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CHAIRPERSON



WGIP 93/OCE. Aus/3

THE DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

ELEVENTH MEETING OF THE WORKING GROUP ON
INDIGENOUS POPULATIONS

19 - 30 JULY 1993

MISS LOIS O'DONOGHUE, CBE, AM

ON BEHALF OF THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION

"OPENING STATEMENT"

GENEVA

20 JULY 1993

DRAFT DECLARATION ON THE
RIGHTS OF INDIGENOUS PEOPLES

MADAME CHAIRPERSON,

I, TOGETHER WITH COMMISSIONER GEORGE MYE, LOOK FORWARD TO WORKING WITH YOU - AND YOUR COLLEAGUES ON THE WORKING GROUP - OVER THE NEXT TWO WEEKS.

WE WILL SEEK, AS BEST WE CAN, TO REPRESENT THE VIEWS OF AUSTRALIA'S DISTINCT INDIGENOUS CULTURES, THAT OF THE ABORIGINAL PEOPLES AND OF THE TORRES STRAIT ISLANDERS. I EMPHASISE NOW, AND WILL ARGUE LATER IN THIS MEETING, THE NEED TO REFER TO INDIGENOUS PEOPLES IN THE PLURAL IN ORDER TO RECOGNISE THE COLLECTIVE GROUP IDENTITIES OF INDIGENOUS PEOPLES WORLDWIDE.

INDIGENOUS PEOPLES - INCLUDING AUSTRALIA'S ABORIGINAL PEOPLES - SHARE MANY THINGS, NOT LEAST A TRAGIC HISTORY OF DISPOSSESSION FROM THEIR LAND. BUT THEY RETAIN DISTINCT LANGUAGES CULTURES AND COMMUNAL IDENTITIES THAT NEED TO BE ACKNOWLEDGED.

WE ARE MANY PEOPLES SHARING A SINGLE VISION.

MADAME CHAIRPERSON,

JUST OVER A MONTH AGO WE HAD THE HONOUR OF WELCOMING YOU TO AUSTRALIA AS A GUEST OF THE CONSTITUTIONAL CENTENARY FOUNDATION AND THE COUNCIL FOR ABORIGINAL RECONCILIATION. THAT VISIT WILL

HAVE CONVEYED TO YOU THE SENSE OF AUSTRALIA AT A CROSSROADS.

A YEAR AGO, IN A MOMENTOUS DECISION OF THE AUSTRALIAN HIGH COURT, THE LUDICROUS LEGAL FICTION OF "TERRA NULLIUS" WAS CONSIGNED TO THE WASTE BIN OF HISTORY. IN RESPONSE TO A LEGAL ACTION BROUGHT BY MR EDDIE MABO AND OTHER TORRES STRAIT ISLANDER PLAINTIFFS THE HIGH COURT AGREED THAT IT WAS A LEGAL NONSENSE TO ARGUE THAT ABORIGINAL PEOPLES, AFTER AT LEAST 50,000 YEARS RESIDENCE ON THE AUSTRALIAN CONTINENT, HAD NO TITLE TO THEIR LAND WHEN FLEETS OF ENCHAINED CONVICTS AND ARMED GUARDS ARRIVED 205 YEARS AGO.

IT IS NOW ACCEPTED BY THE HIGH COURT, AND BY THE FEDERAL GOVERNMENT, THAT THE RAISING OF THE UNION JACK DID NOT OF ITSELF EXTINGUISH OUR DEEP ATTACHMENT TO THE LAND. AUSTRALIA'S INDIGENOUS PEOPLES HAD, AND IN SOME INSTANCES RETAIN - A "NATIVE TITLE" IN LAND. THE CONCEPT OF SELF-DETERMINATION, WHICH I WILL ADDRESS IN DETAIL IN A LATER INTERVENTION, IS CONSEQUENTLY OF EVEN GREATER SIGNIFICANCE.

THE POLITICAL, SOCIAL AND ECONOMIC IMPLICATION OF THIS LEGAL VICTORY ARE ENORMOUS. YOU WILL BE AWARE, MADAME CHAIRPERSON, HOW DISCUSSION OF THESE ISSUES DOMINATES THE AUSTRALIAN MEDIA. THE MANNER IN WHICH FEDERAL AND STATE GOVERNMENTS RESPOND TO THE CHALLENGES POSED BY THE "MABO" DECISION WILL AFFECT FUNDAMENTALLY NOT ONLY THE FUTURE OF AUSTRALIA'S INDIGENOUS PEOPLES BUT ALSO THE DEVELOPMENT OF AUSTRALIA'S SENSE OF CULTURAL IDENTITY AND NATIONHOOD. IT IS A MATTER OF THE UTMOST IMPORTANCE WHICH ROAD AUSTRALIA WILL TAKE TO THE FUTURE AND WE AWAIT WITH INTEREST THE

DIRECTION SIGNALLED BY THE AUSTRALIAN DELEGATION.

MADAME CHAIRPERSON,

READING THE DRAFT DECLARATION ATSIK MAINTAINS THE POSITION WHICH WAS PRESENTED AT THE 10TH SESSION OF THE WORKING GROUP - NAMELY THAT THE DOCUMENT, AFTER CAREFUL CONSIDERATION AT THIS MEETING, SHOULD BE TAKEN THROUGH THE SUB-COMMISSION TO THE COMMISSION ON HUMAN RIGHTS AS SPEEDILY AS POSSIBLE. THE LONG PROCESS BY WHICH THE DRAFT IS TRANSMITTED THROUGH THE UN SYSTEM TO EVENTUAL CONSIDERATION BY THE GENERAL ASSEMBLY SHOULD BEGIN.

IN REITERATING THIS POSITION I EMPHASISE TWO IMPORTANT QUALIFICATIONS WHICH I WILL ELABORATE FURTHER WHEN THE ISSUES ARE DISCUSSED LATER IN THE AGENDA. THE ROLE OF THE WORKING GROUP MUST BE MAINTAINED WITH ITS MANDATE APPROPRIATELY EXPANDED. FURTHERMORE, REPRESENTATIVE INDIGENOUS ORGANISATIONS NEED TO BE PARTIES TO THE WORKING GROUP ESTABLISHED BY THE COMMISSION ON HUMAN RIGHTS TO CONSIDER THE TEXT OF THE DRAFT DECLARATION.

THIS IS A CRUCIAL YEAR FOR THE WORKING GROUP JUST AS IT IS FOR AUSTRALIA. WE, OF THE ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION, WORKING ALONGSIDE THE INFLUENTIAL AUSTRALIAN INDIGENOUS ORGANISATIONS REPRESENTED AT THIS FORUM, WILL LEND YOU OUR FULL SUPPORT IN YOUR DELIBERATIONS.

WE LOOK FORWARD TO A PRODUCTIVE MEETING.

THANK YOU.