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Permanent Forum on Indigenous Issues

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Draft report

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Chapter I

Matters calling for action by the Economic and Social Council or brought to its attention

B. Matters brought to the attention of the Council

Recommendations of the Permanent Forum

Discussion on the theme “Indigenous peoples, business, autonomy and the human rights principles of due diligence, including free, prior and informed consent” (item 3)

1. Indigenous peoples lack recognition, poor implementation, and face flagrant violations of their rights and their lands in disregard of free, prior and informed consent and the right to autonomy of self-government by local businesses and transnational corporations in mining, logging, and oil and gas extraction, among other sectors. The territories and resources of indigenous peoples are seized and livelihoods are destroyed to the detriment of their knowledge, cultures and languages. In this respect, it is important to remind Member States of their duty to protect.
2. Moreover, the UN Guiding Principles on Business and Human Rights: outline the rights of Indigenous Peoples and state that businesses have a corporate responsibility to respect human rights.
3. Appropriate legislation, effective enforcement and participation by indigenous peoples are crucial to ensure that business activities that impact indigenous communities in any manner are guided by the obligation to respect human rights and the environment.
4. Businesses, in their human rights due diligence processes, should meaningfully engage with indigenous peoples as rights holders in business decisions and outcomes affecting them. In this regard, free, prior and informed consent should be understood as their right to give or withhold consent.



5. The Permanent Forum recommends ILO, the World Bank, Food and Agriculture Organisation (FAO) and other relevant UN agencies, in cooperation with the Permanent Forum, to study and summarize practices of FPIC implementation globally, as well as to disseminate widely successful experiences, present it to the twenty-fourth session of the Permanent Forum in 2025.
6. Member States must take urgent measures to guarantee adequate and effective participation by indigenous peoples in the design and implementation of national plans for the transition to clean and green energy. Where States have already begun the development of such plans without the participation of indigenous peoples, they must take remedial action.
7. The Permanent Forum invites the World Trade Organization to prepare an analysis of the ways in which indigenous peoples are affected by and included in international trade agreements and treaties, and to present it to the Permanent Forum at its twenty-third session, to be held in 2024.
8. The Permanent Forum invites the Special Rapporteur of the Human Rights Council on the situation of human rights defenders to prepare a study on the drivers of attacks against indigenous human rights defenders in business contexts and invites the Special Rapporteur to share information at the twenty-second session of the Permanent Forum in 2023 on progress.
9. The Permanent Forum underlines the crucial role of languages, traditional knowledge and cultural heritage in the economic development of Indigenous Peoples, as well as their entrepreneurship role for the enjoyment of their rights to culture, language and traditional knowledge.
10. The Permanent Forum regrets the lack of progress in enhancing participation by indigenous peoples at the World Intellectual Property Organization (WIPO) and reiterates previous requests that WIPO adopt a legally binding document to protect the traditional knowledge and intellectual property of indigenous peoples.
11. The Permanent Forum requests the International Labour Organization (ILO), the International Fund for Agricultural Development (IFAD) and the United Nations Development Programme (UNDP) to prepare a study in collaboration with Indigenous Peoples summarizing the experience of implementing programmes for indigenous peoples on socioeconomic development, focussing on entrepreneurship and creative industries best practices, and to present it to the Permanent Forum at its twenty-third session, to be held in 2024.
12. Recognizing that the creative economy is among the most dynamically developing economic sectors, and noting its capacity for the sustainable development, the Permanent Forum recommends that the United Nations Industrial Development Organization develop, in cooperation with indigenous peoples and Member States, a comprehensive programme for the development of indigenous businesses and creative industries, including through capacity-building programmes on business for Indigenous Peoples and mechanisms for financial support on start-ups. In this regard funding from Member States for the development of start-up incubators based on cultural heritage, traditional occupations, crafts and knowledge is encouraged.
13. The Permanent Forum expresses its readiness to examine existing practices and ways of developing various forms of administrative and territorial autonomy for indigenous peoples' communities whose representatives lead a traditional, nomadic way of life, as part of the development of the guiding principles on indigenous peoples' autonomy and self-government as recommended in the study on indigenous peoples' autonomies: experiences and perspectives (E/C.19/2020/5). Such work will be conducted by an online working group of the Permanent Forum. Indigenous Peoples organizations, representative decision-making bodies and institutions, UN

entities, Member States and other stakeholders are invited to contribute financially and practically, and to take an active part in the work of the working group.

14. The Permanent Forum invites the African Development Bank to develop a policy of engagement with indigenous peoples that includes effective safeguards, and invites the African Development Bank to report to the Forum at its twenty-third session, to be held in 2024, on its progress.

15. The Permanent Forum is concerned by issues related to land tenure, the collective rights of indigenous peoples, customary rights, land-grabbing and the closure of transhumance corridors. The Forum therefore recommends that States of the Sahel and the Congo basin establish a legal framework to consolidate their national and local land tenure regimes with a view to resolving conflicts peacefully. In addition, those States should enhance access to justice for the affected indigenous pastoralists and provide training for judicial officials on those issues.

16. The Permanent Forum therefore requests the United Nations Office for West Africa and the Sahel to support Member States in the Sahel and the Congo basin in this work, in collaboration with indigenous peoples. In general, indigenous peoples should be invited to contribute to the implementation of the mandate of the Office. Other initiatives of importance to indigenous peoples are the Joint Force of the Group of Five for the Sahel and the Great Green Wall for the Sahara and the Sahel Initiative. The Permanent Forum invites the Office to attend its twenty-second session, to be held in 2023, to share information on progress in its work.

17. Decision-making bodies, including customary and traditional bodies of conflict-affected indigenous peoples, should be recognized as legitimate parties to conflict resolution. Therefore, administrative and customary authorities and traditional leaders of indigenous peoples should receive training on peaceful dispute resolution. Relevant United Nations system entities, including the Office of the United Nations High Commissioner for Refugees, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the International Organization for Migration, should mobilize the financial and technical resources necessary for the worldwide use of peacebuilding tools that have been tested with success in the Sahel and of the Congo Basin.

18. The Permanent Forum recalls that, to ensure effective implementation, the Guiding Principles on Business and Human Rights must be aligned with the UNDRIP, Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the ILO, the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, known as the Escazú Agreement, and the jurisprudence of the human rights treaty bodies. Furthermore, the Permanent Forum recognizes the work of the Human Rights Council to develop an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises. In that respect, the Permanent Forum stresses the need to ensure that the new instrument affirms Indigenous Peoples rights, including with regard to free, prior and informed consent. The Permanent Forum recommends that this instrument explicitly define due diligence processes and their specific methods of implementation. Therefore, the Permanent Forum underlines the importance of full and effective participation by indigenous peoples throughout the development of the instrument.

19. The Permanent Forum invites the United Nations Global Compact to lead a study on how the human rights of indigenous peoples can be integrated into the model guidance for stock exchanges when reporting on environmental, social and governance information for their market, and report on its progress to the Permanent Forum at its twenty-second session, to be held in 2023.
