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United Nations Working Group
on Indigenous Populations

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Item 4

Standard-setting activities

Statement by
Dr Rolf H. Lindholm
The Observer Delegation of Sweden

GENEVA, 20 July 1993

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Madam Chairperson,

Let me first express the hope of my delegation that the International Year for the World's Indigenous People will inspire the finalization of our work on the Declaration on the rights of indigenous people, and that this Declaration be a constructive and useful instrument.

It is a sad fact that indigenous people have suffered - and still suffer - from ill-treatment and discrimination. A positive evolution is, however, under way. Important steps have been taken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In 1970, it recommended that a comprehensive study be made on the problem of discrimination against indigenous populations. The Martinez Cobo final report was submitted to the Sub-Commission during the years 1981 - 1984. In 1981, the Sub-Commission proposed the creation of the Working Group on Indigenous Populations, which was set up in 1982.

The Working group has become the centre of indigenous rights activities in the United Nations. Mention should also be made of the Voluntary Fund for Indigenous Populations and the special Voluntary Fund for the International Year. The Nordic countries have contributed to these funds.

The work within the United Nations to improve the situation of indigenous populations has led to an awareness, worldwide, of the vital contributions of these groups to our societies. This awareness underlay the awarding of the Nobel Peace Prize of 1992 to that distinguished indigenous leader, Rigoberta Menchu. The International Year has also provided essential impetus to the continued work to protect and promote the rights of persons belonging to indigenous populations.

Our endeavours in this regard must not end with the International Year. The importance of continued efforts to improve the situation of indigenous people was emphasized at the World Conference on Human Rights in Vienna. The Programme of Action provides for the proclamation of an international decade for indigenous people as of next year. The establishment of a permanent forum for indigenous people will hopefully be a valuable step forward in the integration of indigenous peoples' issues in the the United Nations system.

Madam Chairperson,

Turning to the draft declaration in front of us, my delegation would like to make some general comments. We find the preambular part too long and repetitive, especially when compared with the operative text.

The previous discussions have shown that some notions in the draft declaration are controversial. Sweden favours a constructive dialogue between governments and indigenous people. It is important to find consensus

language, as the draft has to pass the scrutiny of the Sub-Commission, the Commission on Human Rights and the Economic and Social Council before it reaches the General Assembly for its proclamation.

One such notion is the concept of self-determination. It is important that we recognize in this context, as we have in others, that the concept, as used in international law, must not be blurred. It is therefore necessary to find another term in the declaration, or to introduce an explanatory definition such as that included in ILO Convention No. 169, which provides that "The use of the term "peoples" in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law."

It is also important that any inclusion in the draft of the notion of collective human rights be formulated carefully. The concept of human rights flows from the idea of the inherent rights of each individual. In our endeavours to safeguard the human rights and fundamental freedoms of the individual, it is important to avoid that the concept of human rights become weakened or ambiguous. Indigenous rights, even when exercised collectively, should therefore be based on the non-discriminatory application of individual rights. One way of assuring this is to use the expression "rights of persons belonging to indigenous people". A similar approach was adopted in the Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities. It was also stated that such persons may exercise their rights individually as well as in community with other members of their group.

The Declaration on minorities could also serve as a model in another respect. Instead of the draft text in Operative paragraph 42, we would prefer the text of Article 8, Paragraph 4, of the Declaration on minorities: "Nothing in this Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States."

While the land rights of indigenous populations are generally discussed in terms of ownership and possession, my Government would like to stress the importance of usufruct, a strongly protected legal right to use land, as an alternative concept. In Sweden, usufruct to vast land areas used by the Sami for reindeer herding since time immemorial, was recognized by the Supreme Court as a customary right of the Sami population in one large land area. Although the Sami thus did not own the land in this case, they did have a legal right of usufruct, enabling them to pursue their traditional livelihood. The present draft text of Operative paragraph 24 is therefore not at present acceptable to Sweden. We hope that an alternative text, recognising the importance to indigenous populations of alternative legal concepts relating to the use of land, can be found. This would enable us to support the adoption of the Declaration.

We also see some difficulties with the provisions on recruitment into the armed forces and on military activities. The reason for this is that we want to avoid different rules for our indigenous population and the rest of our citizens.

There are other points that deserve comments, and we will raise them as we proceed paragraph by paragraph. Sweden wishes to assure you, Madame Chairperson, that we will support your endeavours to complete the work on the draft declaration at this session.

Thank you, Madam Chairperson.