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ORGANISATION OF WORK OF THE SESSION

**Written statement* submitted by the Asian Indigenous and Tribal Peoples Network
(AITPN), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 December 2004]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

LMG: Killing the Commission on Human Rights softly

“It is our hope that the CHR can be a forum of dialogue and cooperation, which the founders of the CHR wished it to be. In this regard, the LMG supports the initiative of some states that calls for the CHR to re-evaluate its consideration of agenda item 9 - **China, on behalf of the LMG at the 61st session of the CHR**

When this Commission was established by ECOSOC in 1946, it was conceived as a different body from what it is today. It was envisioned, essentially, as a body for setting standards in different thematic areas relating to human rights. Since then a complex human right structure has emerged around it. Its ever expanding role and some would add, its increasing intrusiveness into the sovereign space of member states, have led many countries to wonder if present structure might be doing more harm than good for the cause of human rights Naming and shaming through country specific resolution only serves to create acrimony at the Commission” – Permanent Mission of India at the 61st session under agenda item 9.

When the 61st session of the Commission on Human Rights takes up agenda item 3 on organization of work, the LMG is like to continue its onslaught for killing the Commission on Human Rights softly. It is likely to continue to press for "biennialization and clustering of agenda items, reduction of the number and length of resolutions through inter-alia, biennialization of as many thematic resolutions as possible, and discontinuation of resolutions which are no longer warranted by existing circumstances” and of course deletion of the resolutions on agenda item 9 for increasing cooperation and save time. The fact that “No Action Motion” takes more time is not an issue.

The Like Minded Group basically consists of the Asian bloc - Bangladesh, Bhutan, China, Egypt, India, Indonesia, Iran, Malaysia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka and Vietnam. Zimbabwe, Algeria and Sudan represent from the African group and Cuba from GLULAC continue to remain members of the LMG.

The Like Minded Group led by the Asian Group has been single-handedly responsible for destruction of the progress made at the United Nations Commission on Human Rights. It all started with a draft resolution reportedly drafted by Pakistan at the 53rd Session of the Commission on Human Rights in 1997. The draft resolution on the proposed Rationalization of the Work of the Special Procedures as Pakistan government's response to the report on Pakistan by the Special Rapporteur on Torture (E/CN.4/1997/7/Add.2). As there were no takers, the resolution was withdrawn.

As a googly, the substance of the draft resolution on Rationalization of the Work of the Special Procedures at the 53rd Session were adopted using a seemingly innocuous method - through a decision (1998/122) of the 54th session of the Commission on Human Rights on 'Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights'. The CHR also adopted a resolution titled 'Restructuring the Agenda of the Commission on Human Rights through Resolution (E/CN.4/RES/1998/84) and introduced the 'Rationalization of the Work of the Commission' as a separate agenda item for the 55th session. The Bureau on Enhancing Effectiveness of the Commission on Human Rights submitted its report (E/CN.4/1999/104) to the 55th Session. The LMG also presented its views (E/CN.4/1999/120). After acrimonious Working Group sessions, the CHR in its decision 2000/109 decided to "approve and implement comprehensively and in its

entirety" the report of its inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights.

The LMG was able to excise country specific resolutions from the mandate of the Sub Commission on Human Rights since 2000. The Sub-Commission can no longer adopt country specific resolutions nor mention a country in a thematic resolution. The effectiveness of the Sub-Commission on Human Rights has drastically reduced.

Unfinished Agenda I: Special Procedures

The LMG's agenda on restructuring the Special Procedures of the Commission on Human Rights is far from over. The Ambassador of China speaking on behalf of the LMG at the 60st session reiterated the contents of the sponsor-less resolution on the rationalisation of the Special Procedures at the 53rd session. The Ambassador proposed the following:

“Firstly, mandate-holders of the special procedures are appointed by the chairperson of the CHR, while expert of the Sub-Commission and all treaty bodies are elected. This is in contradiction to the principles of democracy and transparency advocated by this body. We hope all candidates for the special procedures should go through the process of election by CHR in the future.

Secondly, there lacks a widely accepted code of conduct for the special procedures in discharging their mandate. And it leads to irresponsible behaviors of some of the mandate-holders. The LMG believes a code of conduct adopted by this body is relevant and highly necessary.

Thirdly, there are no criteria for mandate-holders to transmit communications to the states concerned, thus resulting in growing number and also duplications of communications for states. Some of the communications turned out to be groundless after investigation. Certain criteria for admissibility are needed, as is the case with regard to 1503 procedure”.

It is sad that the LMG countries, which were instrumental in the introduction of the investigatory mechanisms at the United Nations, the Group of Three against the apartheid regime in South Africa and the Occupied Palestinian Territories, have resorted to the destruction of the mechanisms.

No naming and shaming:

Launching its onslaught against any possible censure, the Permanent Representative of China speaking on behalf of the LMG on the organisation of work on 15 March 2004 suggested that country resolutions under Agenda Item 9 be done away with. There are few takers of such a proposal at the moment but LMG has been continuing its onslaught on the CHR mechanisms.

Accusing the west of over emphasizing on civil and political rights issues, Cuba has championed the economic, social and cultural rights. At the 58th session Cuba sponsored resolution "Promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities" with the possibility of appointing a Special Rapporteur. In its three paragraphs report (E/CN.4/2003/51) to the 59th session, High Commissioner concluded, “No new information has been received concerning the above-mentioned

resolution since the Secretary-General's report to the General Assembly on human rights and cultural diversity (A/57/311 and Add.1)". Yet the same resolution was adopted at the 59th session and at the 60th session (E/CN.4/RES/2004/20), majority respondent States opined against the appointment of a Special Rapporteur. Nonetheless, Cuba is all set to sponsor the same resolution at the 61st session.

The sky is blue:

In addition, in order to destroy the monitoring mechanisms and dilute the work of the CHR and funds of the OHCHR, the LMG has been sponsoring "stating the obvious resolutions" such as on the role of good governance in the promotion of human rights (E/CN.4/RES/2004/70), human rights and international solidarity (E/CN.4/RES/2004/66), promotion of peace as a vital requirement for the full enjoyment of all human rights by all (E/CN.4/RES/2004/65), promotion of a democratic and equitable international order (E/CN.4/RES/2004/64), tolerance and pluralism as indivisible elements in the promotion and protection of human rights (E/CN.4/RES/2004/54), the incompatibility between democracy and racism (E/CN.4/RES/2004/38), strengthening of popular participation, equity, social justice and non discrimination as essential foundations of democracy (E/CN.4/RES/2004/31), promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities (E/CN.4/RES/2004/20) etc. These resolutions cost scare resources of the Office of the High Commissioner for Human Rights.

Unless, international community can censure gross and widespread violations of human rights and humanitarian laws and intervene effectively, the United Nations will lose its raison d'être. Unfortunately, the LMG despite its attempt to destroy UN mechanisms still considers themselves as the victims.
