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DURBAN REVIEW CONFERENCE
Preparatory Committee
Second substantive session
Agenda item 4

**REVIEW OF REPORTS, STUDIES AND OTHER DOCUMENTATION FOR
THE PREPARATORY COMMITTEE AND THE DURBAN REVIEW
CONFERENCE AND CONTRIBUTIONS OF HUMAN RIGHTS BODIES AND
MECHANISMS**

Contribution by the Expert Mechanism on the Rights of Indigenous Peoples

Note by the Secretariat

In its resolution A/HRC/9/L.17, the Human Rights Council requested the Expert Mechanism on the Rights of Indigenous Peoples to assist the Preparatory Committee for the Durban Review Conference by reviewing and submitting recommendations as contributions to the outcome of the Durban Review Conference.

Attached to this Note is Proposal 2* relating to the Durban Review process adopted by the expert mechanism on 3 October 2008 for transmittal to the Chairperson and Bureau of the Preparatory Committee and other participants on behalf of the Chairperson-Rapporteur of the Expert Mechanism, Mr. John Henriksen.

* Reproduced in the annex as received, in the language of submission only.

Annex

Proposal 2 adopted by the Expert Mechanism on the Rights of Indigenous Peoples on 3 October 2008

Durban Review Conference

The Expert Mechanism affirms its support for the Durban Review process and welcomes the request from the Human Rights Council to contribute to the outcome of the Durban Review Conference.

The Expert Mechanism notes the achievements in the area of indigenous peoples' rights since the 2001 Durban Conference and in particular the adoption of the UN Declaration on the Rights of Indigenous Peoples, the establishment of the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples in 2001, the Permanent Forum on Indigenous Issues which held its first session in May 2002 and the creation of the Expert Mechanism on the Rights of Indigenous Peoples which met from 1 to 3 October 2008.

The Expert Mechanism also welcomes the positive steps taken by governments to address the discrimination faced by indigenous peoples including through the introduction of legislation and ratification of ILO Convention 169 on indigenous and tribal peoples in independent countries.

The Expert Mechanism recommends that the Durban Declaration and Programme of Action (DDPA) be revised to take into account the above-mentioned developments. In particular, the DDPA should acknowledge that the right of self-determination and the principle of free, prior and informed consent are now universally recognized through the adoption of the Declaration, making paragraph 24 obsolete. The Expert Mechanism recommends that these principles are included in the future outcome document. The Expert Mechanism also considers that paragraph 43 be revised to take account of the recognition in the Declaration of indigenous peoples' rights to lands and resources.

The Expert Mechanism considers that the specific paragraphs in the Programme of Action related to indigenous peoples remain relevant but considers that the Declaration provides a new overarching context that orientates the action to be taken by States. Furthermore, the Expert Mechanism recommends that specific reference is made in the outcome document to implementation of the Declaration by States and for particular attention to be paid by the UN system and international and regional financial institutions to assisting States in the implementation of the provisions.

The Expert Mechanism proposes that the outcome document include a request to States to implement recommendations made by the CERD in relation to indigenous peoples' rights. It further considers that specific reference needs to be made to the discrimination being encountered by indigenous peoples maintaining their traditional occupations.

The Expert Mechanism proposes to the Human Rights Council and the Preparatory Committee for the Durban Review that it continue to provide input during the preparatory phase for the Durban Review Conference and requests that any proposals be taken into account.

The Expert Mechanism urges all future preparatory meetings to ensure indigenous participation.

The Expert Mechanism recommends that the Chairperson-Rapporteur of the Expert Mechanism be invited to participate in the Durban Review Conference in April 2009.

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