

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 Populations

DRAFT WORK PLAN
2000/2001

PRESENTED BY THE CHAIR OF THE WORKING GROUP
AMBASSADOR RONALTH OCHAETA

(Approved by the Working Group at its meeting on February 6, 2001)

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1. Background

Under resolution AG/RES. 1022 (XIX-O/89), issued in 1989, the OAS General Assembly requested that the Inter-American Commission on Human Rights prepare a draft declaration on the rights of indigenous populations.

Pursuant to that mandate, the Committee held a number of meetings and consulted with government representatives, international experts, Indian leaders, and jurists specializing in this topic, with a view to drawing up the preliminary draft. In April 1997, the Permanent Council received from the Committee the "Proposed American Declaration on the Rights of Indigenous Peoples."

In June of that same year, the OAS General Assembly expressed the view that the text of the draft should reflect the observations and recommendations of member states as well as the opinions of specialized organizations, such as the Inter-American Juridical Committee and the Inter-American Indian Institute. In subsequent years, the states submitted specific comments and observations and participated in two meetings of government experts to study and discuss the initial draft.

In 1999, the General Assembly, at its twenty-ninth regular session, established a working group of the Permanent Council to continue consideration of the Proposed American Declaration on the Rights of Indigenous Populations.

The hemispheric importance of the content of the proposed Declaration and the progress made by the Working Group in its study and discussion of the proposed Declaration prompted the General Assembly, at its thirtieth regular session, held in Canada in June 2000, to extend the mandate for these efforts by way of resolution AG/RES. 1708 (XXX-O/00).

2. Mandates Issued by the General Assembly

At its thirtieth regular session, the OAS General Assembly resolved as follows with regard to the Proposed American Declaration on the Rights of Indigenous Populations, under resolution AG/RES. 1708 (XXX-O/00):

1. To request the Permanent Council to renew the mandate of the Working Group so that it may continue to consider the Proposed American Declaration on the Rights of Indigenous Populations and hold at least a second meeting before the thirty-first regular session of the General Assembly, in accordance with the resources allocated in the program-budget and other resources.

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2. To recommend to the Working Group that it follow the procedures agreed upon for suitable participation in its work by representatives of indigenous communities, so that their observations and suggestions may be considered.

3. To request the Inter-American Indian Institute and the Inter-American Juridical Committee to continue to advise the Working Group as necessary.

4. Also to request the General Secretariat to publicize the efforts of the Working Group as necessary and consider the necessary measures to promote more representative involvement in the Working Group by the Hemisphere's indigenous community organizations.

5. To request the Permanent Council to present a report to the General Assembly at its thirty-first regular session on the implementation of this resolution.

3. Courses of Action

In view of the General Assembly's specific mandate, the Working Group's objectives are as follows:

Overall Objective

- To continue consideration of the Proposed American Declaration on the Rights of Indigenous Populations and to submit to the General Assembly at its thirty-first regular session a report on progress made in the discussions.

Specific Objectives

- a. To hold a second meeting of the Working Group before the thirty-first regular session of the General Assembly.
- b. To promote participation by representatives of indigenous communities of the Hemisphere in the study and discussion of the proposed Declaration.
- c. To receive the necessary advice by working in coordination with the Inter-American Juridical Committee and the Inter-American Indian Institute.
- d. To work with the General Secretariat to publicize the activities of the Working Group and to promote participation by the indigenous communities of the Hemisphere in the Working Group's efforts.
- e. To submit to the Committee on Juridical and Political Affairs a report on fulfillment of resolution AG/RES. 1708 (XXX-O/00), which it may in turn submit to the Permanent Council.

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4. Activities

- a. To convene a special meeting of the Working Group for April 2001.
- b. To establish an Ad Hoc Group of OAS Member States for consultation, the exchange of views, and additional support.
- c. To conduct meetings of the Working Group, as necessary.
- d. To take the necessary steps to promote participation by leaders of indigenous populations of the Hemisphere in discussing and studying the content of the proposed Declaration.
- e. To promote and hold events in which certain key points in the proposed Declaration are discussed from an academic standpoint.
- f. To publicize the content of the proposed Declaration among leaders of the indigenous movement in the Hemisphere and to provide them with appropriate materials to spread the message at the grassroots level.
- g. To submit consideration of the proposed Declaration as a priority topic for the Hemisphere at the highest political levels.
- h. To organize and follow up on progress discussed in the Working Group and present it to the countries for consideration.
- i. To present a report on progress made in the discussions on the proposed American Declaration on the Rights of Indigenous Populations to the General Assembly at its thirty-first regular session, to be held in San Jose, Costa Rica, in June 2001.

5. Proposed Procedure for the Special Meeting of the Working Group

It is proposed that discussions at the upcoming special meeting of the Working Group follow the procedure employed by the previous Chair of the Working Group, Ambassador Claude Heller, Permanent Representative of Mexico to the OAS, at the special meeting of the Group held in November 1999.

Under that approach, the proceedings were to begin with the operative section of the proposed Declaration, by chapter and topic.

Participation by representatives of indigenous populations, according to the procedure described,^{1/} was conducted as follows:

- a. When the discussion of each topic began, the representatives were invited to present their views, suggestions, and concerns on that topic.
- b. The statements of the governments were then heard, and a final proposal on the wording of each chapter was made.
- c. When necessary, and at their express request, indigenous community representatives were allowed to speak again at the conclusion of the consideration of each chapter.

1. Meeting of the Working Group to Prepare the Proposed American Declaration on the Rights of Indigenous Populations. Report of the Chair. Page 2.

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One of the main requests made by representatives of indigenous populations during the Working Group meeting had to do with their desire to participate in decision-making. They made the following proposals in this regard.^{2/}

- a. Participation in the discussion: they requested a full and unrestricted right to speak, as well as the opportunity to comment on the statements of the government delegations.
- b. Adoption of agreements: they requested that government delegations consider the actual situation of indigenous populations before taking a decision.
- c. Recording of statements: they requested that the statements of the representatives of indigenous populations be recorded and that these statements, as well as the conclusions of the meeting, be transmitted to the governments.

Furthermore, according to the Report of the Chair, the representatives requested that resources be raised to facilitate continuing participation by their organizations in the consideration of the proposed Declaration.

The Working Group Chair feels that the procedure followed during the November 1999 meeting should serve as the basis for the formal meeting in February 2001. It is also advisable to embrace some aspects of the request issued by representatives of indigenous organizations, so as to promote the inclusion of these populations in the discussion of a subject that affects them directly.

On that basis, the procedure proposed by the Chair of the Working Group is as follows:

- a. There is a background document that includes the remarks made during the meeting of November 1999. That document should be used as a guide for the discussions,
- b. The document contains two types of text:
 - Text on which consensus has been reached;
 - Text on which consensus has not been reached, enclosed in square brackets.
- c. Discussion of the document will be based on points of disagreement. Articles already agreed upon will not be discussed.
- d. Discussion will proceed chapter by chapter, according to the sequence of chapters. Government representatives will be invited to speak during the discussion of each article. Representatives of indigenous populations shall intervene at the start of the discussion of each chapter and shall present in writing alternative drafts of any articles they might wish to amend, so that their proposals can be included in the debate among States and, if considered appropriate, incorporated into the respective texts.
- e. In the interest of avoiding fragmentation in the debate, government representatives and those of indigenous populations shall be asked to make their statements specific and to focus on clearly defined proposals. As the consideration of each article concludes, text upon which consensus has been reached will be read aloud. If any points of disagreement remain, these will be indicated.

2. *Ibid*, pages 2 and 3.

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- f. At the end of the discussion of each chapter, the representatives of the indigenous population shall be offered the floor, to make any comments they might have with respect to points arising during the debate of each article. During the debate of the articles, the representatives of indigenous groups may only intervene when clarification of specific points is required.

Under this procedure, special attention should be paid to the representativeness and legitimacy of the participants representing indigenous communities in the Working Group discussions. The greatest possible degree of representation will be sought for each country. Any other position on the participation and representation of the indigenous populations may be considered subsequently by the Working Group, including consideration of the idea of creating a voluntary fund to encourage participation by indigenous representatives of those organizations lacking the means and funds with which to finance such participation themselves taking into account, among other views, those discussed earlier by the Group. The consideration of such positions shall bear in mind, *inter alia*, criteria previously discussed in the Working Group.

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6. Timetable

Activities	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUNE
Establishment of the Ad Hoc Consultation Group on the Declaration	XXX	XXX							
Informal meeting of the Working Group		X							
Dissemination of the content of the Declaration	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX	XXX
Printing of documents			XXX	XXX		XXX		XXX	
Invitation to the Working Group of Leaders of Indigenous Populations			XXX	XXX	XXX				
Informal meeting of the Working Group				X					
Convocation of special meeting of Working Group			XXX	XXX					
Special Meeting of Working Group						X			
Organization of Working Group discussions							XX		
Presentation of findings of Working Group							XXX		
Academic meetings		XXX		XXX		XXX			
Presentation of findings to General Assembly at thirty-first regular session									XXX