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**Human Rights Council  
Sixty-first session  
Agenda item 6**

**Expert Mechanism on the Rights of Indigenous Peoples  
Fourth session  
11-15 July 2011  
Human Rights Bodies and Mechanisms**

**Report of the Expert Mechanism on the Rights of  
Indigenous Peoples on its Fourth Session, Geneva, 11-15  
July 2011**

**Chairperson-Rapporteur: Vital Bambanze**

*Summary*

The Expert Mechanism on the Rights of Indigenous Peoples held its fourth session from 11 to 15 July 2011. In addition to the five members of the Expert Mechanism, the participants in the session included representatives of States, United Nations bodies and specialized agencies, non-governmental organizations, national human rights institutions, academics and indigenous peoples.

The Expert Mechanism held a discussion on follow up to thematic studies and advice on the final report on the study on indigenous peoples and the right to participate in decision-making. It also held a discussion on the United Nations Declaration on the Rights of Indigenous Peoples and on proposals to be submitted to the Human Rights Council (the Council).

The Expert Mechanism adopted its final report on the study on indigenous peoples and the right to participate in decision-making as well as a number of proposals.

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## **I. Introduction**

1. Human Rights Council Resolution 6/36 of 14 December 2007 establishes the Expert Mechanism on the Rights of Indigenous Peoples as a subsidiary expert mechanism to assist the Council in the implementation of its mandate, by providing it with thematic expertise on the rights of indigenous peoples as requested by the Council. The resolution establishes that the thematic expertise will focus mainly on studies and research-based advice, and that the Mechanism may suggest proposals to the Council for its consideration and approval.

## **II. Adoption of the final report on the study on indigenous peoples and the right to participate in decision-making and of proposals.**

2. The Expert Mechanism adopted the final report on the study on indigenous peoples and the right to participate in decision-making and the proposals set out below.

### **A. Adoption of the final report on the study on indigenous peoples and the right to participate in decision-making**

3. *The Expert Mechanism on the Rights of Indigenous Peoples:*

(a) *Refers to paragraph 6 of Human Rights Council resolution 12/13 in which the Council requested the Expert Mechanism, in accordance with its mandate, to carry out a study on indigenous peoples and the right to participate in decision-making, and to present a progress report to the Council at its fifteenth session, and a final study to the eighteenth session;*

(b) *Adopts* the final report on the study on indigenous peoples and the right to participate in decision-making, as contained in document A/HRC/EMRIP/2011/2;

(c) *Authorizes* the Chairperson-Rapporteur, in consultation with the other members of the Expert Mechanism, to make the necessary revisions to the final report in the light of discussions carried out at its fourth session, and to submit the report to the eighteenth session of the Human Rights Council.

## B. Proposals

### **Proposal 1: Indigenous peoples and the right to participate in decision making in relation to extractive industries**

The Expert Mechanism on the Rights of Indigenous Peoples:

(a) refers to paragraph 3 of the Human Rights Council resolution 9/7, through which the Council requested the Expert Mechanism to identify proposals and to suggest them by consensus to the Council;

(b) proposes that the Human Rights Council request the Expert Mechanism to continue its work on indigenous peoples and the right to participate in decision making with a focus on extractive industries, in cooperation with the thematic work of the UN Special Rapporteur on the Rights of Indigenous Peoples and communicate, share knowledge and good practices with the Working Group on the issue of human rights and transnational corporations and other business enterprises.

### **Proposal 2: Consideration of the rights of indigenous peoples in the Human Rights Council**

The Expert Mechanism on the Rights of Indigenous Peoples:

- (a) welcomes the decision by the Human Rights Council to hold an interactive dialogue after the presentation of the Expert Mechanism's annual report to the Human Rights Council and a half-day panel on the role of language and culture in promoting and protecting the well-being and identity of indigenous peoples (paras 7 and 8, in A/HRC/Res/15/7) and it proposes that the Expert Mechanism's first study on lessons learned and challenges to achieve the right of indigenous peoples to education be considered in the context of the 2011 half-day panel.
- (b) proposes that the Human Rights Council resolves to hold similar panels a permanent basis annually with the participation of the Expert Mechanism and based on the Expert Mechanism's reports on its thematic studies;
- (c) requests that the Human Rights Council directs that states, United Nations treaty bodies, special procedures and other relevant bodies and institutions utilize the Expert Mechanism's recommendations and Advice within its activities;
- (d) in the context of the fifth anniversary of adoption of the Declaration on the Rights of indigenous Peoples by the General Assembly in 2007 proposes that the Human Rights Council commemorate the event by reaffirming its commitment to the implementation of the Declaration and calling on those states that abstained from the vote on the Declaration to change their position to one of support;
- (e) refers to its earlier proposals, from its second session (proposal 3 in A/HRC/12/32) and its third session (proposal 7 in A/HRC/15/36) on the Universal Periodic Review, and proposes that the Human Rights Council pays close attention to the implementation of the recommendations concerning indigenous peoples in its Universal Periodic Review.

**Proposal 3: Strengthening indigenous peoples' participatory rights at the United Nations**

The Expert Mechanism on the Rights of Indigenous Peoples:

(a) refers to Article 18 of the Declaration on the Rights of Indigenous Peoples, which affirms that indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by them in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions;

(b) refers further to Article 41 of the Declaration on the Rights of Indigenous Peoples, which establishes a duty for the United Nations to contribute to the full realization of the provisions of the Declaration, including through ways and means of ensuring participation of indigenous peoples on issues affecting them;

(c) recognizes that the United Nations consultative arrangements for non-state entities prevent indigenous peoples' governance bodies and institutions, including traditional indigenous governments, indigenous parliaments, assemblies and councils, from participating in decision-making processes at the United Nations, as they are not always organized as non-governmental organizations;

(d) proposes that the Human Rights Council encourages the General Assembly, as a matter of urgency, to adopt appropriate permanent measures to ensure that indigenous peoples' governance bodies and institutions, including traditional indigenous governments, indigenous parliaments, assemblies and councils, are able to participate at the United Nations as observers with, a minimum, the same participatory rights as non-governmental organisations in consultative status with the Economic and Social Council.

**Proposal 4: Measures to achieve the ends of the Declaration on the Rights of Indigenous Peoples**

The Expert Mechanism on the Rights of Indigenous Peoples:

(a) refers to Resolution 15/7 of the Human Rights Council which encourages States that have endorsed the Declaration on the Rights of Indigenous Peoples to adopt measures to achieve the objectives of the Declaration pursuant to article 38 of the Declaration;

(b) proposes that the Human Rights Council requests the Expert Mechanism to undertake, with the assistance of the Office of the High Commissioner for Human Rights, a questionnaire survey in relation to measures to apply the Declaration to supplement the information received at its annual session and provide further detail on possible appropriate measures and implementation strategies in order to ensure respect for and full application of the Declaration.

**Proposal 5: The World Conference on Indigenous Peoples**

The Expert Mechanism on the Rights of Indigenous Peoples:

(a) refers to the need for an inclusive and principled approach to be taken to ensure the full participation of indigenous peoples in the World Conference on Indigenous Peoples at all stages – from planning, preparations, the conference itself and any follow-up. Further, the principle of full, formal, equal and effective participation by indigenous peoples should be applied to all future UN World Conferences based on the rights affirmed in the Declaration on the Rights of Indigenous Peoples;

(b) proposes that the Human Rights Council welcomes the decision by the Saami Parliament (in Norway) to host an indigenous preparatory conference for the World Conference in 2013, and requests the General Assembly and states to ensure that the outcome of the indigenous peoples' preparatory process is integrated into the outcome of the World Conference;



(c) decides that the World Conference on indigenous peoples be an agenda item on the 5<sup>th</sup> Session of the Expert Mechanism;

(d) further proposes that the Human Rights Council support the full participation of Indigenous peoples, including youth and women, at all stages of the World Conference on Indigenous Peoples.

**Proposal 6: Follow-up on the Right to Education**

The Expert Mechanism on the Rights of Indigenous Peoples:

(a) encourages UN specialised agencies and organisations to provide both financial and technical support to indigenous peoples in the effort to establish their own education institutions in accordance with Article 14 of the Declaration;

(b) proposes to the Human Rights Council to encourage States to put in place legislative and policy measures that would enable the development and implementation of traditional education systems to strengthen indigenous language and culture in promoting and protecting the well-being and identity of indigenous peoples, and to ensure that quality education becomes a national priority within States.

**Proposal 7: International expert seminar on truth and reconciliation processes**

The Expert Mechanism on the Rights of Indigenous Peoples:

(a) noting that there is global recognition of the need to resolve the legacy of residential, day and boarding school systems and orphanages established globally to fully realize the human rights of multiple generations of indigenous peoples;

(b) further noting that an international expert seminar on truth and reconciliation processes will promote reconciliation between indigenous peoples, states, churches and other citizens;

(c) refers to proposal 8 of the Expert Mechanism's 3<sup>rd</sup> session report that recognizes the significance of national truth and reconciliation processes in providing an important model and mechanism for improved relations between states and indigenous peoples, and encouraging the Office of the High Commissioner for Human Rights to consider the possibility of preparing an international expert seminar on truth and reconciliation processes;

(d) refers to paragraph 95 of the 10<sup>th</sup> session of the UN Permanent Forum Report (E/2011/43-E/C.19/2011/14) that supports the international expert seminar on truth and reconciliation processes;

(e) proposes that an international expert seminar on truth and reconciliation processes is held in 2013.

#### **Proposal 8: National Human Rights Institutions**

The Expert Mechanism on the Rights of Indigenous Peoples:

(a) refers to its earlier proposal, from its second session (proposal 2, A/HRC/12/32), and its third session (proposal 1, A/HRC/15/36), reiterating the request to national human rights institutions to effectively promote and protect the rights of indigenous peoples;

(b) welcomes the initiative by the Office of the High Commissioner for Human Rights and National Human Rights Institutions (NHRIs) to develop an operational guide for NHRIs with the objective of achieving the implementation of the Declaration and encourages the participation of all parties, including indigenous peoples, in the preparation of the operational guide and to

disseminate the guide widely upon its completion, in particular to all NHRIs to be taken as practical guidance in its work with indigenous peoples;

(c) further welcomes the decision of the international coordinating committee of NHRIs to hold a half-day panel on indigenous peoples at its next session in March 2012 with the participation of the Expert Mechanism.

### III. Organization of the Session

#### A. Attendance

14. The Expert Mechanism on the Rights of Indigenous Peoples held its fourth session in Geneva from 11 to 15 July 2011. The members who participated in the session were Mr. Vital Bamberze (Burundi), Ms. Anastasia Chukhman (Russian Federation), Ms. Jannie Lasimbang (Malaysia), Dr. Wilton Littlechild (Canada) and Mr. José Carlos Morales Morales (Costa Rica).

15. The participants in the session of the Expert Mechanism included representatives of Member States, [the Holy See], United Nations organizations and programmes, national human rights institutions, indigenous delegates and non-governmental organizations. A list of participants is included in Annex I.

16. The Special Rapporteur on the rights of indigenous peoples, Mr. James Anaya, a member of the Permanent Forum on Indigenous Issues, Grand Chief Edward John, and representative of the United Nations Voluntary Fund for Indigenous Populations, Mrs. Tarcila Rivera Zea, participated in the session.

## **B. Documentation**

17. The Expert Mechanism had before it the provisional agenda (A/HRC/EMRIP/2011/1) and the annotated agenda (A/HRC/EMRIP/2011/1/Add.1) as prepared by the Office of the High Commissioner for Human Rights, and the advance edited version of the final report (A/HRC/EMRIP/2011/2), prepared by the Expert Mechanism.

## **C. Opening of the session**

19. The outgoing Chairperson-Rapporteur, Mr. José Carlos Morales Morales, opened the fourth session of the Expert Mechanism and introduced the United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay for opening remarks.

20. In her statement, the High Commissioner highlighted that the United Nations Declaration on the Rights of Indigenous Peoples is a milestone in indigenous peoples' advocacy. She recalled that indigenous peoples continue to be some of the most marginalised in the world and are frequently excluded from political and economic power. She added that according to a recent study more than 80% of indigenous peoples live in poverty, often disadvantaged in relation to education or health. The Expert Mechanism can play a key role in addressing human rights issues facing indigenous peoples through its studies, including the final report on indigenous peoples and the right to participate in decision making. She concluded that participation in decision making is not only a human right in itself but is also crucial to the enjoyment of other rights of indigenous peoples.

21. In her opening statement, the President of the Human Rights Council, Ambassador Laura Dupuy, stressed that the Expert Mechanism has an advisory mandate towards the Human Rights Council on indigenous peoples' issues. She recalled that the Human Rights

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Council, under resolution 15/7, resolved to engage in an interactive dialogue with the Expert Mechanism at the Council's 18<sup>th</sup> session.

22. In his statement, the Special Rapporteur on the rights of indigenous peoples highlighted the work of the Expert Mechanism in developing expert thinking and practical guidance on the UN Declaration on the Rights of Indigenous Peoples. He also stressed that the thematic studies and advice of the Expert Mechanism complement the work of the mandates of the Special Rapporteur and the Permanent Forum on Indigenous Issues.

23. Mr. Edward John, member of the Permanent Forum on Indigenous Issues, noted the importance of the Expert Mechanism in advocating and protecting the rights of indigenous peoples. He also highlighted the need for coordination between the three mechanisms on indigenous peoples. Finally, he recalled key issues developed during the past tenth session of the Permanent Forum that could be of interest to the work of the Expert Mechanism.

24. In her statement, the Chairperson of the International Coordinating Committee on National Human Rights Institutions (NHRIs), Rosslyn Noonan, welcomed the work and the consultative approach of the Expert Mechanism. She also stated that NHRIs, are key actors in the promotion of the studies undertaken by the Expert Mechanism, and remain committed to contributing to the Expert Mechanism's mandate.

25. In her remarks on behalf of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations (the Voluntary Fund), Mrs. Tarcila Rivera Zea welcomed General Assembly Resolution 65/198, which enables the fund to provide resources to representatives of indigenous peoples to participate in sessions of the Human Rights Council and human rights treaty bodies. She also thanked the contributors to the Voluntary Fund and called for more contributors, as there has been a decrease in donations.

#### D. Election of officers

26. The outgoing Chairperson-Rapporteur invited the experts to nominate a Chairperson-Rapporteur for its fourth session. Mr. Wilton Littlechild announced the experts' consensus to nominate Mr. Vital Bambanze and Ms. Anastasia Chukhman as Chairperson-Rapporteur and Vice-Chairperson-Rapporteur respectively. Thereafter, the outgoing Chairperson-Rapporteur declared the two members as elected by acclamation.

27. In his statement, the new Chairperson-Rapporteur, Mr. Vital Bambanze, thanked his predecessor as well as the other members of the Expert Mechanism for his election. He also thanked the United Nations High Commissioner on Human Rights for her presence and the support provided by her Office. He then recalled that the Expert Mechanism is a unique forum for discussing specific issues and that it is guided by the resolution 6/36 and 9/7 of the Human Rights Council.

29. The Chairperson highlighted the inter-sessional activities of the Expert Mechanism, in particular in relation to the work of the Special Rapporteur, the Permanent Forum and the human rights treaty bodies. He welcomed the parallel meetings held by the Special Rapporteur and his team to respond to allegations of human rights violation.

30. Finally, he welcomed the help of the United Nations Voluntary Fund for its travel grants, as well as the contribution of different States. He concluded by inviting all participants to contribute to the fourth session of the Expert Mechanism effectively and to suggest substantive proposals to the Human Rights Council to contribute to the promotion of the rights of indigenous peoples.

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## E. Adoption of the agenda

31. Before the agenda was adopted, Dr. Wilton Littlechild informed participants about the UN General Assembly decision to hold a World Conference on Indigenous Peoples in 2014. He emphasized the importance of insuring the full participation of indigenous peoples at all stages of the World Conference. He highlighted the importance of the Expert Mechanism considering this issue at its next session.

32. The agenda of the session, as contained in document A/HRC/EMRIP/2011/1, was adopted. It contained the following items: (1) Election of officers, (2) Adoption of the agenda and organisation of work, (3) Follow-up to thematic studies and advice, (4) Study on indigenous peoples and the right to participate in decision making, (5) United Nations Declaration on the Rights of Indigenous Peoples, (6) Proposals to be submitted to the Human Rights Council for its consideration and approval and (7) Adoption of the report. Following the adoption of the agenda and program of work for the fourth session, the Chairperson-Rapporteur opened agenda item 3.

## IV. Agenda Item 3: Follow-up to Thematic Studies and Advice

33. Ms. Jannie Lasimbang described the prior study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education and called on States to participate in the discussion of the study. She also highlighted the half-day panel on indigenous peoples' language and culture, which will be held during the 18<sup>th</sup> session of the Council.

34. Dr. Wilton Littlechild highlighted the fact that education must be a national priority and referenced human rights issues associated with residential schools for indigenous peoples.

35. Several organisations made interventions. Issues raised included the need to recognize traditional educational systems and the lack of funding them. Concerns raised by indigenous representatives included the neglect of indigenous cultures within the education system, inadequate access to education by indigenous peoples and the importance of education provided in indigenous languages.

36. Some States described the different measures, plans and programmes that they have undertaken in relation to the right of indigenous peoples to education and how they have followed up on the recommendations contained in the Expert Mechanism's Study.

37. Mr. José Carlos Morales Morales welcomed the different comments that were made by the States and indigenous peoples highlighted the need to work together. He added that the study clearly highlights that education is one of the most effective ways to maintain indigenous cultures.

38. Ms. Lasimbang noted that many indigenous peoples seek to establish their own systems of education. She further commented that the challenges associated with implementing the right to education in the indigenous context need to be tackled by both States and indigenous peoples. She concluded by noting that she would welcome a continuation of discussion of this issue in future sessions.

39. Dr. Wilton Littlechild welcomed the initiatives undertaken by the different States in using the report and encouraged other States to follow these good practices. He cited the importance of indigenous language and quality education for indigenous peoples.



V. Study on indigenous peoples and the right to participate in decision-making

40. Ms. Lasimbang referred to the request in resolution 12/13 that the Expert Mechanism submit studies. She highlighted that the final study complements the progress report and the Expert Mechanism's Advice no.2. The report described examples of good practices in relation to indigenous peoples' participation in decision-making. She asserted that the different practices should be assessed through 3 indicators: ~~(1) ???; (2) the extent to which practices ??? outcome; (3) procedure of free, prior and informed consent.~~ She also pointed out that the participation of indigenous peoples influences decision-making. She recalled that the Expert Mechanism welcomed the comments from the participants before it presented the report to the Human Rights Council in September.

41. Mr. John B. Henriksen, former member of the Expert Mechanism and one of the two principal co-authors of the report, was introduced by the Chairperson-Rapporteur. He noted that the study was written by the previous members of the Expert Mechanism and invited the current members to finalize it. He recalled that the effective participation of indigenous peoples is fundamental to their enjoyment of human rights. He highlighted three crucial concepts: (1) self-determination of indigenous peoples (2) the State duty to consult indigenous peoples (3) the State duty to seek to obtain free, prior and informed consent of indigenous peoples. He then briefly described the paragraphs contained in the study.

42. Dr. Littlechild commented that some States' actions create barriers to the participation of indigenous peoples. He highlighted the difficulties facing indigenous peoples to obtain visas, or have their passports recognized especially when they need to maintain relations across borders.

43. Observers raised several issues such as challenges associated with the implementation of the right to participate in decision making at the national level, the importance of the right to participate in decision-making processes associated with public policies, participation of indigenous women in decision-making, the right to self-determination, the right to free, prior and informed consent in relation to indigenous peoples' lands, natural resources and territories,

deficiencies in funding as well as the lack of infrastructure to support indigenous peoples' participation and the right to use traditional systems of decision-making. Other observers highlighted that national human rights institutions can represent a bridge between State and indigenous peoples when it comes to participation in decision-making. Several States highlighted good practices and the improvements in the area.

44. Dr. Littlechild thanked states, indigenous peoples, national human rights commissioners and academics, amongst others, for their contributions and critical analysis of the Expert Mechanism's final report on its study on indigenous peoples and the right to participate in decision making. During this important agenda item, we heard of situations from throughout the world of exclusion (for example, of our youth and traditional governments) and lack of recognition of Indigenous peoples that constitute ongoing violations of the right to participate in decision-making. Some of the key issues highlighted included the notion of electoral violence, the need for inter-cultural communications, the recent Guidelines on Business and Human Rights. We heard that there is a need to continue to build on the findings of the Expert Mechanism's Final Report on Indigenous Peoples and the Right to Participate in Decision-Making and to continue to focus on the right to self-determination, free, prior and informed consent, rights related to lands, territories and resources while leaving behind "consultation," a process right which has been over-emphasized, with the result of obscuring the material rights that underpin Indigenous peoples' lives and livelihoods.

45. Dr. Littlechild identified the difficulties associated with non-recognition and exclusion of groups as indigenous peoples, which create an impediment to the participation of indigenous peoples in decision making. More generally, he emphasized the interrelationship with indigenous peoples' rights to self-determination, free, prior and informed consent and lands, territories and resources.

46. Dr. Littlechild also noted the requests for clarification of the Expert Mechanism's final report and indicated that they will be considered in the finalisation of that study. He highlighted the important interventions made in relation to the activities of extractive industries, which was a topic of a current study of the Special Rapporteur on the rights of indigenous peoples.

47. Ms. Anastasia Chukhman emphasized the fundamental importance of the right of indigenous peoples to participate in decision making, particularly emphasised the need for guarantees for indigenous youth to participate in decision making that affects them. She highlighted the need for resources to facilitate their participation in decision making and, in that context, the need to close the gap between the right and the challenges facing indigenous peoples in participating on the ground, at all levels of decision making.

48. Ms Chukhman reminded participants of indigenous peoples' history of taking decisions autonomously and the need for many indigenous peoples to revive their own decision-making processes. She also highlighted the need for indigenous peoples to access mass media to facilitate their participation in decision making.

49. Mr. Jose Carlos Morales Morales congratulated states for the attention they had focused on the Expert Mechanism's report on indigenous peoples and participation in decision making. He noted the need to include indigenous peoples in decisions associated with development and suggested that the Council, supported by the Expert Mechanism, could work with states to identify peaceful solutions to these issues. Mr Jose Carlos Morales Morales also identified free, prior and informed consent, and processes to facilitate proper consultation with indigenous peoples, as an area of continued work, calling on indigenous peoples to identify means through which the free, prior and informed consent obligation could be implemented and called on states and indigenous peoples to cooperate with one another.

50. Ms. Jannie Lasimbang thanked the observers for their contributions and informed them that the experts will be considering the proposals made when finalising the study and other proposals.

#### 42. United Nations Declaration on the Rights of Indigenous Peoples

51. The Chairperson-Rapporteur opened the agenda item 5 on the UN Declaration on the Rights of Indigenous Peoples.

52. Dr. Littlechild noted the inclusion of the Declaration in resolution 6/36 establishing the Expert Mechanism. He commended Canada and the United States for changing their positions of opposition to the Declaration to support the endorsement and called on those states that abstained from voting on the Declaration to also now support it.

53. Dr. Littlechild explained that the Declaration was long-awaited and constituted a framework for reconciliation and a remedial instrument to overcome indigenous peoples' historic marginalisation and to restore respectful relationships. The Declaration must inform all of the Expert Mechanism's studies and work. The Expert Mechanism will work collaboratively with the Special Rapporteur, the Permanent Forum on Indigenous Issues and all UN agencies and programmes to ensure that the Declaration's rights are realised.

54. The Special Rapporteur on the rights of indigenous peoples addressed the Expert Mechanism, first congratulating the Expert Mechanism on its study on indigenous peoples and the right to participate in decision making, as providing well-grounded guidance to the international system. He urged states to examine the study of the Expert Mechanism to guide them in relation to laws and policies associated with this fundamental right. He noted especially the call for a permanent mechanism for consultations with indigenous governance bodies.

55. The Special Rapporteur then reported on his activities over the past year with regard to the Declaration on the Rights of Indigenous Peoples as the principal normative framework for the Special Rapporteur's work and reflecting a global consensus on the rights of indigenous peoples.

He explained his activities in relation to encouraging good practices in the implementation of the Declaration, country reports, responding to allegations of infringements of the rights of indigenous peoples and his thematic studies. In relation to the latter, the Special Rapporteur noted that his 2011 report will address concerns about extractive industries. His consultations thus far illustrate that there are conflicting views about the potential adverse impacts and benefits of extractive industry in indigenous territories. He considers it would be helpful to develop specific guidelines or principles to assist states, including in relation to indigenous peoples' participation in, and control, over the design and implementation of project activities.

56. The Chairperson Rapporteur recalled that the Declaration is the normative framework guiding the Expert Mechanism's work and that the challenge remains to achieve the effective implementation of the Declaration at all levels. He welcomed constructive suggestions for the Expert Mechanism's proposals to the Human Rights Council.

57. Several States and organisations made comments with regard to the implementation of the UN Declaration on the Rights of Indigenous Peoples. Participants commented that UN agencies should provide advice and technical assistance to support local, regional and national implementation of the Declaration. Good practices of implementation were highlighted, such as the constitutional endorsement of specific rights of the Declaration in some States. Indigenous peoples raised the importance of recognition of indigenous peoples' self-determination as central to the implementation of the Declaration, as well as free, prior and informed consent in relevant circumstances and indigenous peoples suggested creating a research database on specific measures undertaken to implement the Declaration, including best practices, as well as the establishment of national plans of action and activities to promote broader public awareness of, and education related to, the Declaration. Some called for the translation of the Declaration into indigenous languages as well as distribution of the Declaration to regional authorities. Indigenous peoples' organisations also mentioned the necessity to promote a study on the relationship

between self-determination and sovereignty over natural resources. Some organisations noted that it could be helpful to identify the causes preventing the implementation of the Declaration, for example the absence of a definition of indigenous peoples. Some suggested that a convention on the rights of indigenous peoples could facilitate the enforcement of the rights contained in the Declaration on the Rights of Indigenous Peoples, while others commented that the rights in the Declaration mirror binding rights found in human rights treaties applied to the indigenous context. Regarding the stakeholders, it was mentioned that indigenous youth must be engaged in the implementation of the Declaration. Some also called on states that had abstained in the vote on the Declaration in the General Assembly to change their position to one of support.

58. UNDP added that some of its activities are consistent with the Declaration on the Rights of Indigenous Peoples, including the UN Indigenous Peoples Partnership.

#### **43. Proposals to be submitted to the Human Rights Council**

59. The Chairperson-Rapporteur of the Expert Mechanism opened the discussion on proposals to be submitted to the Human Rights Council, recalling the Council resolution 6/36.

60. Observers made recommendation for inclusion in the proposals to be submitted by the Expert Mechanism. These included recommendations for thematic issues to be taken up in the future and for follow-up to the first and second studies undertaken by the Expert Mechanism.

61. The Board of the Voluntary Fund recommended that the Expert Mechanism members consider the possibility of making an appeal for contributions to all States, the

United Nations system, foundations and other donors in support of the UN Voluntary Fund for Indigenous Populations in their next session report.

## VII. Adoption of the report and proposals

62. At its last meeting, the Expert Mechanism adopted the final report on the study on indigenous peoples and the right to participate in decision-making and several proposals, contained in section II of the present report. [All proposals were adopted by consensus by the members of the Expert Mechanism].

63. Moreover, the members of the Expert Mechanism adopted a provisional agenda for the 5<sup>th</sup> session of the Expert Mechanism, as contained in annex II.

## **Annexes**

### **Annex I**

#### **List of Participants**

**State members of the United Nations represented by observers:**

Algeria, Argentina, Australia, Bolivia, Brazil, Cambodia, Canada, China, Chile, Costa Rica, Denmark, Finland, France, Germany, Guatemala, India, Japan, Kenya, Mexico, Morocco, Nepal, New Zealand, Norway, Panama, Peru, Poland, Romania, Russian Federation, Saudi Arabia, South Africa, Sweden, Togo, United States of America, Uruguay, Venezuela (Bolivian Republic of).

**Non-Member State represented by an observer: Holy See**

**Donors represented by observers:**

**United Nations mandates, mechanisms, bodies and specialized agencies, funds and programmes represented by observers:** United Nations Permanent Forum on Indigenous Issues (UNPFII).

**Intergovernmental organizations, regional organizations and mechanisms in the field of human rights represented by observers:** Commission Africaine des Promoteurs de la Santé et des Droits de l'Homme, European Union and the World Bank.

**National human rights institutions represented by observers:** the New Zealand Human Rights Commission, Australian Human Rights Commission, Commission on Human Rights of the Philippines, the New Zealand Human Rights Commission.



**Academics and experts on indigenous issues represented by observers of the following institutions:** Hawaii Institute for Human Rights, Latin American Institute, Leupana University of Luneburg, Structural Analysis of Cultural Systems Technical University of Berlin, Sum Centre for Development-University of Oslo, University of Manitoba- Faculty of Law, Victoria University of Wellington.

**Non-governmental organizations as well as indigenous nations, peoples and organizations represented by observers:**

Consejo Indio Exterior, Consejo Indio de Sud America (CISA), Oloiberi Community Based Organization, Samburu Women for Education and Environment Development Organization (SWEEDO), Ilchamus Development and Human Rights Organization, Cultural Survival, Indian Movement Tupaj Amaru, RAIPON, Zo re-unification Organization, CNDPA, Jharkhand Indigenous Youth for Action, CAPAJ, Kampuchea Khmer Krom Federation, Asian Indigenous and Tribal Peoples Network (AITPN), Kakisiwew Treaty Council, Massai Experience et Linapyco, Naga Peoples Movement for Human Rights (NPMHR), Indigenous Peoples' Foundation for Education and Environment (IPE), International Work Group for Indigenous Affairs (IWGIA), Te Kura Maupapa Maori o Ngati Kahungunu o Te Wairoa Aotearoa, Aotearoa Indigenous Rights Trust, Rehoboth Community of Namibia, Congrès Populaire Coutumier Kanak, Comité de Solidarité avec les Indiens des Amériques (CSIA-NITASSINAN), Assemblée des Arméniens d'Arménie Occidentale, Indigenous World Association, National Native Title Council of Australia, National Congress of Australia's First Peoples, Association Culturelle Amazighe, International Public Organization Foundation for Research and Support of Indigenous Peoples of Crimea, Kanaki Nouvelle Calédonie, Universal Esperanto Association (UEA), Consultative Delegation for Cham Human Rights, Cham National Federation of Cambodia, INCOMINDIOS, Convergencia Indígena Kabawil, Ti Tlanizke, Dewan Adat Papua, Aboriginal Legal Rights Movement of Western Australia, Indigenous Peoples Alliance of the

Archipelago, Federation of Nepalese Indigenous Nationalities, Aktionsgruppe Indianer & Menschenrechte, Akin Working Circle Indians of North America, Global 2000 – Friends of the Earth Austria, American Indian Law Alliance, Red Nacional de Jovenes Indigenas, Rapa Nui Parliament, International Council for Human Rights, Commission nationale consultative pour la protection et la promotion des droits de l'homme (CNCPPDH), Organisation des Natoins Autochtones de Guyane Francaise (ONAG), Return to Earth, Conference of NGOs-Congo, Reseau Amazigh pour la Citoyenneté "Azetta", Bangsa Adat Alifuru, Dewan Adat Papua, Saami Council, Movimiento Indigena Tawantinsuyo MIT-Peru, Hpi-Hcu-Icgr-Ecor-Ibecor, Association of Indigenous Peoples in the Ryuyus, Al-Hakim Foundation, Indigenous Peoples of Africa Coordinating Committee, Native Women's Association of Canada, Comisión de Juristas Indigenas en la República Argentina, La pirogue, Youth Association of finno-ugrie peoples (MAFLIN), Muori Karjala, CNDPA Lifou Nouvelle-Calédonie, Culture de Solidarité afro-indigène, Ermineslan CreeNation, International Indigenous Women's Forum (FIMI), International Indian Treaty Council, Structural Analysis of Cultural Systems.

## Annex II

### Provisional agenda for the fifth session of the Expert Mechanism

1. Election of officers
2. Adoption of the agenda and organization of work
3. World Conference on Indigenous Peoples
4. Follow-up of thematic studies and advice
5. Thematic study and advice in accordance with the forthcoming resolution of the Human Rights Council
6. United Nations Declaration on the Rights of Indigenous Peoples
7. Proposals to be submitted to the Human Rights Council for its consideration and approval
8. Adoption of the report