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COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

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Working Group to Prepare the
Draft American Declaration on the
Rights of Indigenous Peoples

FOURTH SPECIAL MEETING OF THE WORKING GROUP

(Hall of the Americas, February 10 and 11, 2005)

BACKGROUND INFORMATION ON THE SPECIAL SESSIONS

(Presented by the Chair)

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In order to facilitate the dialogue among participants at this Fourth Special Session of the Working Group, the Chair would like to present all delegations the following background information:

The third Special Session was held at the OAS headquarters in Washington, D.C. from February 24 to 28, 2003. This was the last session meant to give rise to a different step in the discussion on the elaboration of the Draft American Declaration on the Rights of Indigenous Peoples.

On November 10 to 12, 2003, the quest for consensus began, based on the consolidated text of the Draft Declaration presented in June of that year by the Chair of the Working Group, Ambassador Eduardo Ferrero-Costa, Permanent Representative of Peru to the OAS.

Since the beginning, these negotiation sessions on the Draft Declaration have relied on the participation of indigenous representatives and experts. In this context, it is important to note that the creation of a Specific Fund has allowed to cover the participation costs of at least one indigenous representative per Member State. On average, 26 indigenous representatives have been financed by the Fund during each meeting. This last element has allowed to “ensure transparency and effective participation of indigenous representatives during the negotiations”, as expressed in resolution AG/RES.1919 (XXXIII-O/03) which was approved by the General Assembly in Santiago, Chile in June 2003. Various indigenous representatives from governmental, non-governmental or other organizations have attended the negotiations at their own cost.

Five negotiation meetings have been held to date:

- The Initial Negotiation Meeting on the Quest for Consensus was held between November 10 and 12, 2003. The following provisions were discussed and analyzed: the four articles under Section One on the scope and reach of application, the seven articles under Section Two on Human Rights, and article XII under Section Three of the Consolidated Text. A consensus was reached with respect to the following elements: the titles of Section One and Section II, the title of article V, the title of article VI and its paragraph 1, the title of article VI, and articles IX, X and Xbis in their entirety.^{1/}

- The Second Negotiation Meeting on the Quest for Consensus was held between January 26 and 28, 2004. The meeting was held on only two of the three scheduled days, due to the closing of the OAS Headquarters as a result of a snow storm that struck Washington, D.C. During that meeting, the first four articles of Section Three on Cultural Identity (articles XII to XV) were discussed and analyzed. The titles of articles XIII and XV, as well as the title of paragraph 1 of the latter article, were adopted by consensus.^{2/}

1. Chair's Report GT/DADIN/doc. 151/03. rev.1.
2. Chair's Report GT/DADIN/doc.164/04

- The Third Negotiation Meeting on the Quest for Consensus was held between April 28 and 30, 2004. This meeting was chaired by Ambassador Juan León, a new Chair of the Working Group and Alternate Representative of the Permanent Mission of Guatemala to the OAS. The Working Group discussed articles XVI and XVII of Section Three, and a consensus was reached on the titles of both provisions.^{3/}

- The Fourth Negotiation Meeting on the Quest for Consensus was held between November 8 and 12, 2004. Prior to the Fourth Negotiation Meeting, the General Assembly met in Quito, Ecuador and renewed the Working Group's mandate under resolution AG/RES.2029 (XXXIV-O/04). This Working Group elected Ambassador Juan León, Alternate Representative of the Mission of Guatemala to the OAS, as Chair of the Working Group.

The Negotiations on the Draft Declaration were held between Monday, November 8 and Thursday, November 11. During those four days, articles XIX to XXIII under Section Four on Organizational and Political Rights were discussed. A consensus was reached with respect to the titles of articles XXI and XXII, as well as on paragraph 3 of article XXI. Then, on Friday, November 12, the Working Group discussed exclusively the setting of a date for the conclusion of the final step of negotiations, pursuant to the General Assembly's mandate.

The Chair of the Working Group presented a Reference document which suggested May 2006 as an end date for the Working Group's drafting of the Declaration, and December 2006 for the adoption of the Declaration by an Extraordinary General Assembly.⁴ However, no consensus was reached on this topic and the discussion is still pending.

- The Fifth Negotiation Meeting on the Quest for Consensus was held between February 7 and 9, 2005. During this Meeting, article XVIII and its corresponding paragraphs were examined. This fifth meeting focused on an open, transparent and frank dialog regarding Section Five on Social, Economic and Property Rights, in order to establish the difficulties and limitations with which States and Indigenous Peoples are faced in light of the complexity of article XXIV, and taking into account the various concepts raised in the proposals by the Chair, the indigenous caucus and others.

- It is important to note that the proposals presented in writing during the five Negotiation Meetings for The Quest for Consensus have been formally recorded and can be found in a document of participants' proposals so that they may be consulted when final decisions are made on the provisions of the sections that have been analyzed.

- It is also important to emphasize the continuation and consolidation of the functioning of the Specific Fund that provides support to representatives of Indigenous Peoples, upon approval of Resolution CP/RES. 873 (1459/04) by the Permanent Council, which establishes the timing and modalities in naming the indigenous representatives selected. It is also important to highlight the renewal of commitments to the Specific Fund for meeting and work expenses of the indigenous caucus, who meets prior to the negotiation meetings.

3. Negotiation results GT/DADIN/doc.175/04.rev.1

⁴ See Chair's Proposal (OEA/Ser. K/XVI. GT/DADIN/doc.189/04).

- Finally, the Chair recognizes the invaluable effort and cooperation of the countries who contribute to the Specific Fund for the five negotiation meetings and the current fourth special session. These countries are: Brazil, Canada, the United States, Finland, and Nicaragua. We also recognize the organizations that have financed their representatives' expenses without support from the Fund. We are thankful for, and recognize the cooperation of, organizations such as Amazon Alliance and the Indian Law Resource Center for their contribution to the logistical coordination of the indigenous caucus.

OAS, Washington D.C. February 10, 2005.