;
3. To provide the HCHR with information and comments related to the implementation of the Permanent Forum.

The deadline for sending the names of candidates has been extended to 1 October 2001 and the whole information will be transmitted to the President of ECOSOC.

The meetings of the 3rd and 5th Committee of the General Assembly (GA) will probably be the following stages of this process. The first meeting to be held in October or November 2001 has been assigned to elaborate the agenda of the second meeting to be held in December 2001. The latter will be devoted to the financial aspect of the Permanent Forum. Finally, the first session of the Permanent Forum could be held in May or June 2002.

4.2. Working Groups

• ERRATUM: Please note that the next session of the Working Group on Indigenous Peoples (23-27 July 2001) will focus on the theme of "Indigenous peoples and their right to development, including their right to participate in development affecting them" (and NOT on the theme of "Indigenous Peoples and their right to land" as announced in UPDATE 37).

• NEW DATES: The Working Group on the Declaration on the Rights of Indigenous Peoples will be held from 19 to 30 November.

4.3. Committees (updated)

Among others, the reports of the following countries will be considered:

• Human Rights Committee
  9-27 July (72nd session): Guatemala
  15 October-2 November (73rd session): Azerbaijan, Georgia, Ukraine, United Kingdom, Viet Nam

• Committee against Torture
  12-23 November (27th session): Benin, Indonesia, Ukraine, Zambia

• Committee for the Elimination of Racial Discrimination (CERD)
  30 July - 17 August (59th session): China, Morocco, Sri Lanka, Ukraine, United States, Viet Nam

For further information on the CERD, contact ARIS (Anti-Racism Information Service), 14 avenue Trembley, 1209 Geneva, Switzerland. Tel. +41 22 740 3530; fax: +41 22 740 3565; E-mail: aris@antiracism-info.org; http://www.antiracism-info.org/

4.4. World Conference against Racism

• Second PrepCom ends - Third PrepCom planned: The 2nd session of the Preparatory Committee met from 21 May-1 June 2001 (Report A/CONF.189/PC.2/L.1). The PrepCom had before it a draft Declaration and Programme of Action with over 600 paragraphs of text to negotiate. By the end of the session, it had "adopted" some 25 paragraphs of the document (A/CONF.189/PC.2/L.1/Add 1, 31 May 2001). Therefore the PrepCom decided to hold a third session which will take place in Geneva, 30 July to 10 August 2001.
NGOs accredited to the World Conference may attend and should follow the same procedure used for the second session to get their badges. Send a letter, on letterhead, signed by the person authorized to do so, using the following fax number -- (41-22) 917-9050 -- providing the names of the persons who will be attending on behalf of the organization. If you need a letter for visa purposes, please state that clearly. Badges can be picked up at the Villa les Feuillantines, 13 avenue de la Paix, Geneva, on 30 July.

- **Information about the NGO Forum.** including the preliminary programme, is available on <www.racism.org.za>.

- There will be a **Youth Summit**, 26-27 August, for approximately 250 youth delegates to the World Conference. Information is available on <www.racism.org.za> and <www.hri.ca/racism>, which has a special section on youth.

- **World Conference: registration of delegates** of NGOs accredited to participate in the WCAR, NGOs in consultative status with ECOSOC, indigenous organizations with standing under ECOSOC Resolution 1995/32: (1) The organization should write on letterhead, signed by the person authorized to do so, providing our office with a list of the names of the individuals who will be attending for the NGO. This can be sent to the attention of Sarah-Jayne Brodier by fax to: (41-22) 917-9050 or 917-9056. If any of the individuals require visas, please inform them accordingly and early enough, and send them a fax number for each individual who needs a letter from them for visa purposes. (2) Each individual who will attend should download the registration form from the website of the OHCHR <www.unhchr.ch> fill it out, and send it to them by mail with two passport photos. Mailing address: OHCHR, Ms Sarah-Jayne Brodier, Palais Wilson, CH 1211 Geneva 10, Switzerland.

- **Travel grants**: The Office of the High Commissioner for Human Rights (OHCHR) has received some funding through the auspices of the European Commission to provide financial assistance to NGOs wishing to participate in the WCAR (31 August-7 September) and the NGO Forum (28 August-1 September) in Durban, South Africa. There is funding to provide travel grants to approximately 350 NGOs. The OHCHR will not be selecting the NGOs and is only serving as a mailbox to collect applications, which will be sent to the appropriate NGO coordination committee. Please use the following e-mail to submit your application form: funding.hchr@unog.ch. Deadline for applications: **15 June 2001**. Please contact Laurie Wiseberg (lwiseberg.hchr@unog.ch) or doCip (docip@docip.org) to obtain an application form.

### 4.5. Information from Mandat International

Mandat International is organizing a new "Patcha Manca" and a ceremony for "Patcha Mama" (Mother Earth) at the end of the UN working group on indigenous peoples in July, on Friday evening, 27 July, at the Welcome Centre of Mandat International. Let them know if you are interested to present some traditional songs, dances, artcraft, pictures or beverages. Your cooperation and proposals will be welcome. Please inform them as soon as possible. E-mail: admin@mandtint.org; fax: +41 22 959 8851.

The preparatory meeting of the World Civil Society Forum will be held on 18, 19 and 20 July, prior to the caucus and the UN working group. It will take place in the CICG (Geneva International Centre of Conference). The preparatory meeting will organize the World Civil Society Forum in 2002, elect representatives in the steering committee and start organizing the main thematic working groups of the Forum (including the right of peoples to self determination in conflict prevention, indigenous women, and Rio +10) More information is available at: http://www.mandint.org/forum. Those who are interested are invited to register before 20 June.

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**PLEASE NOTE OUR NEW E-MAIL ADDRESS:**   docip@docip.org

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