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CONSEJO DE DERECHOS HUMANOS
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**PROMOCIÓN Y PROTECCIÓN DE TODOS LOS DERECHOS HUMANOS,
CIVILES, POLÍTICOS, ECONÓMICOS, SOCIALES Y CULTURALES,
INCLUIDO EL DERECHO AL DESARROLLO**

**Informe del Relator Especial sobre la situación de los derechos humanos
y las libertades fundamentales de los indígenas, Sr. James Anaya***

Adición

**CONCLUSIONES Y RECOMENDACIONES DEL SEMINARIO
INTERNACIONAL DE EXPERTOS SOBRE EL PAPEL DE
LOS MECANISMOS DE LAS NACIONES UNIDAS CON UN
MANDATO ESPECÍFICO SOBRE LOS DERECHOS DE LOS
PUEBLOS INDÍGENAS****

* Documento presentado con retraso.

** El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho figura en el anexo del resumen y se distribuye únicamente en el idioma en que se presentó.

Resumen

En su resolución 6/12, el Consejo de Derechos Humanos decidió prorrogar el mandato del Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, consistente en, entre otras cosas, trabajar en estrecha cooperación con otros procedimientos especiales y órganos subsidiarios del Consejo, los órganos pertinentes de las Naciones Unidas, los órganos de tratados y las organizaciones regionales de derechos humanos y entablar un diálogo de cooperación sistemático con todos los actores pertinentes. El Relator Especial participó, junto con los miembros del Mecanismo de expertos sobre los derechos de los pueblos indígenas, cuatro miembros del Foro Permanente para las Cuestiones Indígenas de las Naciones Unidas y un grupo de expertos de distintas regiones, entre ellos el ex Relator Especial, Rodolfo Stavenhagen, en el Seminario internacional de expertos sobre el papel de los mecanismos de las Naciones Unidas con un mandato específico sobre los derechos de los pueblos indígenas, organizado en Madrid los días 4 a 6 de febrero de 2009 por el Grupo de Trabajo Intercultural Almaciga y el Grupo Internacional de Trabajo sobre Asuntos Indígenas, con los auspicios de la Agencia Española de Cooperación Internacional para el Desarrollo.

El principal objetivo de la reunión era promover un diálogo oficioso entre los miembros de los tres mecanismos a fin de coordinar mejor su labor y sus actividades con otros organismos y órganos de las Naciones Unidas. Los participantes examinaron métodos para racionalizar la labor de los tres mecanismos examinando la esfera o las esferas de trabajo prioritarias de sus respectivos mandatos y determinando formas en que pudieran optimizarse los aspectos de cada mandato. Los miembros de los tres mecanismos formularon varias recomendaciones, que se incluyen en el presente documento.

Annex

CONCLUSIONS AND RECOMMENDATIONS OF THE INTERNATIONAL EXPERT SEMINAR ON THE ROLE OF UNITED NATIONS MECHANISMS WITH A SPECIFIC MANDATE REGARDING THE RIGHTS OF INDIGENOUS PEOPLES

(Madrid, 4-6 February 2009)

I. INTRODUCTION

1. Article 42 of the United Nations Declaration on the Rights of Indigenous Peoples states that the United Nations and its bodies, including the Permanent Forum on Indigenous Issues, “shall promote respect for and full application of the provisions of [the] Declaration and follow up the effectiveness of [the] Declaration”. In the context of the process of institutional reform of the United Nations human rights machinery, the Declaration has been specifically identified as part of the normative framework of the mechanisms of the Human Rights Council with a specific mandate regarding the rights of indigenous peoples: the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples¹ and the expert mechanism on the rights of indigenous peoples.²

2. An important innovation in the new United Nations institutional design concerning the rights of indigenous peoples is the emphasis on cooperation among these different mechanisms with a view to avoiding unnecessary duplication and enhancing the effectiveness of the system as a whole.³ Reinforced cooperation among the mechanisms requires in-depth reflection on ways to improve existing channels of communication and to generate new methodologies of interaction.

3. At the initiative of Bartolomé Clavero, a member of the Permanent Forum, and the Special Rapporteur, members of the United Nations mechanisms with a mandate regarding indigenous peoples, as well as a number of indigenous experts, were invited to participate in an informal meeting to discuss issues of coordination in their work to promote the rights of indigenous peoples within the framework of the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. The meeting took place at the Spanish Agency for International Cooperation in Madrid, from 4 to 6 February 2009. It was organized jointly by the

¹ Resolution 6/12, para. 1 (g).

² See resolution 6/36.

³ The mandate of the Special Rapporteur calls upon him/her to “work in close cooperation with the Permanent Forum on Indigenous Issues and to participate in its annual session” (resolution 6/12, para. 1 (e)). Similarly, the Human Rights Council decided, “in order for the expert mechanism to enhance cooperation and avoid duplicating the work of the Special Rapporteur ... and the Permanent Forum, that it shall invite the Special Rapporteur and a member of the Permanent Forum to attend and contribute to its annual meeting” (resolution 6/36, para. 5).

non-governmental organizations, the International Work Group on Indigenous Affairs and the Almáciga Intercultural Working Group. The seminar was attended by all the members of the expert mechanism and four members of the Permanent Forum, as well as representatives of the secretariats of the three United Nations mechanisms and a group of experts from and members of indigenous peoples' organizations from various regions. The members of the three mechanisms put forth the following conclusions and recommendations.

II. CONCLUSIONS AND RECOMMENDATIONS

United Nations Declaration on the Rights of Indigenous Peoples

- 4. The United Nations Declaration on the Rights of Indigenous Peoples provides the framework for action towards the full protection and implementation of indigenous peoples' rights.**
- 5. The United Nations Declaration on the Rights of Indigenous Peoples is the principal normative framework for the three United Nations mechanisms with a specific mandate regarding indigenous peoples' rights, and it should also constitute an important frame of reference for the United Nations treaty bodies and other relevant international and regional human rights mechanisms.**
- 6. Article 42 of the United Nations Declaration on the Rights of Indigenous Peoples requires the three mechanisms to apply the Declaration universally, irrespective of the positions of individual States on the Declaration.**

General coordination

- 7. The three mechanisms should take advantage of their participation at the annual sessions of the Permanent Forum and Expert Mechanism to meet and coordinate their work agendas. In any case, the three mechanisms should consider holding an annual meeting to coordinate their work.**
- 8. The Chairperson, or, if this is not possible, a designated member of the Permanent Forum and of the Expert Mechanism, and the Special Rapporteur should always participate in the annual sessions of the Permanent Forum and the Expert Mechanism.**
- 9. The three mechanisms should consult with the Inter-Agency Support Group to develop methods for strengthening coordination and cooperation with United Nations agencies.**

Division of labour among mechanisms

- 10. Taking into account the specific terms of their respective mandates, each of the three mechanisms should avoid engaging in work that is the special focus of the mandates of the other mechanisms or that would more adequately be addressed by other bodies and agencies of the United Nations system, including the treaty bodies.**

11. In the aftermath of the adoption of the United Nations Declaration, the Permanent Forum should review its working methods in order to promote cooperation with the other two mechanisms and enhance its responsibilities under article 42 of the Declaration. A greater role could be given to the Permanent Forum's interaction with the United Nations agencies, including in public meetings, particularly those that carry out activities regarding the rights of indigenous peoples at the country level.

12. The sessions of the Permanent Forum and the Expert Mechanism should strive to focus the participation of Governments, indigenous representatives and other stakeholders on the specific issues and functions falling within their respective mandates.

Thematic research

13. The Expert Mechanism has a specific mandate to carry out thematic research. The Special Rapporteur has adopted the view that his role in thematic research will be secondary, contributing to the thematic research of the other mechanism on the basis of his experience engaging with Governments on country situations.

14. The Permanent Forum should reflect on its role in carrying out thematic research and avoid duplication of the work of the Expert Mechanism to prevent "thematic fatigue".

15. The Expert Mechanism and the Permanent Forum should seek to collaborate closely on research projects of shared interest. The participation of indigenous experts should always be promoted.

Specific situations of human rights violations

16. This is a priority area of work for the Special Rapporteur.

17. The Permanent Forum and the Expert Mechanism should develop measures to channel the specific allegations of human rights violations presented by indigenous peoples during their annual sessions, including to the Special Rapporteur and other relevant mechanisms mandated to address such allegations.

18. The Special Rapporteur should develop methodologies for receiving allegations of human rights violations and, as required, for direct dialogue between Governments and indigenous peoples, during his participation at the annual sessions of the Permanent Forum and the Expert Mechanism.

Country visits

19. Country visits to assess the human rights conditions of indigenous peoples is one of the principal work methods of the Special Rapporteur pursuant to his mandate.

20. The Permanent Forum has an important role to develop in relation to the work of the United Nations agencies and programmes at the country level, enhancing knowledge of indigenous issues among the different agencies.

21. **The Permanent Forum should develop internal guidelines to orient the activities and scope of work carried out by its individual members during country visits.**

22. **The Permanent Forum's secretariat could seek methods of enhancing cooperation and information-sharing among the Forum's individual members in order to strengthen their roles and the effectiveness of their activities as members between sessions. The Forum's members should be actively involved in intersessional activities, including those carried out by the secretariat.**

Role of the secretariats

23. **The secretariat staff should periodically share information regarding the activities of the three mechanisms and the secretariats themselves, coordinate workplans regularly, and collaborate on research and other areas as appropriate.**

24. **The secretariats should enhance efforts for training of United Nations staff members on indigenous rights and issues at headquarters and in the field, in coordination with efforts made by the three mechanisms.**

25. **Where possible, more resources, both financial and human, should be dedicated to the secretariats. In particular, the secretariat of the Expert Mechanism needs to be strengthened considerably. Priority should be given to the recruitment of indigenous staff.**

26. **The secretariat of the Permanent Forum and the Office of the United Nations High Commissioner for Human Rights should consider utilizing the members of the Permanent Forum and the Expert Mechanism as resource persons in the elaboration of their own policies, guidelines and publications on indigenous issues.**

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