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Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Indigenous Peoples
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DISCRIMINATION AGAINST INDIGENOUS PEOPLES
Statement by Ambassador Ted Moses
Grand Council of the Crees

I have the pleasure once again to congratulate Dr. Erica-Irena Daes on her re-election as Chairman/Rapporteur of the Working Group on Indigenous Peoples. May I also point out that Dr. Daes is the President of the United Nations Joint Inspection Unit, and that we are honoured by the fact that despite her important and demanding duties at the Joint Inspection Unit, she has decided nevertheless to continue with her mandate to the Working Group and to the world's indigenous peoples.

I have taken the liberty of referring to the Working Group on Indigenous Peoples, because this is a working group concerned with the rights of indigenous peoples. Unfortunately, we live in a world dominated by certain States whose petty interests and concerns are sometimes permitted to take precedence over fundamental rights protection that is global in scope and universal in application.

We can not turn every World Conference on Human Rights and every Law of the Sea Conference into an arena for the settlement of temporary problems that are the concern of one or two countries. Nor should we allow the nervousness and fear of one State preoccupied with the possible secession of one of its provinces, to distort and misrepresent the meaning of self-determination, or distort and mis-state the view of the indigenous peoples.

Several years ago we agreed here that the name of this Working Group would be the Working Group on Indigenous Peoples. That decision was based on a very clear understanding reached by this Working Group after many years of inquiry and study: We are indigenous peoples.

We are "peoples", and as our distinguished Chairman has pointed out on more than one occasion, it is absurd, illogical, and contrary to history, law, and science to deny this fact.

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Since we are "peoples" we are subjects of international law. It is that simple. I repeat, we are subjects of international law, and the efforts of one or two States to deny this fact is without effect on our rights as peoples.

The World Conference on Human Rights has reaffirmed that all peoples have the right of self-determination. Let no peoples be singled out and denied this right. Let us condemn any States that have this objective. Let us say now that this is discrimination, that this is racism.

Having said this, I must comment on the work that we have ahead over the next ten days. In all likelihood the Working Group will finish the Draft Universal Declaration during this current session or the next. It is essential that the draft that leaves the Working Group be a "touchstone" within the United Nations System that conveys in some fundamental way what our rights are and how they should be recognized.

We know that certain States oppose the recognition of our rights as "peoples". We know that certain States want to discriminate against us racially by proposing that our rights as indigenous peoples are not the same as the rights of the other peoples in the world.

These States are easily identified. You will see who they are by their behaviour. They oppose the use of the word "peoples" in the "Universal Declaration on the Rights of Indigenous Peoples". They do not even call the Universal Declaration" by its correct title. Listen to them carefully; examine their statements. You will see who they are. They do not even refer to the agenda of the Sub-Commission, "Discrimination against indigenous peoples", by its correct title. They are so intent on discriminating against us that they can not say: "discrimination against indigenous peoples".

These States will propose that if the word "peoples" is used in the Declaration, it be specifically noted that it is not being used in its usual sense under international law. This is what they attempted to do at the ILO, and this is what they will do here.

We oppose the use of any specific qualifying language on the question of "peoples" and "self-determination". In particular, the indigenous peoples are of the opinion that their human rights should not be subject to any special conditions which do not apply to all of the other peoples in the world.

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The qualifying note in ILO Convention 169 was used for the particular reason given at the time, namely, that the ILO did not have formal competence over questions of civil and political rights. It was clear at the time, however, that the same exception would not accommodate the work being done here, because ECOSOC clearly has this competence.

Nor should we be misled by the statements of certain countries that we must compromise here so that States will be able to ratify the Declaration. Canada made this claim when it argued for the discriminatory clause at the ILO, but four years later, Canada has still not ratified the ILO convention, and we have little hope that it will do so.

Allow me to clarify. While we prefer that no qualifying language be used at all, we would not be adverse to language which stated the preference to resolve issues of self-determination for indigenous peoples through the exercise of internal self-determination as agreed by the indigenous peoples themselves. However, any language would have to be absolutely clear that all of the international recourses would remain available to indigenous peoples to seek external self-determination in the event that internal self-determination were to continue to be denied, and that all reasonable legal remedies were deemed to be exhausted.

Finally, we believe that the entire problem may be solved by reference to the existing conditions and limitations which apply to a people's right to exercise self-determination in the instruments currently in force. No conditions should be applied to the indigenous peoples which are not applicable to all other peoples.

I ask you: let the document that leaves this Working Group be a formal expert statement of what a Universal Declaration on the Rights of Indigenous Peoples should properly contain. Let us bear this in mind over the next ten days. Thank you.