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STATEMENT AT THE SECOND SESSION OF THE EXPERTS MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES, held in Geneva 10-14 August 2009

By Commissioner Musa Bitaye, Chairperson of the Working Group on indigenous populations/communities of the African Commission on Human and Peoples' Rights

Agenda Item 4 on the UN Declaration

Madame Chairperson, distinguished delegates and participants

As the Chairperson of the Working Group on Indigenous Populations/communities of the African Commission on Human and Peoples' Rights, I and other members of the Working Group here present, Dr Albert Barume and Dr Melakou Tegegn, are highly honoured and privileged to make a second presentation during this session of the Expert Mechanism on the Rights of Indigenous Peoples.

Madame Chairperson, allow me to underscore that Africa's main regional human rights instrument, namely the African Charter on Human and Peoples' Rights adopted on 1986 and hereafter referred to as the African Charter, is particularly known for enshrining both individual and group rights, otherwise called 'peoples' rights'. These later include the right to land and resources, the right to self determination, the right to development, the right to culture and the right to safe environment. This option was deliberately taken by way to reconcile human rights perspectives with African culture and values, as indicated in the preamble of the African Charter.

Another particular feature of the African Charter is that it does not distinguish civil and political rights from economic, social and cultural

rights. On the contrary, it calls for all these rights to be given the same attention by member states.

Madame Chairperson, most of these regional human rights principles and norms on peoples or group rights have been tested on numerous occasions by the jurisprudence of the African Commission on Human and Peoples' Rights, hereafter referred to as African Commission. In the Katanga, Mauritania and Ogoni cases or communications, the African Commission concluded, among others, that the term 'peoples' could refer to communities within States and that communities enjoy specific rights and deserve protection as individuals and governments do. There are more pending indigenous rights-related communications or complaints before the African Commission. It is apparent that for over two decades, the African Commission has been active and vocal on both individual and peoples' rights. The African Commission has indeed validated the rights of communities, including indigenous communities, as guaranteed under the African Charter and later on by the UN Declaration on the Rights of Indigenous Peoples.

Madame Chairperson, as negotiations on the draft text of the Declaration reached final stages, the African Commission, through its Working Group on indigenous populations/communities, issued an Advisory Opinion to prove and demonstrate beyond reasonable doubts that all provisions of the then UN Draft Declaration were not only consistent with African regional human rights standards on peoples' rights, but also could be a vital instrument for advancing the economic, social and cultural development of many African communities. The Advisory Opinion was then widely discussed and distributed within the AU and particularly during the AU's Summit held in Accra/Ghana in May 2007. There are reasonable grounds to believe that this Advisory Opinion constituted a turning point in the debate on the draft UN Declaration on the rights of indigenous peoples amongst African leaders. It should always be underlined that no African State voted against the Declaration when it was adopted in September 2007.

Madame Chairperson, after the adoption of the Declaration, the African Commission has taken several measures to encourage member States and governments to implement the UN Declaration. To that end, at its 42nd Ordinary Session in November 2007, the African Commission adopted a 'Resolution on the UN Declaration on the Rights of Indigenous Peoples' in which it reaffirmed that the Declaration is consistent with the work of the African Commission on indigenous

peoples' rights, as expressed in various reports, resolutions and other legal opinions and materials. Furthermore, the Resolution stresses that the Declaration could become one more valuable tool for the promotion and protection of indigenous communities' rights on the African continent.

The African Commission has consistently engaged member States on its implementation, during promotions visits, examinations of periodic reports and sensitisation activities in general. Similarly, our Working Group on Indigenous Populations/Communities, in collaboration with several regional and international partners such as IWGIA, has embarked on a program of activities aimed at bringing the Declaration into African public domain. Hence, the Working Group plans to print copies of the Declaration and the Advisory Opinion of the African Commission in one booklet for distribution across Africa, targeting policy makers, media, academic institutions, human rights institutions, students and all stakeholders in the promotion and protection of human rights. The Working Group plans also to translate the Declaration into four (4) major African languages in order to make it accessible to most African communities.

Madame Chairperson, our Working Group looks forward to working in collaboration with national, regional and international partners in order to advance, on the African, continent the implementation of the Un Declaration and other international instruments relevant to the rights of indigenous communities.

I thank you