



**Summary of responses to the questionnaire on the
review of the mandate of the Expert Mechanism on the
Rights of Indigenous Peoples**

*Prepared by OHCHR for the Expert Workshop on the Review of the Mandate of
the Expert Mechanism on the Rights of Indigenous Peoples*

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Introduction

1. The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) was established by the Human Rights Council in 2007 under resolution 6/36 as a subsidiary body to provide the Council with thematic expertise on the rights of indigenous peoples in the manner and form requested by the Council. The thematic expertise focuses mainly on studies and research-based advice and the mechanism may suggest proposals to the Council for its consideration and approval, within the scope of its work as set out by the Council.
2. In the Outcome Document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (General Assembly Resolution 69/2, September 2014), the General Assembly invited the Human Rights Council, taking into account the views of indigenous peoples, to review the mandates of its existing mechanisms, in particular the Expert Mechanism on the Rights of Indigenous Peoples, with a view to modifying and improving the Expert Mechanism so that it can more effectively promote respect for the United Nations Declaration on the Rights of Indigenous Peoples, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration (paragraph 28).
3. In September 2015, the Human Rights Council adopted resolution 30/11, which requested the Office of the High Commissioner for Human Rights to convene a two-day expert workshop open to the participation of States, indigenous peoples and other stakeholders to review the mandate of the Expert Mechanism, including by inviting the submission of written contributions (paragraph 1). OHCHR accordingly invited States, indigenous peoples and other stakeholders to submit written contributions on the review the mandate of the Expert Mechanism on the Rights of Indigenous Peoples and to propose recommendations on how it can more effectively promote respect for the Declaration, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration, as outlined in paragraph 28 of the outcome document of the World Conference on Indigenous Peoples. Resolution 30/11 also requested the Office of the High Commissioner to prepare a report on the workshop, including the recommendations made, to be submitted to the Council at its thirty-second session.
4. The written contributions are in the form of responses to a questionnaire with six questions that have been formulated based on the Outcome Document of the World Conference, HRC resolution 30/11 and informal discussions on the mandate review that have taken place to date. This summary report's structure follows the six questions and summarizes responses from States, indigenous peoples and other actors.

5. The Office of the High Commissioner for Human Rights would like to thank all those who responded to the questionnaire¹:

- **States:** Argentina, Australia, Canada, Chile, Colombia, the Democratic Republic of Congo, Denmark and Greenland, Finland, Guatemala, Norway, the Russian Federation, United States of America, Venezuela (Bolivarian Republic of)
- **Indigenous peoples and indigenous peoples' organizations and representative bodies:** Arctic Indigenous Peoples organizations and institutions (Inuit Circumpolar Council (Greenland), Saami Council, Sami Parliament of Finland, Sami Parliament of Norway, Sami Parliament of Sweden and the Sami Parliamentary Council), Bubi People Bioko Island, the Campaign for the Indigenous Protocol on the Taking of Decisions on Matters Affecting their Peoples, Territories, Resources and Waters in Accord with the Principle of Free Consent (representing a number of organizations and individuals in Latin America), CAPAJ (Peru), Citizen Potawatomi Nation (US), Congres Mondial Amazigh (Morocco), Indian Law Resource Center (representing a number of organizations in the US), Indigenous World Association (Canada), International Indian Treaty Council (US), Lumad Mindanaw Peoples Federation, National Congress of American Indians and the Native American Rights Fund (US) Nepal Laborious Society Centre, Shiprock Community Development Corporation, Navajo Nation (US), Tamaynut (Morocco) as well as input from the report of the open-ended meeting of indigenous peoples on the follow-up to the World Conference on Indigenous Peoples.
- **Other stakeholders:** National Human Rights Commission of New Zealand, the Center for World Indigenous Studies, and the current membership of the Expert Mechanism.

6. The full text of each written submissions can be found on the mandate review page of EMRIP's website.²

¹ Responses from Canada, Venezuela and Lumad Mindanaw Peoples Federation were received after the deadline for written contributions.

² <http://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Reviewofthemandate.aspx>

Question 1: What are the most valuable aspects of the current mandate of the Expert Mechanism on the Rights of Indigenous Peoples?

7. A number of **States** have highlighted EMRIP as a unique space for multilateral discussions and dialogue between States, indigenous peoples and the UN on the promotion and implementation of the rights of indigenous peoples. Norway and Venezuela highlighted EMRIP's contribution in increasing attention on indigenous peoples in the Human Rights Council and OHCHR, while Guatemala underlined the importance of some of the members of EMRIP having indigenous backgrounds and the added value of having a subsidiary body of the Council specializing on research and advice relating to indigenous issues. Chile mentioned that the proposals made to the Human Rights Council were important inputs that can lead to effective processes for the promotion of indigenous peoples' rights.
8. Several States mentioned EMRIP's **thematic studies and expert advice**. Australia drew attention to EMRIP's work on research and analysis and its potential for developing best practices and undertaking multinational thematic research. The Russian Federation found the thematic component of EMRIP to be the most valuable aspect together with its continuous work to collect data on appropriate measures and implementation strategies to attain the goals of the Declaration. The Russian Federation also underlined EMRIP's role as the most competent subsidiary body of the Human Rights Council on the promotion and protection of indigenous peoples' rights. According to Finland, the thematic studies have helped clarify the scope and content of the Declaration. The Democratic Republic of Congo mentioned the thematic studies on language and culture, on indigenous peoples' access to decision-making and extractive industries as well as the summary report of responses to the questionnaire on the implementation of the Declaration as being useful. Norway highlighted the thematic advice on human rights and business enterprises and the protection of human rights defenders. Canada mentioned EMRIP's focus on both individual and collective rights as being beneficial. Both Denmark and Finland mentioned that it has been difficult to assess the actual impact of EMRIP's studies and advice at country level.
9. Among **indigenous peoples' organizations** and representatives, Congres Mondial Amazigh mentioned, that EMRIP studies and sessions provide indigenous peoples with the possibility to bring forward current information about their situation. It is an important venue for indigenous peoples, States and NGOs to voice concerns and call for action on specific problems (Shiprock Community), a place where the UN and indigenous peoples can interact in an institutionalized way (CAPAJ), an opportunity for dialogue (International Indian Treaty Council) and the method of work enables the direct participation of indigenous peoples' representatives in the annual sessions

as well as direct communications and information-sharing with the Expert Mechanism, States and among indigenous peoples (Indian Law Resource Center). The Indigenous World Association also highlighted EMRIP's expert seminars that were held in different regions, making the body accessible to those who cannot otherwise attend sessions in Geneva.

10. Other indigenous organizations have stated that they find the studies of the Expert Mechanism valuable. The Bubi People from Bioko Island mentioned that they have made particular use of the studies on education, justice, conservation of indigenous languages and on risk and disaster prevention while the National Congress of American Indians and the Native American Rights Fund highlighted the studies on education, indigenous languages and culture as well as the study on the right to participate in decision-making. The International Indian Treaty Council mentioned that the studies and expert advice have provided opportunities to raise human rights issues and highlighted advances and challenges in the implementation of the Declaration. The Arctic Indigenous Peoples' organizations and the Indigenous World Association stated that the Advice sections annexed to thematic reports are the most useful tool as they contain clear recommendations for States to follow.
11. In their response, the Arctic Indigenous Peoples organizations stated that the thematic studies have limited or no effect on the situation of indigenous peoples at national and local level. Together with the International Indian Treaty Council, the Arctic Indigenous Peoples organizations criticised that the theme of the thematic studies are decided by the Human Rights Council and not by the Expert Mechanism itself. The Indian Law Resource Center also mentioned that the studies are not widely circulated or distributed to member states or relevant UN bodies and the Expert Mechanism lacks necessary follow-up procedures to ensure any significant implementation of their findings. The Center also mentioned that the Expert Mechanism lacks coordination with other UN bodies and entities, including the Treaty Bodies and the Special Procedures, and do not have the ability to seek information on its own accord or undertake studies on its own initiative. The International Indian Treaty Council mentioned the inability of the Mechanism to make, monitor and follow-up on recommendations to States.
12. The National Human Rights Commission of New Zealand mentioned the thematic studies and reports and the collection of good practices and questionnaire in relation to the implementation of the Declaration as being a useful source of information and advocacy tool. While the Center for World Indigenous Studies found the Expert Mechanism's research in areas of education, language and the right to decision-making to be useful they pointed out that the studies are not widely reviewed

outside of the UN system and the inability of the Expert Mechanism to undertake independent studies based on requests from States and indigenous peoples.

13. The current Members of EMRIP listed the Expert Mechanism's unique position as a subsidiary body of the Human Rights Council as a valuable aspect together with the thematic studies and the follow-up to previous studies and advice, the collection and dissemination of information on good practices in implementing the Declaration, the engagement with academic institutions, the space for constructive dialogue between States and indigenous peoples as well as being consulted by the Human Rights Council on the themes for the annual half-day discussion on indigenous peoples at the Council.

Question 2: How can the Expert Mechanism's role in assisting States to monitor, evaluate and improve the achievement of the ends of the Declaration be strengthened?

14. Among *States*, Denmark and Greenland suggested that the Expert Mechanism should have a more independent mandate and that its work should not be determined by the Human Rights Council. Canada, Denmark and Finland mentioned that the Mechanism should be complementary with other UN mechanisms and Finland in particular mentioned that any duplication with the Special Rapporteur should be avoided. Canada mentioned that any overlap with the work that is already being done by States should be avoided.
15. The United States made the proposal to modify the Mechanism in a way that the Expert Mechanism and the Special Rapporteur on the rights of indigenous peoples become one entity charged with promoting respect for the Declaration with the Special Rapporteur as the head of the Expert Mechanism. The United States also suggested that the new entity could have the two principal functions to, on a voluntary basis, examine the achievements of member states as well as regional, cross-cutting and systemic issues in relation to the ends of the Declaration. Finland mentioned that the Mechanism could be authorized to issue general policy recommendations to clarify the scope and content of the Declaration while Chile and Guatemala suggested that the Expert Mechanism could develop joint and coordinated interpretations or comments on provisions of the Declaration and Guatemala also mentioned proposals to the council on gaps in existing norms and standards for the protection of indigenous peoples. Both Chile and Guatemala suggested that the Expert Mechanism could develop voluntary guidelines for the implementation of the Declaration and Guatemala suggested that they could be approved by the Human Rights Council and include national plans, legislative harmonization with the Declaration and the establishment of national monitoring

bodies. Chile also suggested that the Expert Mechanism could compile and disseminate good practices on the implementation of the Declaration and promote and support seminars and other fora where States, indigenous peoples, civil society and academia can discuss ways of achieving the ends of the Declaration.

16. Both Norway and Denmark mentioned that the Expert Mechanism could play a role in the follow-up to recommendations made by the UN human rights system. Norway suggested that this could be done by issuing common concerns and recommendations for areas of improvement and Denmark suggested that the Expert Mechanism could provide country-specific technical assistance to states and indigenous peoples. Norway also suggested that the Expert Mechanism could assist states in monitoring and evaluating progress on recommendations by human rights mechanisms by issuing common concerns and areas of improvement.
17. Chile, Colombia and Finland also highlighted the Expert Mechanism's role in identifying needs for technical assistance at country-level with Colombia calling for support to the design, development and implementation of sectoral plans to address challenges facing indigenous peoples as well as the strengthening of training and education on indigenous peoples' rights. Canada mentioned that the Expert Mechanism could support States in the preparation of national strategies and give advice on improving domestic legislation and policy. The Russian Federation suggested that the Expert Mechanism could consult interested States on indigenous issues at their request, which could also include, on request, undertaking elaborations of strategies and legislation on the promotion and protection of indigenous peoples' rights.
18. Chile, Finland and the United States highlighted that the Expert Mechanism should not develop into an entity resembling a treaty monitoring mechanism. The United States stressed that the EMRIP mandate should not state or imply an ability to issue general comments on the interpretation of particular provisions of the Declaration akin to a treaty body nor have the power to issue binding recommendations or orders. Canada, Finland and Norway underlined the importance of making States and indigenous peoples share information and good practices on a voluntary basis. Chile mentioned that they were in favour of reviewing the mandate but not necessarily broadening it with emphasis on improving the way that the Expert Mechanism works rather than increasing its functions. They also mentioned that they were not in favour of EMRIP having an individual communications role as this is an attribution of the Special Rapporteur and some of the Treaty Bodies. Venezuela suggested that the Human Rights Council should develop a draft Convention on the Rights of indigenous peoples, including an optional protocol to allow for individual complaints.

19. Both Chile and Australia called for a continuation of the thematic studies and Australia suggested that the Expert Mechanism should undertake independent multi-national reviews that do not focus on a specific Member State and at the same time improve its data collection, research and knowledge sharing. The Expert Mechanism should also issue observations on the provisions of the Declaration to study the progress of achievements and make recommendations. The Russian Federation called for the Expert Mechanism to dedicate more attention to the collection and dissemination of best practices from States in their achievement to reach the ends of the Declaration. Canada called for the Expert Mechanism to ensure that studies and advice becomes tools for states, indigenous peoples and the UN system to work towards the ends of the Declaration.
20. Denmark, on the other hand, suggested that the thematic reports should be replaced by an annual report on the implementation of the Declaration. Finland also spoke for the development of an annual report on the state of indigenous peoples in the world that could include good practices, implementation strategies and identify protection gaps and challenges. Canada suggested that the Expert Mechanism should undertake monitoring and evaluation studies. Finland suggested that the Mechanism could receive information from different sources in the UN human rights system as well as from the national level including from States, national human rights institutions, NGOs and indigenous peoples.
21. Among the *indigenous representatives*, several organizations called for a strengthening of the Expert Mechanism's authority to work with States and indigenous peoples towards the implementation of the Declaration, including being able to review and assess progress made by States in implementing the provisions of the Declaration through processes and procedures that include consultations with indigenous peoples and issue advisory opinions and recommendations (Indigenous World Association) and issuing general comments on the interpretation of the Declaration (Citizen Potawatomi Nation and Indian Law Resource Center). The Indian Law Resource Center also called for the Expert Mechanism to be able to, at minimum, receive information and prepare reports with recommendations for actions by relevant actors including States and the Human Rights Council, it should be able to invite, gather, seek, receive and consider information from all relevant sources and provide expert advice and recommendations to States regarding the development of domestic legislation and policies on indigenous peoples' rights. The Center also suggested that the Expert Mechanism should report annually to the Human Rights Council and the General Assembly and underlined the importance of integrating a gender perspective into the work of the Mechanism. The Arctic Indigenous Peoples organizations called for the Expert Mechanism to be able to identify its own priority areas and to have the level of authority to interpret the

Declaration and, on a voluntary basis, have direct engagement with States and indigenous peoples.

22. In the report of the open-ended meeting of indigenous peoples on the follow-up to the WCIP, indigenous representatives called for the Expert Mechanism to gather, receive and consider information from all sources (including States, indigenous peoples and UN expert bodies and mandate holders), prepare and disseminate reports and recommendations, carry out country visits, issue general observations and interpretations of the provisions of the Declaration, and collaborate and take joint action with other mandate holders. They also called for the Expert Mechanism to seek and receive communications from States and indigenous peoples on specific cases, to build the capacity of indigenous peoples to engage effectively with States and the UN including facilitating issues and complaints being channelled more effectively to existing UN human rights mechanisms, and to make proposals to the Human Rights Council regarding gaps in existing standards for the protection of indigenous peoples. The International Indian Treaty Council endorsed most of the suggestions that were made in the report of the open-ended meeting apart from the proposal to let the Expert Mechanism conduct country visits to collect information on human rights situations as this is the mandated role of the Special Rapporteur.
23. The Indian Law Resource Center suggested that the Expert Mechanism should be able to take note of and make reports on recurring or global problems including the need for indigenous land demarcation and titling processes. Citizen Potawatomi Nation called for the Mechanism to respond to major problems and issues concerning indigenous lands and resources, environmental issues, well-being and self-governance while the Campaign for an Indigenous Protocol advocated for EMRIP to deal specifically with disagreements concerning FPIC in Latin America.
24. Congres Mondial Amazigh suggested that the Expert Mechanism could develop into a monitoring body for the implementation of the Declaration with the authority to work like the Treaty Bodies and the Bubi people proposed that the Expert Mechanism should have the authority to directly engage with States and monitor their compliance with recommendations made by the Mechanism.
25. Lumad Mindanaw Peoples Federation suggested that the Expert Mechanism could monitor the implementation of the Declaration in coordination with national human rights institutions. The Indian Law Resource Center, on the other hand, mentioned that States should not be obligated to report periodically to the Expert Mechanism and that the intention of the mandate review should not be the creation of another complaint or periodic review process but to enable the Expert Mechanism to be responsive and act quickly, efficiently and effectively to achieve the ends of the Declaration.

26. Several indigenous organizations mentioned the Expert Mechanism's role in making thematic studies. The Indigenous World Association and the National Congress of American Indians suggested that the Mechanism should have the authority to determine the thematic areas of study under the broader frame of the Human Rights Council. The Indian Law Resource Center mentioned that the Expert Mechanism should be relieved of its duty to provide thematic studies at the request of the Human Rights Council and instead have the authority to conduct studies on its own initiative and in response to information received from States and indigenous peoples as well as conduct country visits. In the report of the open-ended meeting of indigenous peoples on the follow-up to the WCIP, it was mentioned that the Expert Mechanism should undertake studies and research at the request of indigenous peoples, States and the Human Rights Council and provide expert advice and recommendations based on the studies. Specific themes for new studies were mentioned in several submissions including studies on the safeguarding of indigenous territories and national legal systems that contradict with indigenous peoples' rights suggested by the Campaign on an Indigenous Protocol and studies on decisions made by the Treaty Bodies related to specific cases and on the issues of self-determination, lands, territories and resources and the right to free, prior and informed consent (CAPAJ) as well as follow-up on the studies on Treaties, Agreements, and Constructive Arrangements and Indigenous Peoples' Permanent Sovereignty over Land and Natural Resources and other studies elaborated by the Working Group on Indigenous Populations (mentioned in the report on the follow-up to the WCIP).
27. The National Human Rights Commission of New Zealand suggested that some elements of the current mandate could be maintained such as the thematic studies including gathering and disseminating information on good practices related to indigenous peoples' rights. The Commission also called for a stronger role for the Expert Mechanism in facilitating the implementation of the Declaration by assisting States in implementing recommendations and establishing a more formalised process for indigenous peoples to report to the Expert Mechanism, which could also be useful for national human rights institutions and their reporting activities. The Center for World Indigenous Studies proposed that the Expert Mechanism should be an independent hearing, investigation and study mechanism with direct authority to issue interagency and UN Committee statements, observations and recommendations and released from solely responding to the Human Rights Council.
28. The current Members of the Expert Mechanism proposed that the Mechanism could play a stronger role in facilitating the implementation of the Declaration at national and international level by for example supporting States in preparing national strategies or action plans and by conducting on request country missions as well as

giving specific advice to countries. Moreover, the Mechanism could have a hybrid status as a Special Procedure and a subsidiary body of the Human Rights Council.

Question 3: Do you have any suggestions to strengthen the Expert Mechanism's collaboration with other bodies and mechanisms working on the rights of indigenous peoples?

29. Denmark highlighted the importance of having annual meetings between the chairs of relevant UN mechanisms as well as regular dialogue between the Expert Mechanism and the President of the Human Rights Council. The Russian Federation mentioned that the three indigenous specific UN mechanisms already hold coordination meetings during the annual session of the Permanent Forum and suggested that they could be further harmonized. The Russian Federation also mentioned that the UN treaty bodies already include indigenous peoples' issues in their concluding observations and national reports and States and NGOs already draw attention to the violation of indigenous peoples' rights during the UPR sessions. Colombia mentioned that collaboration should be strengthened at national, regional and international level and Argentina suggested establishing a participation mechanism where indigenous peoples themselves can make recommendations related to collective rights. Australia argued for retaining the independent and unique position of the Expert Mechanism and that the Mechanism could support other UN mechanisms in relation to research. Canada underlined the importance of avoiding duplication between different mechanisms in areas where the Expert Mechanism has limited expertise.
30. The United States suggested expanding the collaboration with other UN bodies to the maximum appropriate extent. The United States also called for the Special Rapporteur to retain his or her current ability to liaise across the UN and regional systems on behalf of the Expert Mechanism, if the Special Rapporteur becomes a member of the Expert Mechanism, and that a revitalized Expert Mechanism should have just as broad reporting abilities as the current mandates of the Expert Mechanism and the Special Rapporteur.
31. Finland suggested establishing a referral system between the Expert Mechanism and the Special Rapporteur and the strengthening of collaboration through the development of an annual report on the state of indigenous peoples that includes good practices and implementation strategies and identifies protection gaps and challenges. Norway suggested having closer cooperation with the UN Permanent Forum as well as continued delineation of roles between the different mechanisms. Chile suggested making an analysis of States' implementation of recommendations

from the UN mechanisms on indigenous peoples' rights. Venezuela called for the Expert Mechanism to carry out a study on the participation of indigenous peoples in the UN system in general.

32. Several *indigenous peoples' organizations* called for a strengthened and more systematic collaboration between the Expert Mechanism and the other indigenous specific UN mechanisms. The Indian Law Resource Center suggested that the Mechanism should have the authority to collaborate with other human rights bodies, special mandate holders and mechanisms by for example issuing joint observations and recommendations on issues related to indigenous peoples' rights. The Arctic Indigenous Peoples' organizations and the Citizen Potawatomi Nation argued that there is little risk of having overlapping mandates between the Expert Mechanism, the Special Rapporteur and the Permanent Forum. The Indigenous World Association suggested that the relevant Special Rapporteurs should attend the Expert Mechanism sessions and present reports on country specific situations. In the report of the open-ended meeting of indigenous peoples on the follow-up to the WCIP, it was mentioned that the Expert Mechanism should complement the mandates of the Special Rapporteur and the Permanent Forum and provide input to the Working Group on Human Rights, Transnational Corporations and other Business Enterprises. The Indian Law Resource Center suggested establishing close collaboration with the Special Rapporteur on violence against women and the Commission on the Status of Women while the Congres Mondial Amazigh mentioned the establishment of a procedure to maintain permanent contact and exchange between the Expert Mechanism and indigenous representatives.
33. Several organizations also called for closer collaboration between the Expert Mechanism and other international organizations including the African Commission, the Council of Europe, the European Union, the Inter-American Commission on Human Rights, the Organization of American States and UNESCO.
34. Finally, the current Members of the Expert Mechanism suggested that meetings with other UN mechanisms on indigenous peoples' rights should be held yearly and in an institutionalized manner together with further interaction with the Presidency and Bureau of the Human Rights Council and the regional groups of the Council. They also suggested that the Expert Mechanism could provide thematic advice to organs and specialized agencies of the UN including participating in the meetings of the UN Inter-Agency Support Group on indigenous peoples.

Question 4: Do you envision a role for the Expert Mechanism in supporting States in the implementation of the Universal Periodic Review, Treaty Body and Special Procedures recommendations relating to the rights of indigenous peoples?

35. Among **States**, Australia mentioned that the Expert Mechanism should not be part of the Universal Periodic Review, Treaty Bodies or the Special Procedures but complement their work. Denmark and Norway mentioned that the mandate of EMRIP could be broadened to play a role in the follow-up to recommendations from other human rights mechanisms and assess the general progress of the implementation of the Declaration. Denmark suggested that this could happen through country-specific technical assistance to States, indigenous peoples and the private sector. Canada also mentioned that the Expert Mechanism could provide technical expertise in relation to the implementation of international human rights treaties. Chile suggested that the Expert Mechanism could play a role in the development of methodologies to support States in the implementation of recommendations made by Treaty Bodies and Special Procedures.
36. The Democratic Republic of Congo suggested that the Mechanism could support States to create an institutional framework at regional and local level for consultation and implementation of recommendations from the UPR, Treaty Bodies and the Special Procedures. Argentina suggested that the Expert Mechanism could receive feedback from indigenous communities and authorities and thereby optimize recommendations related to collective rights. The Russian Federation suggested that the Expert Mechanism could provide on-request advice and other assistance to States in implementing recommendations from the UPR, Treaty Bodies and Special Procedures. The United States proposed that States, on their own request, can turn to the Expert Mechanism for guidance on the implementation of recommendations from the UN human rights mechanisms and that the Mechanism could coordinate with Special Procedures mandate holders by for example issuing joint communications to request information from States. In addition to providing advice to the Council, Venezuela suggested that the Expert Mechanism should also provide advice to the Treaty Bodies and the UPR on indigenous issues.
37. Canada suggested linking the work of the Expert Mechanism to the implementation of the Sustainable Development Goals by ensuring that indigenous issues are incorporated into relevant SDG outcomes. Canada also suggested further engagement and consultations with global stakeholders on policies including the World Bank Safeguards and the FAO Guiding Principles on Sustainable Agriculture.
38. Among **indigenous representatives**, the Arctic Indigenous Peoples organizations suggested that the Expert Mechanism could consider information from human rights mechanisms, influence input to mechanisms and assist States in streamlining

reporting to other human rights bodies. The Indian Law Resource Center mentioned that EMRIP could make recommendations on how to implement existing Treaty Body recommendations related to indigenous peoples' rights and disseminate widely both recommendations and reports especially to indigenous peoples' representatives and institutions. CAPAJ suggested that the Expert Mechanism could provide a specialized opinion whenever there is a situation on the agenda regarding a country under review by the UPR while the Congres Mondial Amazigh suggested that the Expert Mechanism should monitor the recommendations of the UPR, Treaty Bodies and Special Procedures on issues related to indigenous peoples' rights and their implementation by States. The National Congress of American Indians and the Native American Rights Fund called for the Expert Mechanism to have the mandate to inform and make recommendations for the implementation of recommendations from Treaty Bodies while at the same time avoiding duplication of work. The Indigenous World Association suggested that the Expert Mechanism could establish a standard procedure interfacing with the UPR by forwarding all relevant recommendations from the Expert Mechanism to the UPR system as well as making submissions to other UN bodies and specialized agencies. In the report of the open-ended meeting of indigenous peoples on the follow-up to the WCIP, indigenous representatives suggested that the Expert Mechanism should contribute to the work of the UPR process and the Treaty Bodies and provide advice for the implementation of recommendations of UN human rights bodies where there is a substantial consensus between States and indigenous peoples.

39. The National Human Rights Commission of New Zealand also called for stronger engagement with other UN mechanisms and in particular the UPR and the Treaty Bodies as well as the High Level Political Forum that receives reports on the progress of the Sustainable Development Goals. The Center for World Indigenous Studies suggested that EMRIP should be a formal recipient of UPR reports.
40. The current members of the Expert Mechanism called for a more active engagement between the Mechanism and the UPR, Treaty Bodies and the Special Procedures by for example assisting States with the implementation of recommendations on indigenous peoples' rights. This could happen through support to on-demand national dialogue on the implementation of recommendations in close cooperation with national human rights institutions, by providing on-demand national guidance on national policies, action plans and legislation as well as through participation in UPR related country consultations.

Question 5: How could a new mandate for the Expert Mechanism contribute to greater engagement between States and indigenous peoples to overcome obstacles to the implementation of indigenous peoples' rights?

41. Several States and indigenous peoples' organizations suggested that the Expert Mechanism should facilitate dialogue between States and indigenous peoples. Among the **States**, Argentina mentioned that the Expert Mechanism could encourage States to increase the full and effective participation of indigenous peoples' institutions and communities and Colombia called for the strengthening of initiatives for joint collaboration between State institutions and indigenous organizations. The United States mentioned voluntary discussions between States and EMRIP on indigenous peoples' issues as a possibility which could also include dialogue between States, indigenous peoples and the Expert Mechanism. Australia mentioned that the Expert Mechanism could give advice on how member states and indigenous peoples could address certain issues. Chile suggested that the Expert Mechanism could provide advice to States and indigenous peoples on the implementation of specific recommendations from UN human rights mechanisms.
42. Denmark suggested that the Expert Mechanism could provide country-specific recommendations for the promotion and protection of indigenous peoples' rights and the facilitation of informal dialogue between States and indigenous peoples. Guatemala suggested that the Expert Mechanism could provide technical assistance and advice to States and indigenous peoples for the development and implementation of policies and legislation at national level. Canada suggested that the Expert Mechanism could provide advice on possible improvements to domestic legislation as well as technical assistance in relation to key articles of the Declaration including on free, prior and informed consent and socio-economic rights. DRC highlighted the importance for the Expert Mechanism to give institutional support to States including the training of public officials that are dealing directly with indigenous peoples. Finland suggested that the Expert Mechanism could, on a voluntary basis, facilitate dialogue between States and indigenous peoples based on the findings of an annual report and also provide support to States to find suitable measures for each national situation.
43. Norway mentioned that the involvement of the Expert Mechanism in preparing national plans for implementation of indigenous peoples' rights should be seen in relation to available resources and the work of the UN System-Wide Action Plan in order to avoid overburdening the work of the Mechanism. The Russian Federation called for caution in relation to making changes to the mandate of the Expert Mechanism and highlighted the importance of saving the potential of the Expert Mechanism to provide thematic expertise to the Human Rights Council on the rights

of indigenous peoples and mentioned that the existing format of the Expert Mechanism sessions provides wide opportunity for States and indigenous peoples to discuss issues.

44. Among *indigenous organizations*, the Arctic Indigenous Peoples organizations suggested that the Expert Mechanism could respond to country specific situations and directly engage with States and indigenous peoples while CAPAJ suggested that EMRIP should conduct country visits to indigenous communities as well as administrative mechanisms that provide service to indigenous peoples in order to better understand how the internal legislation of a country relates to the principles of the Declaration. The National Congress of American Indians and the Native American Rights Fund also suggested that the Expert Mechanism should be able to facilitate dialogue between States and indigenous peoples, conduct country visits, gather information and make recommendations. Nepal Laborious Society Centre encouraged the Expert Mechanism to get involved with States that face crisis situations and the Indigenous World Association mentioned that the Expert Mechanism should be able to review and assess the progress made by States on the implementation of the Declaration. In the report of the open-ended meeting of indigenous peoples on the follow-up to WCIP, indigenous representatives also called for the Expert Mechanism to facilitate dialogue between States and indigenous peoples including possibly at national level as well as providing technical assistance and advice to States, indigenous peoples and the private sector to overcome obstacles to implementing the Declaration. They also called for the Expert Mechanism to provide on-request technical advice to States and indigenous peoples to prepare and monitor the implementation of the achievement of the ends of the Declaration including national implementation plans, legislative, policy and administrative measures. The International Indian Treaty Council called for the Expert Mechanism to facilitate dialogue between States and indigenous peoples, in particular on issues related to the impact of extracted industries, violence against indigenous women, indigenous human rights defenders, health and cultural rights including a process for international repatriation of cultural items.
45. Like several States and indigenous peoples' organizations, the National Human Rights Commission of New Zealand also mentioned a strengthened role of the Mechanism in facilitating dialogue between States and indigenous peoples, which could include preparing national strategies and action plans on the implementation of the Declaration. The Center for World Indigenous Studies suggested that the Expert Mechanism could play a role in monitoring intergovernmental negotiations and agreements, changes in the political status of indigenous peoples, monitor and report on issues related to violent conflicts between States and indigenous peoples and document the placement of hazardous material on indigenous land.

46. The current members of the Expert Mechanism called for a strengthened role in facilitating dialogue between States and indigenous peoples through engagement with regional level organizations and national human rights institutions, through facilitation of regional policy dialogue on indigenous peoples' rights and enhancing the interface between international and regional standards and multi stakeholder gatherings, by giving on-request country specific advice and by conducting capacity building seminars on the Declaration for States, indigenous peoples and the business sector.

Question 6: Do you have any comments or suggestions concerning the composition and working methods of the Expert Mechanism?

47. In relation to the *composition* of the Expert Mechanism, a number of criteria for the selection of the experts were mentioned. Several States and indigenous peoples' organizations mentioned that the experts should represent different geographical regions, there should be a gender balance, a balance between indigenous and non-indigenous experts and the experts should serve in their personal capacity. Furthermore, several respondents stressed that the selection of experts should be based on consultations and dialogue with both States and indigenous peoples.
48. In terms of the background of the experts, Norway highlighted the importance of attracting experts with good qualifications while Finland mentioned that the experts should have knowledge of international human rights and indigenous peoples, including indigenous legal systems. Apart from the experts, the Democratic Republic of Congo suggested the Mechanism should also have representatives from States, civil society, national human rights institutions and indigenous peoples. Venezuela called for a stronger emphasis on the indigenous background of the experts.
49. Among the indigenous organizations, the Arctic Indigenous Peoples organizations and the Indigenous World Association both called for a strengthening of the selection of experts to ensure higher qualifications. Several indigenous organizations mentioned expertise in international law and human rights as well as indigenous traditional legal expertise. The Campaign for an Indigenous Protocol called for the inclusion of experts with knowledge on political economy and human rights. The Center for World Indigenous Studies highlighted the importance of having a group of experts with interdisciplinary backgrounds and not only lawyers. The Arctic Indigenous organizations suggested that the Presidents of the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights should be permanent members

of the Mechanism and the Indigenous World Association suggested there should be a special seat for previous Special Rapporteurs on indigenous peoples.

50. As for the **number of experts**, Denmark called for keeping the current five member composition. Guatemala suggested 10 members while the Russian Federation mentioned that the number of experts should not exceed 12 people. The United States argued that a revitalized EMRIP would require more than its current five members, that the Mechanism should not have too many members and that an odd number of members would be advisable in situations where decisions cannot be reached by consensus.
51. Among the indigenous organizations, the suggested number of members of the Mechanism ranged from five members suggested by the Arctic Indigenous Peoples organizations, to seven members (one from each indigenous region) suggested by the Indigenous World Association, the International Indian Treaty Council and Lumad Mindanaw Peoples Federation to at least 10 members and a rotating Chair suggested by the Indian Law Resource Center, to 9-12 members suggested by the National Congress of American Indians and the Native American Rights Fund. The Center for World Indigenous Studies suggested having 13 members with six indigenous members and six non-indigenous members and a rotating chairmanship. The current Members of EMRIP suggested a doubling of members with two experts from each region and at least half the members being of indigenous origin.
52. United States suggested keeping the current three-year terms for the experts while the Indian Law Resource Center suggested having a term of four years with five of the ten members serving initial two-year terms. The Center for World Indigenous Studies suggested having five-year terms for the experts.
53. In relation to the **working methods** of the Expert Mechanism, the number of annual sessions was mentioned together with the form of the meetings and secretarial support.
54. Denmark suggested that the working method of the Mechanism should be determined by its mandate while Argentina and Chile highlighted the importance of ensuring the full participation of indigenous peoples and the Democratic Republic of Congo advocated for dialogue between governments, civil society organizations, academics and indigenous communities as the main working method.
55. Among the indigenous organizations, the Indigenous World Association suggested that the Mechanism should have an established process for an annual review of the implementation of the Declaration and for interfacing with UN bodies and the Universal Periodic Review. They also stated that the Expert Mechanism could

establish an agenda item that reviews States and indigenous peoples' situation by region.

56. On *the number of annual sessions*, the United States suggested that the Expert Mechanism could meet once a year in person in Geneva and hold additional virtual meetings as needed. Among the indigenous organizations, the Arctic Indigenous Peoples organizations suggested having two annual sessions with possibilities for conducting meetings behind closed doors. The Indian Law Resource Center suggested that the experts should meet at least three times a year for six weeks or thirty working days. The National Congress of American Indians and the Native American Rights Fund suggested increasing the sessions to five or six times a year. In the report of the open-ended meeting of indigenous peoples on the follow-up to the WCIP at least ten days of meeting time a year is suggested including open, closed and inter-sessional meetings, supported by Lumad Mindanaw Peoples Federation and International Indian Treaty Council and. Lumad Mindanaw Peoples Federation suggested having inter-sessional meetings at regional level. The current Expert Mechanism members suggested having two annual sessions (one open and one closed) with additional inter-sessional meetings similar to the UN Permanent Forum on Indigenous Issues.
57. Apart from questionnaires, Norway suggested that the Expert Mechanism could gather information through interviews, interactive dialogue; web based surveys and commissioned studies. The Citizen Potawatomi Nation also suggested that the Mechanism could use video-conferencing, webinars and other cost-effective ways of communicating.
58. Denmark called for the strengthening of the secretarial support of the Expert Mechanism while Norway mentioned that more secretarial support may be needed. Canada appealed for additional financial resources. The United States would like to see a revitalized Expert Mechanism that is adequately funded and mentioned that the merging of the Expert Mechanism with the Special Rapporteur on indigenous peoples would mean a more efficient way of using existing resources.
59. Current Members of the Expert Mechanism suggested that the Secretariat of the Expert Mechanism should be expanded to include 3 professional staff members. They also called for greater financing of EMRIP's participation in meetings related to indigenous issues including on climate change and SDGs as well as funding for the webcasting of the annual session. In the report of the open-ended meeting of indigenous peoples on the follow-up to the WCIP, the indigenous representatives mentioned that the Expert Mechanism should have adequate financial and human resources to effectively fulfil its mandate. The Indigenous World Association called for more resources to conduct expert seminars in different regions outside of

Geneva and New York and the Shiprock Community Development Corporation called for more funding for indigenous peoples to participate in Expert Mechanism meetings.