



THE PRESIDENT
OF THE
GENERAL ASSEMBLY

2 December 2016

Excellency,

I have the honour to transmit herewith a letter, dated 2 December, 2016 from the Advisers of the consultation process concerning the ways to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, transmitting the program and format of the consultation taking place on 14 and 15 December, 2016 in the Trusteeship Council Chamber.

I encourage the active participation of your delegation in this consultation.

Please accept, Excellency, the assurances of my highest considerations.

A handwritten signature in blue ink, appearing to read 'Peter Thomson'.

Peter Thomson

All Permanent Representatives and
Permanent Observers to the United Nations
New York

New York 2 December 2016

Excellency,

With the reference to your letters dated 28 September and 18 October with respect to the consultation process associated with Indigenous peoples' participation in the United Nations, we are pleased to confirm the program of the consultative meetings that will take place at United Nations headquarters on 14 and 15 December.

The format of the consultations is to discuss in detail each of the substantive segments of the elements paper. There will be a dedicated consultative session for each segment, as detailed below.

Wednesday 14 December

10 am – 1 pm: Venues of participation

3 pm – 6 pm: Participation modalities

Thursday 15 December

10 am – 1 pm: Recognition / selection mechanism

3 pm – 6 pm: Selection criteria

All the consultative meetings will take place in the Trusteeship Council chamber. The participants to the meetings are requested to address the issue at hand in each session, basing their comments on the elements paper that was circulated as the addendum of the compilation.

The final compilation and addendum (A/70/990) is available in all official UN languages at: www.undocs.org/a/70/990. The Addendum of the compilation that includes elements for future discussion provides us a basis for the meetings on 14th and 15th December and is also separately attached to the letter.

The addendum of the compilation and updated information on the consultation process is also available at the consultation process website:

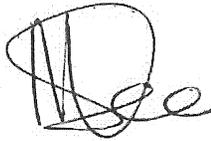
<https://www.un.org/development/desa/indigenouspeoples/participation-of-indigenous-peoples-at-the-united-nations.html>

We are looking forward to continuing to engage on this important subject with all stakeholders and to your continued support.

Please accept, Excellency, the assurances of our highest consideration.



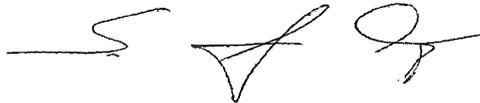
Ambassador Kai Sauer
Permanent Representative of Finland
to the United Nations



Ambassador Martha Ama Akyaa Pobee
Permanent Representative of Ghana
to the United Nations



Dr. Claire Charters



Prof. James Anaya

Addendum to the final Compilation of 8 July

Potential Elements for discussion during the 71st Session of the General Assembly

Element	Content
Background	<p data-bbox="610 459 1273 485">The process will be guided by the Charter of the United Nations.</p> <p data-bbox="610 520 1351 604">Commitment to respect, promote and advance and in no way diminish the rights of indigenous peoples and to uphold the principles of the Declaration on the Rights of Indigenous Peoples (Declaration).</p> <p data-bbox="610 640 1351 758">To be guided by the Declaration; articles 3, 5, 18, 19, 20, 32, 33, 39, 41 and 42 isolate some of the key principles, such as that Indigenous peoples have the right to participate in all decision making that impacts on Indigenous peoples;</p> <p data-bbox="695 789 1351 968">In particular its article 18, 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</p> <p data-bbox="695 999 1351 1117">and article 41, which establishes that the United Nations shall 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.</p> <p data-bbox="610 1148 1351 1388">To recall the decision of the General Assembly, in the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, by which it committed to consider ways to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, including any specific proposal made by the Secretary-General in this regard (PP 8 of GA resolution 70/232).</p> <p data-bbox="610 1419 1351 1862">To further recall General Assembly Resolution 70/232 of 23 December 2015 (in particular OP 19), in which the General Assembly requested the President of the General Assembly to conduct, within existing resources, timely, inclusive, representative and transparent consultations with Member States, indigenous peoples' representatives and institutions from all regions of the world, and existing relevant mechanisms of the United Nations, on the possible measures necessary, including procedural and institutional steps and selection criteria, to enable the participation of indigenous peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, and also requests the President to prepare a compilation of the views presented during the consultations, including good practices within the United Nations regarding indigenous peoples' participation, which will form the basis for a draft text to be finalized and adopted by the Assembly during its seventy-first session.</p>

To recall Human Rights Council resolution 18/8 which requested the Secretary-General, in cooperation with the Office of the High Commissioner, the Office of Legal Affairs and other relevant parts of the Secretariat, to prepare a detailed document on the ways and means of promoting participation at the United Nations of recognized indigenous peoples' representatives on issues affecting them, given that they are not always organized as non-governmental organizations, and on how such participation might be structured, drawing from, inter alia, the rules governing the participation in various United Nations bodies by non-governmental organizations (including Economic and Social Council resolution 1996/31) and by national human rights institutions (including Human Rights Council resolution 5/1 of 18 June 2007 and Commission on Human Rights resolution 2005/74 of 20 April 2005), and to present it to the Council at its twenty-first session.

To further recall Human Rights Council resolution 21/24 by which it notes with appreciation the report of the Secretary-General on the ways and means of promoting participation at the United Nations of indigenous peoples' representatives on issues affecting them (A/HRC/21/24) and invited the General Assembly to consider this issue.

To take note of the outcome document of the Alta Conference (A/67/994, annex), in which indigenous peoples and nations representing the seven global geopolitical regions, including representatives of the women's caucus and the youth caucus, made collective recommendations to the United Nations high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples and called for, at a minimum, a permanent observer status for Indigenous Peoples within the United Nations system, as well as other contributions made by indigenous peoples to this consultation process.

To recall the report of the Secretary-General on progress made in the implementation of the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples,¹ (Secretary-General report *Progress made in the implementation of the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples* (A/70/84-E/2015/76)).

To reaffirm the status and territorial integrity of States as set out in the Charter of the United Nations as well as in article 46 of the Declaration; the consultation process does not aim to alter the exclusive right of Member States of the United Nations to membership in the General Assembly or other UN bodies or the status and territorial integrity of States as set out in the UN Charter as well as confirmed in the Declaration.

Venues of participation

Options include participation by Indigenous Peoples' representative institutions:

¹ A/70/84-E/2015/76.

in the General Assembly and, as appropriate, its subsidiary bodies; and/or

in specific meetings of the General Assembly and its subsidiary bodies (for example the UN General Assembly Third Committee dialogue with the Special Rapporteur on Rights of Indigenous Peoples); and/or

in UN conferences convened by the General Assembly; and/or the General Assembly:

invites the Human Rights Council to enhance the participation of Indigenous Peoples' representative institutions including in its meetings that are focused on rights of Indigenous peoples (in particular the dialogue with the Special Rapporteur on the Rights of Indigenous Peoples and the annual half-day discussion on the rights of indigenous peoples, which are held every September session of the Human Rights Council); and/or

invites the ECOSOC to enhance the participation of Indigenous peoples' representative institutions including in its sessions/and its subsidiary bodies that focus on rights of Indigenous peoples; and/or

invites UN programmes, funds and specialized agencies to enhance the participation of Indigenous representative institutions.

Participation modalities

Might be different according to venue and/or conference.

Set number of speaking spots for accredited observer Indigenous peoples' institutions could be created.

General Assembly separate observer status tailored specifically to Indigenous Peoples' representative institutions:

- speaking rights;
 - a set number of speaking spots for accredited Indigenous peoples' representative institutions could be created based on:
 - geographical/regional distribution ; and/or
 - the usual procedures and practices of Indigenous peoples; and/or
- right to make written submissions

Recommendations with respect to other bodies, including the Human Rights Council and the ECOSOC and its subsidiary bodies, might include:

- accommodation of contributions by national human rights institutions (NHRI's) in the sessions of the Human Rights Council could form an example for the participation of Indigenous Peoples' representative institutions: this would include the right to submit written submissions and make oral statements. The NHRI's are entitled to speak immediately after the State under review during the adoption of the outcome of a universal periodic review of that State by the Human Rights Council in the plenary meeting and immediately after the relevant State that is the subject of a country

report by a Special Procedures mandate holder during the Council's interactive dialogue with the latter.

- specific seating rights;
- relaxing limitations on speaking rights;
 - speaking precedence over NGO's in issues concerning Indigenous Peoples

And/or:

The modalities for participation should not fall below that of ECOSOC-accredited NGOs.

Recognition/selection Mechanism

A new body of experts appointed by states and indigenous peoples to recognize indigenous peoples' representative institutions

- majority Indigenous?; or
- majority states?; or
- equal numbers of Indigenous and states?; and/or
- selection processes like selection for the members of the Permanent Forum on Indigenous Issues; and/or
- Permanent Forum on Indigenous Issues

Placement either under the General Assembly or the ECOSOC but with authority to determine eligibility of entities for participation also in the General Assembly.

Regional representation would need to be considered and the possibility to use the seven Indigenous geo-cultural regions, rather than the five geographic regions usually represented at the UN could be explored.

The General Assembly may reserve the right to approve the selection of the Indigenous peoples' institutions.

Selection criteria

Institution should be *genuinely representative* of one or more Indigenous people, tribe, community or nation.

There needs to be criteria to determine whether an entity is

- a) genuinely representative;
- b) of one or more people, tribe, community or nation that is or are in fact Indigenous.

The recognized Indigenous peoples' representative institutions themselves determine on an independent basis the particular persons who are authorized to act on their behalf.

General criteria should be flexible for the recognition/selection body to develop through its practice.

Determination of whether or not a people, tribe, community or nation is in fact Indigenous should be made taking into account the diversity of circumstances around the world. Specific factors to be flexibly considered, in accordance with current practice within the UN system, include:

- self-identification – important/essential factor;

and:

- state recognition (a significant but not a determinative factor);
- relationship with lands, territories and resources;
- cultural distinctiveness;
- exercise of collective rights;
- practice of self-government;
- have entered into treaties, agreements or other constructive arrangements.

Current practices

The distinct participatory rights of Indigenous representatives institutions would not affect the established practice by which other entities, such as NGO's with ECOSOC consultative status, participate in UN meetings or by which Indigenous peoples, groups and individuals participate in sessions of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) and the Permanent Forum on Indigenous Issues (PFII).