

Questionnaire to UN system

Questionnaire to the UN system agencies, funds and programmes and intergovernmental organizations

The United Nations Permanent Forum on Indigenous Issues was established by Economic and Social Council (ECOSOC) Resolution 2000/22. The Permanent Forum is mandated to provide expert advice and recommendations on indigenous issues to ECOSOC and through the Council to United Nations agencies, funds and programmes; to raise awareness and promote the integration and coordination of activities related to indigenous issues with the UN system; and prepare and disseminate information on indigenous issues.

The Permanent Forum's report of the sixteenth session of 2017 includes a number of recommendations within its mandated areas, some of which are addressed to UN system agencies, funds and programmes (attached).

The report can be found at:

<https://www.un.org/development/desa/indigenouspeoples/news/2017/06/new-16th-session-report-unpfii/>

The secretariat of the Permanent Forum on Indigenous Issues invites UN system agencies, funds and programmes and other inter-governmental organizations to complete the attached questionnaire on any action taken or planned in response to the Permanent Forum's recommendations and other relevant issues.

The responses will be compiled into two separate reports for the April 2018 session of the Permanent Forum: (a) Compilation of information received from the UN system and other entities on progress in implementation of PFII recommendations; and (b) Implementation of the System Wide Action Plan on Indigenous Peoples.

All responses will be placed on the DESA/DSPD website on Indigenous Peoples at:

<https://www.un.org/development/desa/indigenouspeoples>

If you have any objections for your response to be made available on our website, please inform our office accordingly.

Please submit your completed questionnaire by **29 December 2017** to:

Secretariat of the Permanent Forum on Indigenous Issues
Division for Social Policy and Development
Department of Economic and Social Affairs
Room: S-2954
United Nations Headquarters
New York, USA 10017
Telephone: 917-367-5100
Email: indigenous_un@un.org and sigurdarson@un.org

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The seventeenth session of the Permanent Forum on Indigenous Issues will be held at United Nations Headquarters from **16 to 27 April 2018**.

Provisional Agenda

1. Election of officers.
2. Adoption of the agenda and organization of work.
3. Follow-up to the recommendations of the Permanent Forum.
4. Implementation of the six mandated areas of the Permanent Forum with reference to the United Nations Declaration on the Rights of Indigenous Peoples.
5. Dialogue with indigenous peoples.
6. Dialogue with Member States.
7. Dialogue with the funds, programmes and specialized agencies of the United Nations system.
8. Discussion on the theme “Indigenous peoples’ collective rights to lands, territories and resources”.
9. 2030 Agenda for Sustainable Development.
10. Dialogue with the Special Rapporteur on the rights of indigenous peoples and the Chair of the Expert Mechanism on the Rights of Indigenous Peoples.
11. Follow-up to the outcome document of the World Conference on Indigenous Peoples:
 - (a) Implementation of national action plans, strategies and other measures;
 - (b) Ways to enhance the participation of indigenous peoples at the United Nations;
 - (c) Implementation of the United Nations system-wide action plan on indigenous peoples.
12. Future work of the Permanent Forum, including issues considered by the Economic and Social Council and emerging issues.
13. Provisional agenda for the eighteenth session.
14. Adoption of the report of the Permanent Forum on its seventeenth session.

Questionnaire to UN system

Questionnaire

The theme of the Permanent Forum's session in 2018 will be:
“Indigenous peoples’ collective rights to lands, territories and resources”

Please provide information on the following:

A. Recommendations of the Permanent Forum on Indigenous Issues

With respect to the implementation of the recommendations of the Permanent Forum addressed specifically to your agency, fund and/or programme:¹

- i.* Please provide information on measures taken or planned to implement the recommendations of the Permanent Forum addressed specifically to your organization.
- ii.* What are the enabling factors that facilitate your agency's implementation of the Forum's recommendations?
- iii.* What are some of the obstacles your agency has encountered in implementing the recommendations of the Permanent Forum?

B. System Wide Action Plan to achieve the ends of the UN Declaration on the Rights of Indigenous Peoples

As requested in the Outcome Document of the World Conference on Indigenous Peoples (2014), a system-wide action plan (SWAP) to ensure a coherent approach to achieving the ends of the UN Declaration on the Rights of Indigenous Peoples was adopted in November 2015, and launched by the Secretary General at the UN Permanent Forum in May 2016. The Permanent Forum will follow up on progress made in the implementation of the system-wide action plan during its 2018 session.² For ease of reference, the questions have been framed under the six key elements of the SWAP-Indigenous Peoples as follows:

1. Raising awareness of the UN Declaration

Please provide information on any activities that raise awareness of the UN Declaration on the Rights of Indigenous Peoples, including key messages, advocacy and other media and outreach initiatives. Please provide information on publications, films, audio material, maps, or other materials that feature or focus on the UN Declaration and on indigenous peoples. Please also provide links to the relevant websites and other sources.

The Economic Commission for Africa has, through its African Land Policy Centre – ALPC (former Land Policy Initiative-LPI), contributed to an article published by Thomson Reuters entitled “Kenya's rapid urbanisation takes toll on Maasai communal land” (<https://www.reuters.com/article/kenya-landrights-maasai/feature-kenyas-rapid-urbanisation-takes-toll-on-maasai-communal-land-idUSL8N1A728G>) that addressed the plight of the Maasai people.

¹ See attached document entitled ‘Recommendations addressed to the UN Agencies’ to facilitate your responses.

² See Report of the 15th session of the UN Permanent Forum on Indigenous Issues (E/2016/43) at para. 73.

The Maasai people who are predominantly pastoralists have ordinarily been classified as indigenous peoples who have suffered discrimination. As is highlighted in the article “What we need ... is to maximise benefits for the Maasai community while mitigating the risks such as loss of their culture, rights, and livelihoods and minimising the negative or unintended consequences of urbanisation”. It is evident that urban development has not taken into consideration the need to recognise and protect the legitimate tenure rights of the Maasai people. The aim of this article has been to raise awareness on the need for policy and legal frameworks that promote free, prior and informed consultation before expropriating land (e.g. for investors and other commercial activities) belonging to the Maasai, in order to protect their land tenure rights and livelihoods

2. Supporting the implementation of the UN Declaration, particularly at the country level

Please provide information on actions taken or planned by your agency, fund, programme, entity on the following:

- i.* Measures taken or planned to support national partners in reform and implementation of legal frameworks, policies, strategies and plans to implement the UN Declaration on the Rights of Indigenous Peoples, including any joint programming initiatives. Please also include information related to include indigenous women in your responses.
- **In the African Union (AUC) Declaration on land Issues and Challenges facilitated by ECA/ALPC, the Heads of State and Governments resolved to take ownership and lead the process of developing inclusive and responsive land policies that address Africa’s realities. ECA/ALPC conducted Regional Assessments to determine the status of land policies. The studies highlighted an unfortunate gap in land policies with regard to the rights of indigenous people and other vulnerable groups. Informed by the findings of the Regional Assessments, ECA/ALPC developed the Framework and Guidelines on land Policy in Africa (F&G) which are now a useful tool in supporting AU Member States to develop land policies that are inclusive and participatory taking into consideration the peculiar circumstances of vulnerable groups such as indigenous peoples, women and girls.**
- **The Guiding Principles on Large Scale Land Based Investments (Guiding Principles) that were developed by UNECA/ALPC and endorsed by AU Ministers responsible for land and agriculture, promote investments that respect human rights of individuals and communities as well as indigenous tenure systems. The Guiding Principles encourage the principle of free, prior and informed participation/consent of all land users including indigenous peoples prior to allocation of land for investment. In addition to respecting human rights, one of the six fundamental principles in the Guidelines relates to respecting the land rights of women in both formal and customary tenure systems. ECA/ALPC has been building the capacity of Member States to implement the Guiding Principles on Large Scale Land Based Investments. In this regard, training programs were developed and training conducted for**

lawyers who assist private sector, governments, traditional authorities and communities to negotiate large-scale investments. The training is aimed at ensuring that lawyers are capacitated to use the Guidelines in negotiating investment contracts that protect the legitimate tenure rights of resident populations including indigenous people who often occupy the land targeted by investors. Working in consultation with Member States, ECA/ALPC conducted awareness raising workshops and provided training on the Guiding Principles to African traditional authorities.

- To ensure sustained support ECA/ALPC has recently developed a programme on Land, Investments and Agriculture, and another on Gender. These programmes will intensify advocacy and capacity development for inclusive and responsive land policies that recognise and protect the rights of indigenous peoples and women including through support to development of appropriate land policies/legal frameworks and effective land administration programmes. This is critical to advancing recognition, recording and protection of all land users including holders of indigenous customary rights. The ECA/ALPC programmes will also advocate for improvement of institutional and administrative arrangements to ensure inclusive participation of indigenous peoples and women in design of land administration interventions that affect their legitimate land tenure rights
- ii.* Support provided to Member States to mainstream the UN Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 on Indigenous and Tribal Peoples in national development plans and in the UN Development Assistance Frameworks and Common Country Assessments (CCA/UNDAFs).
- ECA/ALPC supported Niger to Mainstream Land Governance in the National Development Plan through successful engagement with the Prime Minister. In this regard, good practice principles contained in the Framework and Guidelines on Land Policies and Guiding Principles on Large Scale Land Based investments are being mainstreamed in all development strategies and plans. In Zambia, ECA/ALPC is supporting a participatory land policy development process including consultations with traditional chiefs to ensure that the land rights of communities are protected. In Cote d'Ivoire, Democratic Republic of Congo, Madagascar, Malawi, Rwanda and Tanzania, the principles of the UN Declaration on the Rights of Indigenous Peoples are being mainstreamed in the context of mainstreaming land governance in agricultural strategies and national investment plans. In so doing, the Member States are protecting the rights of indigenous communities that often manage land communally in pastoral livelihoods.**
- iii.* Promote the establishment or strengthening of consultative mechanisms and platforms of dialogue including under the leadership of the Resident Coordinators.

- **Civil Society Platform:** In 2014, ECA/ALPC supported the establishment of a Continental Civil Society Platform on Land that supports member States in the implementation of the AU Declaration on Land Issues and Challenges as espoused in the Framework and Guidelines on Land Policy in Africa. The Platform facilitates inputs and collaboration from a wide range of CSOs representing all land users and the sharing of experiences and knowledge. The Platform also strengthens the voice of the marginalized including indigenous peoples and advocates for inclusion of women's land issues in the decision-making processes. Moreover, the Platform facilitates legal assistance in land-related matters, and helps monitor the progress made by members in implementing the AU Declaration on Land which calls for the protection of the rights of women and indigenous people
- **Forum for African Traditional Authorities:** ECA/ALPC facilitated the establishment of the establishment of FATA in 2016. FATA is already influencing reforms of customary tenure systems to recognise gender equality in allocation and protection of land rights to women and protect the rights of indigenous peoples who are normally excluded from formal consultative processes. In the 2016 sensitization Seminar which led to the establishment of FATA, African traditional leaders exchanged knowledge on the challenges they face in their engagement with investors. They learned how to apply the Guiding Principles drawing on key principles for negotiating land based investment contracts that are sustainable and beneficial to local communities including women and indigenous communities. The engagement of traditional authorities recognises the existence of customary law based land administration in most African countries and the role that traditional authorities play in ensuring the protection of land tenure rights of all land users under their jurisdictions.
- **African Land Commissioners:** ECA/ALPC convened African land commissioners in yet another important platform that has been established by ECA/ALPC. The inaugural meeting was held in Accra, Ghana in 2017 examined "securing land in customary tenure regimes". The platform is aimed at facilitating learning and information sharing on good practices and experiences among various countries on challenges and opportunities in securing local communities', women's, and Indigenous Peoples' land rights through recognition of customary (collective) land tenure.
- The biennial **Conference on Land Policy in Africa**, organised by ECA in the auspices of the ALPC tripartite collaboration (with AUC and AfDB), is a major policy and advocacy event that convenes over 400 participants to promote dialogue among researchers, policymakers, academics, civil society, women's organizations, youth, pastoral organizations and traditional leaders on key land governance challenges. The Conference provides a platform for discussion on a number of topics that influence policy directions on governance of tenure including the rights of indigenous peoples, the role of indigenous customary tenure, women's land rights, responsible large scale

land based investments, etc. This is a platform that encourages engagements and consultations between key stakeholders and with government.

3. Supporting indigenous peoples' rights in the implementation and review of the 2030 Agenda for Sustainable Development

The Permanent Forum on Indigenous Issues will continue to address indigenous issues in the follow up and review of the 2030 Agenda for Sustainable Development.

- i.* Has your agency/organization taken any measures to incorporate indigenous issues into policy and programming to implement the 2030 Agenda in line with the UN Declaration on the Rights of Indigenous Peoples?

ECA/ALPC partnered with other institutions in the context of the Global Initiatives Initiative (GLII) to advocate for the inclusion of land governance in the SDGs, providing a platform for discussions/advocacy by Member States and other partners in this field. Achieving the 2030 Agenda for Sustainable Development is underpinned by good land governance which includes ensuring equitable access to land for women, men and youth; and security of land rights for women and vulnerable groups. ECA/ALPC supports Member States in the implementation of the AU Declaration on Land Issues and Challenges in line with the Framework and Guidelines on Land Policy in Africa in order to improve land governance towards enhancement of security of land rights for all land users including indigenous peoples. ECA/ALPC is cited as a key implementing institution in the 10-year implementation plan for AU Agenda 2063, itself aligned to the SDGs.

- ii.* Has your agency/organization/entity supported the participation of indigenous peoples in the implementation and review of the 2030 Agenda for Sustainable Development, including at the national level? Please also include information on indigenous women, persons with disabilities, older persons and children and youth in your responses.
 - iii.* Please provide information on any reports or other documents in implementing the 2030 Agenda for indigenous peoples. Also include information on any measures taken or planned for the collection of statistical data on indigenous peoples, in particular as related to the SDG indicators for target 1.4 (secure tenure rights to land), target 2.3 (income of small-scale food producers), target 4.5 (parity in access to education) and target 10.3/16.b (experience of discrimination).
- **The African Union Declaration on Land Issues and Challenges is a commitment by African Union Member States to “ensure that land laws provide for equitable access to land and related resources among all land users including the youth and other landless and vulnerable groups...”. The AU Declaration on Land urges Member States to develop comprehensive land policies that address specific needs of each State, and build adequate human, financial and technical capacities in accordance with the Framework and Guidelines on Land Policy in Africa (F&G)4. The African Union recognises that indigenous peoples are among the**

most marginalized and vulnerable to deprivation of their rights to land and other natural resources. https://www.uneca.org/sites/default/files/uploaded-documents/LPI/au_declaration_on_land_issues_eng.pdf

- The Framework and Guidelines on Land Policy in Africa (F&G), endorsed by African Union Heads States and Governments, is a framework to strengthen land rights, enhance productivity and improve livelihoods. The F&G recognises the marginalization of indigenous ethnic groups with regard to recognition of their legitimate tenure rights, access to adequate land resources and the need to develop land policies that address their land tenure rights and livelihoods. The F&G has specifically identified the San of Botswana, Bakola, Bagyeli and Batwa of countries of Central Africa, the Massai and Ogiek of Kenya as particularly suffering specific levels of discrimination. <https://www.uneca.org/publications/framework-and-guidelines-landpolicy-africa>.
- The Guiding Principles on Large Scale Land Based Investments provide AU Member States and other actors guidance on how to establish land based investments that benefit governments and investors while recognizing and protecting the legitimate tenure rights of resident communities especially indigenous communities, women and other vulnerable groups. The Guiding Principles on Large Scale Land Based Investments recognise the challenges that are associated with promoting large scale land based investments and the negative impact these could have if not responsibly governed. The Guiding Principles further underline the spiritual and cultural importance of land in Africa especially for pastoralism and hunting and gathering which is the predominant pre-occupation of most indigenous peoples. The underlying principle of the Guiding Principles is that investments should do no harm, safeguard against dispossession of legitimate land tenure right holders and environmental damage, and should respect human rights. <https://www.uneca.org/publications/guiding-principles-large-scale-land-based-investments-africa>.
- Monitoring and Evaluation of Land Governance in Africa (MELA) is tracking progress in the implementation of the AU Declaration on Land Issues and Challenges, specifically the delivery and protection of land tenure rights to all land users, indigenous ethnic groups, vulnerable groups and women.

4. Mapping of existing standards and guidelines, capacities, training materials and resources for the effective implementation of the UNDRIP

- i.* Please provide information on any specific standards and guidelines on indigenous peoples adopted or planned by your agency/organization.

ECA/ALPC developed the AU Framework and Guidelines on Land Policy in Africa (F&G) and the Guiding Principles on large Scale Land Based Investments in Africa. ECA/ALPC also supported African Member States in development/endorsing of the CFS Voluntary Guidelines on the Responsible Governance of Tenure of Land Fisheries and Forests in the Context on National Food Security (VGGT) as key

guiding frameworks for addressing land tenure rights of indigenous peoples. Specific provisions under par. 2.5 of the F&G and par. 9 of the VGGT address the need for land policies to recognize and protect legitimate tenure rights of indigenous peoples. ECA/ALPC is supporting the application of the F&G in coherence with the VGGT.

- ii.* Please provide information on any training materials prepared or planned related to the implementation of the UN Declaration.
- **Training Materials developed on Gender and Grassroots participation in land policy development and implementation**
 - **Training materials were developed to capacitate traditional authorities on negotiating large-scale land based investment contracts that protect the tenure rights of resident populations advance the interests of indigenous peoples.**
 - **Training materials were developed to capacitate land administration practitioners on effective land administration that addresses the need for comprehensive land administration and information systems that facilitate the recognition, recording and protection of legitimate tenure rights of all land users including those of indigenous peoples, women and other vulnerable groups**
 - **Training materials developed to capacitate parliamentarians, bureaus of investments, legal professionals on large scale land based investments**
- iii.* Please provide information on current resources and funds allocated to effectively implement the UN Declaration. Please also provide information on any joint initiatives with other UN agencies in the implementation of the UN Declaration.

5. Developing the capacities of States, indigenous peoples, civil society and UN personnel

Please provide information on any capacity development initiatives that your organization is conducting for indigenous peoples, government officials and UN staff. Also include information on the participation of indigenous women, children and youth as well as indigenous persons with disabilities in your response.

- **ECA/ALPC developed and is promoting the use of Guidelines for Development of Curricula on land Governance in Africa by universities and institutions of higher learning. Using the guidelines, land professionals will be better equipped to respond to the realities of Africa's land governance which is primarily governed under customary authorities.**
- **ECA/ALPC established a Network of Excellence on Land Governance in Africa (NELGA) which is anchoring scholarships for training of land professionals at MSc and PhD levels in accordance with the Guidelines for Curricula Development (see above) and promoting research relevant to Africa's realities of land governance.**

- Training of land administrators on Gender and Grassroots participation in land policy development and implementation
- Training of traditional authorities on negotiating large-scale land based investment contracts that protect the tenure rights of resident populations advance the interests of indigenous peoples.
- Training of land administration practitioners on effective land administration to facilitate the recognition, recording and protection of legitimate tenure rights of all land users including those of indigenous peoples, women and other vulnerable groups
- Training of parliamentarians, Directors of bureaus of investments, legal professionals on large scale land based investments

6. Advancing the participation of indigenous peoples in UN processes

Please provide information on any support provided for the full and effective participation of indigenous peoples at relevant UN bodies, including at the country level. Please also provide information on any consultative mechanisms, tools and other measures to obtain free, prior and informed consent of indigenous peoples in processes that affect them.

- ECA/ALPC supported the Kilimanjaro Initiative which mobilised over 100,000 grassroots women from over 20 countries at the foot of Mt. Kilimanjaro to advocate for the land rights of women and indigenous people. This included technical and financial support. The outcome was a charter <http://tgnp.org/wp-content/uploads/2017/04/Charter-b.pdf> which called, among other things, that Member States “Implement the AU’s recommendation that requires states to allocate at least 30% of land to women.” The 30% target was promoted by ECA/ALPC and endorsed by AU Ministers in 2015 Specialised Technical Committee on Agriculture, Rural Development, Water and Environment.
- ECA/ALPC developed and is promoting the use of the Guiding principles on land scale land based investments for free, prior and informed consent of affected communities “Fundamental Principle 3: Decisions on LSLBI and their implementation are based on good governance, including transparency, subsidiarity, inclusiveness, prior informed participation and social acceptance of affected communities.” https://www.uneca.org/sites/default/files/uploaded-documents/LPI/guiding_principles_eng_rev_era_size.pdf