

UNITED NATIONS



NATIONS UNIES

NEW YORK

OFFICE OF THE PRESIDENT OF THE GENERAL ASSEMBLY

16 June 2017

Excellency,

On behalf of the President of the General Assembly, H.E. Mr. Peter Thomson, I have the honour to transmit herewith a letter, dated 16 June 2017 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, containing the updated version of the second revised text for the upcoming negotiations scheduled from 21-23 and 27-28 June 2017.

I encourage the active participation of your delegation, and I trust that you will continue to extend your full cooperation and support to the Advisers as we move into the final stages of this process.

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

A handwritten signature in black ink, appearing to read 'TAC Christensen', written in a cursive style.

Tomas Anker Christensen
Chef de Cabinet

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

New York 16 June 2017

Excellency,

With the reference to your letters dated 28 September, 18 October and 2 and 23 December 2016 and 23 January, 16 February, 11 and 21 April, 19 May and June 6 2017 with respect to the consultation process associated with Indigenous peoples' participation in the United Nations, we are pleased to send you the updated second revised text on the participation of Indigenous peoples at the United Nations.

We wish to note that we have made minor technical updates to the proposal on the possible way forward that was circulated on 6 June, in order to allow delegations more time to consider the text. We hope that this will be helpful to the discussions and pave way for a consensual outcome during the next negotiations. In the text we have noted a reference to existing resolutions and reports, where applicable, reflecting the proposals made during the negotiations. When a reference is not added, the proposal is based on the discussions so far.

We look forward to continuing our discussions with all stakeholders towards reaching a consensus on this issue.

This updated 2nd revision of the text will be the basis on which the negotiations will continue on 21 June. Negotiations are booked also for 22, 23, 27 and 28 June, with the aim to finalise the text during these negotiations.

We wish to convey our appreciation to the delegates for their active participation in and constructive approach to the discussions during the negotiations held on 9 June.

The final compilation and addendum (A/70/990) is available in all official UN languages at: www.undocs.org/a/70/990. The updated second revised text is attached to this letter for your consideration.

It is our view that a successful outcome can only be achieved in partnership together with Member States and Indigenous Peoples. We encourage Member States to continue consulting with Indigenous Peoples in their regions throughout the process.

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

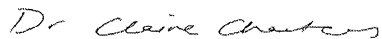
Please accept, Excellency, the assurances of our highest consideration.



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

DRAFT RESOLUTION BY THE GENERAL ASSEMBLY ON ENABLING THE PARTICIPATION OF INDIGENOUS PEOPLES' REPRESENTATIVE INSTITUTIONS IN MEETINGS OF RELEVANT UNITED NATIONS BODIES ON ISSUES AFFECTING THEM

~~PREAMBULAR PARAGRAPHS:~~

PP1 Reaffirming the purposes and principles contained in the Charter of the United Nations. *(Based on A/RES/60/251 PP1 and UN Charter article 2)*

PP2 Reaffirming our support for the United Nations Declaration on the Rights of Indigenous Peoples (hereinafter "the Declaration") adopted by the General Assembly on 13 September 2007 and our commitments made in this respect to consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions. *(Based on WCIP outcome document A/RES/69/2 article 3)*

PP3 Reaffirming the solemn commitment to respect, promote and advance and in no way diminish the rights of Indigenous Peoples and to uphold the principles of the Declaration, including the rights to self-determination and participation in UN decision-making that affects them, in accordance with articles 3, 5, 18, 19, 20, 32, 33, 37, 39, 41 and 42 of the Declaration. *(Based on WCIP outcome document A/RES/69/2 article 4)*

PP4 Reaffirming the Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples and recalling its decision by which member states 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. *(Based on A/RES/70/232 PP8)*

PP5 Recalling its resolution 70/232 of 23 December 2015 in which it requested the President of the General Assembly to conduct 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 to enable the participation of Indigenous Peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them, and also requested 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 General Assembly during its seventy-first session. *(Based on OP 19 A/RES/70/232 and OP24 and OP25 of A/RES/71/178)*

PP6 Recalling Human Rights Council resolutions 18/8 (A/HRC/RES/18/8) of 29 September 2011 and resolution 21/24 (A/HRC/RES/21/24) of 28 September 2012.

PP7 Recalling the reports by the Secretary-General on ways and means of promoting participation in the United Nations of Indigenous Peoples' representatives on issues

affecting them¹ and on the 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 Peoples². *(Partly based on paragraph 48 of Secretary-General's report A/70/84-E/2015/76)*

PP8 Noting the outcome document of the Alta Conference³, in which Indigenous Peoples made recommendations for consideration at the United Nations high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples. *(Based on WCIP outcome document A/RES/69/2 article 2)*

PP9 Recalling the existing arrangements made for participation by Indigenous Peoples, including in the United Nations Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples as well as relevant arrangements made for United Nations conferences, summits and General Assembly High-Level Events.

PP10 Noting that the deliberations at United Nations meetings have become richer, more informed, ~~more solutions-based~~ and more diverse where Indigenous Peoples have been able to participate.

PP11 Convinced that the participation of Indigenous Peoples from all regions contributes to knowledge and expertise in the United Nations as well as to facilitating the strengthening of cooperation between States and Indigenous Peoples in a peaceful and constructive fashion. *(Partly based on SG report A/HRC/21/24 paragraph 13)*

PP12 Noting the efforts by the United Nations system, through the System-Wide Action Plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples, to take concrete and practical steps towards increased full, direct and effective participation by Indigenous Peoples in processes that affect them. *(Based on System-wide Action Plan on the Rights of Indigenous Peoples in document E/C.19/2016/5, in particular paragraph 35).*

PP13 Further noting that existing arrangements for participation by non-State entities within the United Nations system do not adequately enable Indigenous Peoples' representatives institutions to participate in decision making affecting them, including because they are not always organized as non-governmental organizations *(Based on SG report A/HRC/21/24, paras 3 and 7; HRC resolution A/HRC/RES/21/24 PP7 and A/HRC/RES/18/8 OP13)*

PP14 Recognizing that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests. *(Based on PP6 of UNDRIP)*

¹ A/HRC/21/24

² A/70/84-E/2015/76

³ A/67/994, annex

PP15 *Acknowledging* that there is no internationally agreed upon definition of “indigenous peoples”, that the situation of Indigenous Peoples varies from region to region and from country to country, and that the new arrangements for the purposes of participation of indigenous peoples representative institutions made in this resolution apply to representative institutions of indigenous peoples who are residing in countries along with other populations of those countries and often remain vulnerable or marginalized in relation to those other populations.

PP16 Conscious that any new arrangements of participation by Indigenous Peoples within the United Nations system shall not affect or change the existing participation by Indigenous Peoples and organizations or other non-state actors including non-governmental organisations, or affect the intergovernmental nature of the United Nations.

OPERATIVE PARAGRAPHS

PP17 Cognizant of the need to make arrangements to enable Indigenous Peoples’ effective participation in relevant meetings of United Nations bodies on issues affecting them, through their representative institutions,

OP1 Approves the following modalities for Indigenous Peoples’ representative institutions participation at the United Nations:

OP2 Agrees that the Indigenous Peoples’ representative institutions to which this resolution applies are those governance ~~and~~ or other bodies of indigenous traditional or ~~elected~~ **other, including elected**, authorities that are constituted or adopted by Indigenous Peoples **to represent themselves in the exercise of their inherent right of self-determination**; in contrast to non-governmental organizations that are created or led by Indigenous individuals apart from indigenous governance or authority structures, or that are established primarily to address sectoral concerns or particular issues of relevance to indigenous peoples.

OP3 Affirms that the identification of Indigenous Peoples’ representative institutions under the procedure set forth herein (paras. XX-XX) does not imply recognition of those institutions for any purpose other than participation in meetings of relevant United Nations bodies on issues affecting them; and that such identification on its own does not imply that the represented peoples are ‘Indigenous’ or ‘peoples’ for any other purpose under international or domestic law or policy.

Venues of participation

OP4 Urges all bodies and organisations throughout the United Nations system, including Charter and functional bodies, and United Nations funds, programmes and specialized agencies, to enable the participation of Indigenous Peoples’ representative institutions on issues affecting them, as appropriate to the intergovernmental character of the United Nations, and, accordingly:

- a. Invites Indigenous Peoples' representative institutions to participate in the sessions and the work of the General Assembly and its committees on issues affecting them in accordance with the modalities set forth herein. The President of the General Assembly in consultation with Member States and Indigenous peoples' representative institutions shall determine which meetings, or parts thereof, of the General Assembly and its committees address issues affecting Indigenous peoples. At a minimum, they include the parts of meetings of the General Assembly and its committees under agenda items referring specifically to 'Indigenous' or 'Indigenous Peoples'.
- b. Invites the Economic and Social Council, no later than by the end of the 72nd session of the General Assembly, to make the necessary arrangements so that Indigenous Peoples' representative institutions can attend and participate in all its meetings on issues affecting them, including in all its functional commissions.
- c. Invites the Human Rights Council, no later than by the end of the 72nd session of the General Assembly, to make the necessary arrangements for Indigenous Peoples' representative institutions to attend and participate at its meetings.

OP5 Reaffirms that Indigenous Peoples' representative institutions may be invited to attend conferences, summits and other meetings convened by the General Assembly on issues affecting them, in accordance with the relevant decisions established by the General Assembly for those meetings.

Participation modalities and arrangements

OP6 Decides that the following provisions shall apply to the meetings, conferences and summits of the General Assembly, in relation to issues affecting indigenous peoples, and shall serve as guidance for other relevant United Nations meetings:

- a) Indigenous Peoples' representative institutions shall be allowed to make oral statements ~~as time permits~~ in one of the official languages of the United Nations and to submit written statements in one of the official languages of the United Nations.
- b) The allocation of speaking slots for Indigenous Peoples' representative institutions attending meetings of the United Nations shall be arranged **in a balanced way taking into account the principle of equitable regional representation**, ~~in a balanced way, taking into account efficiency, geographic balance and fairness between all participants.~~ The arrangements should not be such as to overburden the work of the concerned body.
- c) Indigenous Peoples' representative institutions ~~will~~**shall** not be permitted to vote, raise points of order, **deliver** right of reply, submit, move amendments to or co-sponsor resolutions, or take decisions or exercise other prerogatives of Member States.
- d) Indigenous Peoples' representative institutions shall be allocated appropriate seating arrangements in meetings they attend. These seating arrangements shall not be overly burdensome for the Organization, but shall, however, seek to **take into account the principle of equitable regional representation** ~~accommodate regional~~

balance of Indigenous Peoples' representative institutions. *(Based on ECOSOC resolution 1996/31, paragraph 67)*

Application mechanism

OP7 Decides to establish a new mechanism to review and decide upon the applications of Indigenous Peoples' representative institutions for participation at the United Nations, called hereinafter the **Indigenous Application Committee**.

OP8 Decides that the composition of the **Indigenous Application Committee** shall be the representatives of ~~seven~~ **[5/7/10]** Members States, elected by the General Assembly taking into account the seven socio-geographic regions of Indigenous peoples that have been identified by the United Nations.

OP9 Decides that the **Indigenous Application Committee** shall be assisted by an Expert Advisory Group composed of seven experts selected by the President of the General Assembly, on the basis of proposals by and consultation with Indigenous Peoples from all seven socio-geographic Indigenous regions.

OP10 Decides that the application process shall be comprised of two stages: first, a recommendation by the Expert Advisory Group; second, decision by the **Indigenous Application Committee** by a majority vote, taking into account the stage one review.

OP114—Decides that the relevant Member States are to be notified **[within 3 months]** when there is an application from an Indigenous Peoples' representative institution to the Committee and that they are invited to provide information with respect to the applicant.

OP121—Encourages that, in the selection of the **Indigenous Application Committee** and the Expert Advisory Group, due consideration **should** be given to the candidates' competence and experience on the rights of Indigenous Peoples, as well as balanced gender representation and the participation of experts with disabilities. *(based on OP13 A/RES/68/268)*

OP132—Decides that each member of **Indigenous Application Committee** and the Expert Advisory Group shall serve for a three-year term and may be reappointed for one additional term, and that these terms shall be staggered.

OP143 Also decides that, within their respective mandates established by this resolution, the **Indigenous Application Committee** and the Expert Advisory Group shall determine their methods of work, guided by the need for financial responsibility, fairness and efficiency.

OP15 Emphasizes that the **Indigenous Application Committee** should strive to consider applications by Indigenous Peoples' representative institutions from all regions, in order to help achieve just, balanced, effective and genuine involvement of Indigenous Peoples' representative institutions from all regions and areas of the world. *(Based on ECOSOC*

resolution 1996/31 paragraph 5). To that end, the **Indigenous** Application Committee shall consider at each of its sessions, to the extent possible, an equal number of indigenous peoples' representative institutions for accreditation from each of the seven indigenous socio-geographic regions.

OP16 Stresses that the decisions of **Indigenous** Application Committee must be transparent and based on the application of objective criteria as set out in this resolution. Applications shall be handled without undue delay and decided upon efficiently and expeditiously. The application process should not be overly onerous for the applicants.

OP17 Decides that the **Indigenous** Application Committee shall provide written reasons when an applicant institution is denied participation as an Indigenous Peoples' representative institution and that the applicant shall have the opportunity to present its response for appropriate consideration by the **Indigenous** Application Committee as expeditiously as possible.

OP18 Decides that the Member State concerned may submit to the General Assembly a request for reversal of a decision by the **Indigenous** Application Committee to grant **or deny** participation in the United Nations by an Indigenous Peoples representative institution. Such a request must be accompanied by a written justification for the reversal, and, before the General Assembly vote on the request, the Indigenous Peoples representative institution concerned shall be given the opportunity to respond to the request and written justification.

OP19 Decides that the **Indigenous** Application Committee may revoke or suspend its decision in favor of participation of an Indigenous Peoples' representative institution, where there is credible evidence that the concerned Indigenous Peoples' representative institution is not in conformity with the requirements of this resolution.

OP20 Further decides that applicants denied participation as Indigenous Peoples' representative institutions may re-apply.

OP21 Decides that the **Indigenous** Application Committee shall meet up to **[10/15]** days a year, allowing for flexibility in accordance with the number of applications for Indigenous Peoples' representative institution participation over time. Meetings could be immediately prior to, during or subsequent to relevant meetings at the United Nations for cost efficiency. Videoconferencing should be used whenever possible.

OP22 Requests the Secretary-General to provide human, technical and financial support to enable the **Indigenous** Application Committee and the Expert Advisory Group to fulfil their mandate fully and effectively. *(based on A/HRC/RES/33/25 Expert Mechanism on the Rights of Indigenous Peoples, OP17)*

OP23 Requests the Secretary-General to make every effort to enhance and streamline, as appropriate, Secretariat support arrangements, to improve practical arrangements on such matters with greater use of modern information and communication technology,

including webcasts, establishment of an integrated database of Indigenous Peoples' representative institutions, wide and timely dissemination of information on meetings, distribution of documentation, provision of access and transparent, simple and streamlined procedures for the attendance of Indigenous Peoples' representative institutions at United Nations meetings and to facilitate their broad based participation.

Application criteria

OP24 Decides that Indigenous Peoples' representative institutions selected for participation as such should be genuinely representative of one or more people or community that qualify as indigenous.

OP25 Recognizes that the situation of Indigenous Peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration.

OP26 Underlines that the **Indigenous Application Committee and the Expert Advisory group** shall take into account relevant factors in determining whether the applicant qualifies as an Indigenous Peoples' representative institution within the scope of this resolution. Such factors are to be flexibly considered.

OP27 Decides that

- a) Factors to be considered to assess whether the peoples or communities represented by applicants are Indigenous include the following, which can be present to a varying degree taking into account the relevant context:

Primary Factors

- the reasoned views of the State concerned regarding the application, if those views are submitted to the Application Committee;
- the existence and terms of domestic laws or policies of the State concerned that are specifically aimed at ~~benefitting~~ **addressing** Indigenous peoples (whether or not referred to explicitly as 'Indigenous'), apart from others residing within the State's territory, because of historical factors and/or conditions of vulnerability;
- self-identification;
- history of dispossession and/or colonization that is distinct from that of the whole of the State population;
- cultural distinctiveness including Indigenous languages;
- a unique relationship with lands, territories and resources;
- recognition as Indigenous by other Indigenous Peoples historically and/or now.

Other factors that can be applied

- the exercise of collective rights as recognized, inter alia, by the UN Declaration on the Rights of Indigenous Peoples;
 - the practice of self-government;
 - traditional authority under Indigenous law;
 - occupation of ancestral lands, or at least part of them, territories and resources over a long period of time; often reflected in prior occupancy;
 - entry into treaties, agreements or other constructive arrangements.
- b) Institutions applying as Indigenous Peoples' representative institutions must show persuasive evidence that they are the legitimate representative of one or more Indigenous people or community. Relevant evidence may include written documentation and, where appropriate, oral testimony. Evidence must not be so difficult to establish as to limit the ability of an Indigenous Peoples' representative institution to be selected. Relevant evidence might include but is not limited to:
- authority under Indigenous law and customs and/or national legislation;
 - election as the representative body;
 - permanent physical presence of the institution and its personnel within the territory of the people they represent;
- existence as an institution for at least two years as at the date of the receipt of the application by the Application Committee.
- c) The aims and purposes of Indigenous Peoples' representative institutions selected must be in conformity with the spirit, purposes and principles of the Charter of the United Nations and should pursue the goals of promotion and protection of human rights. The institution shall undertake to support the work of the United Nations and to promote knowledge of its principles and activities in accordance with its own aims and purposes and the nature and scope of its competencies and activities. They shall not, either directly or through its affiliates or representatives, abuse their participatory rights by engaging in a pattern of acts contrary to the purposes and principles of the Charter of the United Nations.

OP28 Confirms that once accepted by the Application Committee, Indigenous Peoples' representative institutions shall have full authority to select their own delegates.

OP29 Strongly encourages Indigenous Peoples' representative institutions to consult with indigenous women, older persons and persons with disabilities, as well as include them on their delegations. *(Based on GA resolution A/RES/66/296. Organization of the high-level plenary meeting of the sixty-ninth session of the General Assembly, to be known as the World Conference on Indigenous Peoples OP5.)*

General principles

OP30 Consistently with article 46(1) of the Declaration on the Rights of Indigenous Peoples, and read in the light of the Declaration as a whole, notes that nothing in this

resolution may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States. *(Based on Article 46 of UNDRIP)*

OP31 Reaffirming our solemn commitment to respect, promote and advance and in no way diminish the rights of indigenous peoples, and to uphold the principles of the Declaration. *(Based on article 4 of the WCIP outcome document)*

Implementation of the resolution

OP32 Decides to expand the mandate of the United Nations Voluntary Fund for Indigenous Peoples so that it can assist participation of Indigenous Peoples' representative institutions in the meetings of the General Assembly and its Main Committees, the Economic and Social Council and the Human Rights Council as determined by this resolution. *(Based on A/RES/70/232, OP8)*

OP33 Urges Governments and intergovernmental and non-governmental organizations to continue to contribute to the United Nations Voluntary Fund for Indigenous Peoples. *(Based on A/RES/70/232, OP7)*

OP34 Requests the Secretary General together with the Presidents of the General Assembly, the Economic and Social Council (ECOSOC) and the Human Rights Council to ensure that the arrangements decided upon in this resolution shall be fully implemented at the latest by the end of the 72nd session of the General Assembly.

OP35 Requests the Secretary-General to make the present resolution widely known, through proper channels, to facilitate the involvement of Indigenous Peoples' representative institutions from all regions and areas of the world. *(Based on ECOSOC resolution 1996/31, paragraph 70)*

Reporting and Review

OP36 Further requests the Secretary General to report, by its 75th session, on the implementation of this resolution, including on the possible modern information and communication technology measures taken by the Secretariat to enhance the participation of Indigenous Peoples in relevant meetings of the United Nations.

OP37 Decides to discuss the arrangements for Indigenous Peoples' representative institutions participation as established by this resolution within five years of the arrangements having been put into place with a view to assessing whether they adequately ensure Indigenous Peoples' participation in the United Nations and to make necessary modifications at that time.