

PERMANENT COUNCIL OF THE  
ORGANIZATION OF AMERICAN STATES

COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

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

OEA/Ser.K/XVI  
GT/DADIN/doc.324/08 rev. 1  
14 February 2008  
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MEETING FOR REFLECTION  
OUTCOMES AND RECOMMENDATIONS  
PRESENTED TO THE PERMANENT COUNCIL  
ON NOVEMBER 28, 2007

**Item 1**

**Dialogue on the effects and the scope of the United Nations Declaration on the Rights of Indigenous Peoples in relation to the process of negotiations of the Draft American Declaration on the Rights of Indigenous Peoples at the Organization of American States**

The majority of States and all of the indigenous representatives supported the use of the UN Declaration as the baseline for negotiations and indicated that this represented a minimum standard for the OAS Declaration. In this sense, the standards developed in the OAS Declaration should be coherent with the provisions of the UN Declaration. In addition, the OAS Declaration should develop the general concepts contained in the UN Declaration, taking into account the specific characteristics of indigenous peoples of the Americas, and, at the same time, standards not covered or not covered adequately in the UN Declaration should be addressed.

The delegations of Canada and the United States, however, indicated that they could not accept the UN Declaration text as the starting point or minimum outcome for these negotiations. The delegation of the United States reminded the participants of their General Reservation, and proposed that the Working Group focus on taking actions, rather than engaging in negotiations, through an exchange of information and best practices in relation to the issues under negotiation.

**Item 2**

**Analysis of the meetings of negotiations in the quest for points of consensus: Identification of topics of greatest interest in the Draft American Declaration on the Rights of Indigenous Peoples**

The following points were addressed:

1. Accelerate the negotiation process of the Declaration.
2. Continue to work on the OAS text (Record of Current Status of the Draft American Declaration on the Rights of Indigenous Peoples GT/DADIN/doc.301/07).

3. Establish clear rules to continue the negotiation and identify obstacles and issues on which progress has been made.
4. A majority of States and the Indigenous Caucus considered the document “Identification of Issues of Great Interest in the Draft American Declaration on the Rights of Indigenous Peoples” GT/DADIN/doc.294/07 was superseded by the document of the United Nations, nevertheless some States considered that the issues contained in the document continued to be relevant.
5. International law shall be the standard with which the draft American Declaration should be approached.
6. To adopt the draft Declaration, a consensus is the ideal to be pursued.
7. Indigenous participation needs to be strengthened in the negotiation process.

### Item 3

#### Reconsideration of methodology

Changes to methodology were further discussed during the Working Group, and are reflected in document GT/DADIN/doc.246/06 rev.7 as follows:

- i. Page 1, paragraph 4, an additional sentence at the end: **“In that sense, we appeal to all the parties to show greater flexibility and willingness for the purpose of reaching consensus.”**
- ii. Page 2, paragraph 4, an additional two sentences at the end: **“Those articles of the American Declaration on the Rights of Indigenous Peoples that to date have not been the object of consensus shall use as a point of reference that set forth in the UN Declaration on the Rights of Indigenous Peoples. And to this end we shall use document GT/DADIN/doc.317/07 corr.1.” (Canada and the United States could not join consensus on this point.)**
- iii. Page 2, paragraph 6, to be changed to read: **“If no consensus is reached, the Chair of the Working Group will invite the delegations to hold informal consultations via drafting groups composed of representatives of member states and indigenous peoples in order to find a text acceptable to all parties.”**

The Delegation of Brazil proposed that the Eleventh Meeting of the Working Group should be devoted to a comparative in-depth analysis between the UN Declaration and the text of the draft American Declaration on the Rights of Indigenous Peoples based on the document entitled “Table Comparing the Draft American Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Indigenous Peoples” (GT/DADIN/doc.317/07 corr. 1), to identify gaps with a view to moving forward addressing regional specificities. This proposal was supported and amplified by other parties, who proposed among other things that this be done to guide negotiations in a progressive manner.

The Indigenous Caucus stressed that the preamble needed analysis and negotiation.

### Item 4

The following proposals for strengthening the negotiation process had been presented and considered:

### Proposals by the Indigenous Peoples' Caucus

1. The Indigenous caucus considers that in this process there must be up to three (3) meetings of negotiations per year or one every six (6) months. The Chair of the Working Group will select the dates in consultation with the Indigenous Caucus, so as to ensure that they suit all the governments and the indigenous peoples.
2. Whenever the circumstances so warrant, the Caucus will hold Technical Team meetings to conduct any necessary analysis and to prepare documents and materials that may then be shared at the meetings of negotiations. **This technical team should receive OAS support in order to ensure that negotiators are technically well prepared for future negotiations.**
3. The Indigenous Caucus considers it important to compare the United Nations Declaration and the Draft being developed here at the OAS, so that the process can systematically move ahead.
4. The Caucus considers that the proposal by the Chair of the Working Group to set up an office for indigenous affairs within the OAS **is not advisable at this time.** However, once this negotiating process is over, the advisability of establishing an indigenous participation unit in the OAS could be discussed.
5. The Caucus points to **the need to strengthen the Specific Fund** and recommends that its funds not be limited just to countries in the Americas; funding from other countries outside the Americas is also welcome.
6. With regard to the Inter-American Indian Institute, the Caucus has a specific recommendation to make. It points out that the existing Institute has exhausted its potential and should therefore be dismantled and replaced by a new body within the OAS with full and effective participation by indigenous peoples.
7. The Caucus recommends that for Articles for which no consensus is reached it would be possible to resort to similar wording to that found in the United Nations Declaration.

### Proposal by the States

The delegation of the United States proposed that the Working Group organize a year of action with a view to achieving a real impact, by establishing specific actions and activities based on best practices in the region. However, the Caucus and some States considered that such initiatives could be viable after the adoption of the American Declaration on the Rights of Indigenous Peoples.

The OAS secretariat was asked to complement the comparative analysis of the OAS and United Nations Declarations by contacting the United Nations Office of the High Commissioner for Human Rights in Geneva.

Canada proposed that thematic seminars be held on the topics of interest to the Working Group instead of devoting the next meetings of negotiations to exchanges of proposals and counter-proposals.

A suggestion was made by the Indigenous Caucus to organize a plan of action to implement the United Nations Declaration on the Rights of Indigenous Peoples in the Hemisphere. The delegations of Argentina and Venezuela considered that, in keeping with the recommendations made by the Working Group to speed up the negotiation process of the American Declaration, such initiatives should be postponed until the Declaration is adopted so as not to divert efforts deployed for the negotiation process.