

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES
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)

REPORT OF THE CHAIR

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I. MANDATE

The fourth special meeting was held pursuant to operative paragraph 4.d of resolution AG/RES. 2029 (XXXIV-O/04), adopted by the OAS General Assembly at its regular session in Quito, Ecuador, from June 6 to 8, 2004, which reads: “To request the Permanent Council to instruct the Working Group: To convene, when appropriate, a special meeting of the Working Group, with broad and effective participation by representatives of indigenous peoples, which should examine the status of the process and assess the level of consensus reached on the Draft Declaration.”

II. ADOPTION OF THE AGENDA

At its meeting of January 24, 2005, the Working Group adopted the agenda of the fourth special meeting of the Working Group, which was to deal with a review of progress and assessment of the level of consensus on the Draft Declaration, the presentation on preparations for the Second Summit of the Americas on Indigenous Peoples, and the consideration of a possible date for conclusion of the final phase of negotiations for the adoption of the Draft Declaration. The agenda is provided in document GT/DADIN/doc.201/05 rev. 1.

III. CHOICE OF INDIGENOUS EXPERTS OR LEADERS BY THE SELECTION BOARD OF THE SPECIFIC FUND TO SUPPORT THE PREPARATION OF THE AMERICAN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

This meeting was attended by the same indigenous peoples’ representatives who were selected by the Specific Fund to participate in the Fifth Meeting of Negotiations, including those indigenous persons who financed their own participation.

IV. PROCEEDINGS

A. Date of the meeting

The fourth special meeting of the Working Group was held on February 10 and 11, 2005, in the Hall of the Americas at OAS headquarters in Washington, D.C.

B. Opening session

The meeting was opened by the Acting Secretary General of the OAS, Ambassador Luigi Einaudi (GT/DADIN/doc.216/05). Ms. Celeste McKay, of the Native Women’s Association of Canada, presented the opening statement by the Indigenous Caucus. The Chair of the Working Group, Ambassador Juan León Alvarado, welcomed the delegations in attendance and outlined the meeting procedure.

C. Procedure

This meeting followed the same procedure as the prior special meetings. Both the member state representatives and the indigenous peoples' representatives were to speak for up to five minutes to give their positions on each agenda item. The Chair presented document GT/DADIN/doc.214/05, containing the background information on the special meetings, to facilitate the dialogue among the delegations.

D. Attendees

Taking part in this meeting were representatives of the OAS member states and permanent observers, representatives of multilateral international organizations, and approximately 80 representatives of indigenous peoples of the Hemisphere. The list of participants is provided in document GT/DADIN/doc.217/05 rev. 1.

E. Consideration of the agenda items

- Review of the status of the process and assessment of the level of consensus reached on the Draft Declaration

At this special meeting there was a rich and interesting dialogue and exchange of ideas among the participating delegations on the following topics:

- Level of progress of the dialogue

The attending delegations expressed their support for the process and noted that substantive progress had been made, in terms of the atmosphere of trust and establishment of cordial relations among the delegations of the states and the indigenous peoples. Also noted was the transparency and openness of the process.

- Indigenous participation

The attending delegations expressed their pleasure at the level of participation by indigenous peoples in the process, in which representatives of states and of indigenous peoples participate on an equal footing in the negotiation of the Draft Declaration.

The indigenous peoples' representatives requested the participation of a larger number of indigenous representatives per country, not only experts or specialists, but also traditional authorities and grassroots leaders.

- National consultations

The participating delegations emphasized the importance of the national consultations and, especially, of including the topics of the Draft Declaration in the agenda of these consultations, to bring about understanding among actors at the national level and thus allow greater convergence of proposals in this inter-American forum and other international forums.

- Formation of working groups to address certain concepts

Some delegations proposed creating a technical working group composed of an equal number of state representatives and indigenous peoples' representatives. This group would arrange and organize the topics and concepts and identify the problems of the Draft Declaration. It would not be a forum for negotiating texts. Some representatives were opposed to the creation of such technical groups while the work of consolidating all the texts, or at least the review of the consolidated text, had not been completed.

Other delegations proposed the formation of facilitating working groups during the negotiation meetings. Such groups would be composed of indigenous and state representatives and charged with discussing specific topics. They would work at the same time as the negotiation meetings, attempting to arrive at a consensus for subsequent presentation to the plenary.

In addition, one delegation proposed establishing various subgroups to work on specific topics during a negotiation meeting. This process would be led by two facilitators, one representing the states and the other representing the indigenous peoples (following to some extent the United Nations model). This proposal did not meet with approval from the attending delegations.

Finally, some delegations suggested that the Chair act as facilitator of consultations between the indigenous representatives and the state representatives.

- Voting

Some delegations maintained that some formula should be provided to avert the obstacles that arise when a consensus cannot be reached. Some indigenous representatives requested that a majority-rule formula be considered. The states indicated that the normal decision-making procedure at the OAS was by consensus. The delegations urged that mechanisms to facilitate consensus be sought.

- Texts

Some delegations believed there should be a procedure for incorporating new proposals into the consolidated text, as long as they addressed topics not already covered.

- Meetings

Some delegations requested that an Indigenous Caucus meeting to discuss sections V and VI of the consolidated text be held before the negotiation meetings, and that it consider proposals on concepts as yet unresolved in the discussions, i.e., self-determination, territories, etc. The meeting would be exclusively for the indigenous representatives.

This meeting of the Indigenous Caucus will be held during the week of May 2 to 6, 2005, in Washington, D.C., with financial support from the Specific Fund.

Some delegations said the states should also hold informal meetings, before the next negotiation meeting, on the sections still pending. In that regard, the indigenous representatives urged the states to present consensus proposals.

Some delegations said that the negotiation meetings should include time for indigenous representatives to respond to proposals presented during negotiations, and for states to proceed with informal consultations among themselves, especially when an impasse was reached on specific provisions.

Some delegations believed it would be advisable to hold a negotiation meeting before this June's General Assembly session.

Some delegations urged the indigenous representatives to give presentations on regional situations, so as to explain regional views on difficult topics in the Declaration. One delegation requested that the general provisions be addressed at the next meeting before other provisions were addressed.

- Funds

The attending delegations agreed on appealing to the states to participate in the Specific Fund, so as to allow increased participation by indigenous representatives; that the financial institutions, such as the IDB, should be approached for financial support to this process; and that the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean could make a contribution.

- Site of the negotiation meetings of the Working Group

Some delegations said the states could be encouraged to offer to host subsequent negotiation meetings of the Working Group.

- Presentation on preparations for the Second Summit of the Americas on Indigenous Peoples

The indigenous organizers of the Second Summit, Mr. Darle Mcleod, representing the Assembly of First Nations of Canada, and Mr. Víctor Horacio Capitán, representing the Organization of Indigenous Nations and Peoples in Argentina (ONPIA), in coordination with the Office for the Summits Process, gave a presentation on preparations for the Second Summit of the Americas on Indigenous Peoples, to be held in Buenos Aires, Argentina, in October 2005. This Summit is being organized jointly by the Assembly of First Nations of Canada and the ONPIA. It is to be an international forum for discussion and formulation of indigenous perspectives on various topics related to the work of the OAS and topics that will be addressed during the Fourth Summit of the Americas. The theme of the indigenous summit will be the indigenous peoples' relationship with land, territories, and resources in the Americas. This presentation can be found in document GT/DADIN/doc.215/05.

On this question, the attending delegations requested that the necessary lobbying be undertaken to get the topic of indigenous peoples on the thematic agenda of the Summit of the Americas, and that a document be prepared to facilitate some sort of Summit mandate from the presidents on the Draft American Declaration on the Rights of Indigenous Peoples.

- Consideration of a possible date for conclusion of the final phase of negotiations for adoption of the Draft Declaration

The discussion of this agenda item is a continuation of the discussions at the fourth meeting of negotiations, held from November 8 to 12, 2004, and included in the Chair's report (GT/DADIN/doc.196.05).

After an exchange of views among the various delegations, it was decided to set an approximate date for the final drafting of the Declaration in 2006 or 2007, taking into account objective factors such as the drafting of an agenda and an actual work timetable that would be flexible and be based on the principle of not diminishing the substance of the Declaration in a rush to achieve its prompt conclusion.

F. Closing session

The closing session was held on Friday, February 11, at noon. Ms. Dalia Herminia Yáñez, an indigenous person from Venezuela, led the closing indigenous prayer. The meeting was called to a close by the Working Group Chair, Ambassador Juan León Alvarado, Alternate Representative of Guatemala.

V. ACKNOWLEDGEMENTS

The Chair of the Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples wishes once again to recognize all the government and indigenous peoples' delegations for their active, effective, and purposeful contributions to the discussions during the fourth special meeting of the Working Group. He also wishes to recognize all the OAS member state and observer governments who, in one way or another, have contributed to making the attendance and participation of the indigenous representatives in the various discussion meetings possible, especially by contributing to the Specific Fund.

This acknowledgement also extends to those units of the General Secretariat that have lent their effective assistance to the planning and conduct of the special meetings of the Working Group, which are now an institution at the OAS. Special appreciation is due to the corps of advisers to the Chair, consisting of Dr. Isabel Madariaga of the Executive Secretariat of the Inter-American Commission on Human Rights, Dr. Luis Toro of the Office of Inter-American Law and Programs of the Department of Legal Affairs and Services, Mr. Alejandro Aristizábal of the Permanent Council Secretariat, Mr. Jorge Sanín of the Summits of the Americas Secretariat, the team of the Office of Conferences and Meetings, especially the Conference Specialist, Ms. María Mercedes Andrade (and the team providing logistical support during the meetings), Mr. Juan Carlos Gómez (and the team who reproduce and distribute the documents), Mr. Luis Batlle and Mr. Luiz Coimbra of the Office of Public Information (and the team in charge of live transmission of the meetings over the Internet),

and, finally, for her tireless efforts and cooperation, to Ms. Ana Peña, Alternate Representative of the Permanent Mission of Peru, for her active and purposeful work as Vice Chair of the Working Group and a member of the advisers to the Chair.

VII. REFERENCES

The following documents should be considered in connection with this report:

1. Remarks by the Acting Secretary General, Ambassador Luigi R. Einaudi – Inaugural Session (GT/DADIN/doc.213/05 corr.1)
2. Background Information on the Special Meetings – Presented by the Chair (GT/DADIN/doc.214/05)
3. Presentation on Preparations for the Second Summit of the Americas on Indigenous Peoples (GT/DADIN/doc.215/05)
4. List of Participants - Final Version (GT/DADIN/doc.217/05 rev. 1)

Ambassador Juan León Alvarado
Chair of the Working Group to Prepare the
Draft American Declaration on the Rights of Indigenous Peoples
Alternate Representative of Guatemala