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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the High
Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Discussions and outcomes of the two intersessional meetings on concrete ways to enhance the participation of Indigenous Peoples in the work of the Human Rights Council

Joint report of the co-facilitators and the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 54/12 and is prepared by the co-facilitators appointed by the President of the Council and the Office of the United Nations High Commissioner for Human Rights. It provides a summary of the two intersessional meetings on concrete ways to enhance the participation of Indigenous Peoples in the work of the Council. The report also contains specific recommendations for the Council's consideration, based on the outcome of the intersessional meetings.



I. Mandate and introduction

1. In its resolution 54/12 on human rights and Indigenous Peoples, the Human Rights Council decided to organize a two-day intersessional meeting before its fifty-seventh session and another two-day intersessional meeting before its fifty-eighth session, in order to allow States, relevant United Nations agencies, funds and programmes, international organizations, Indigenous Peoples from the seven Indigenous sociocultural regions, national human rights institutions and civil society organizations to hold a dialogue on concrete ways to enhance the participation of Indigenous Peoples in the work of the Council.
2. In the same resolution, the Human Rights Council also requested its President to appoint one State co-facilitator and one Indigenous co-facilitator for each intersessional meeting; and decided that the co-facilitators, together with the Office of the United Nations High Commissioner for Human Rights (OHCHR), would be responsible for the preparation of a joint report on the discussions and outcomes of the meetings, including specific recommendations, and for its presentation to the Council before its fifty-ninth session.
3. On 12 June 2024, the President of the Human Rights Council appointed Australia (Pacific sociocultural region) as State co-facilitator of the first intersessional meeting and Canada (North America sociocultural region) as State co-facilitator for the second such meeting and Binota Moy Dhamai (Asia sociocultural region) as Indigenous co-facilitator for both meetings.¹
4. The first intersessional meeting was held on 18 and 19 July 2024 and the second intersessional meeting was held on 17 and 18 October 2024. Both meetings were held in Geneva.

II. Background

5. Indigenous Peoples have been participating to varying extents in meetings of certain United Nations bodies and mechanisms since the 1980s.² That has included, most notably, mechanisms that specifically address Indigenous Peoples' issues, such as the Working Group on Indigenous Populations (under the former Commission on Human Rights), the Permanent Forum on Indigenous Issues (a subsidiary body of the Economic and Social Council) and the Expert Mechanism on the Rights of Indigenous Peoples (a subsidiary body of the Human Rights Council). The enhanced participation of Indigenous Peoples in the United Nations was also one of the central issues addressed during the World Conference on Indigenous Peoples (2014) and in its outcome document.³ Indigenous Peoples themselves have also discussed the issue extensively and made proposals, including in the Alta outcome document⁴ and the Quito outcome document.⁵
6. The adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the General Assembly in 2007 was a landmark. The Declaration enshrines Indigenous Peoples' right to participate in decision-making in matters that might affect them (art. 18, among others), including in the specific context of the United Nations system (arts. 41 and 42). The right to self-determination (art. 3) and the principle of free, prior and informed

¹ See

<https://hrcmeetings.ohchr.org/PresidencyBureau/BureauRegionalGroupsCorrespondence/Correspondence/Letter%20from%20the%20HRC%20President%20concerning%20the%20appointment%20of%20co-facilitators%20for%20the%20intersessional%20meetings%20on%20Indigenous%20Peoples.pdf>.

² For further background information on the participation of Indigenous Peoples at the United Nations, see the stocktaking report prepared by OHCHR (A/HRC/57/35), which was also mandated by Human Rights Council resolution 54/12.

³ General Assembly resolution 69/2.

⁴ A/67/994.

⁵ See

<https://cendoc.docip.org/collect/cendocdo/index/assoc/HASH012b/9dd1a3e1.dir/ENG%20Quito%20Outcome%20Document%202020%25281%2529.pdf>.

consent (art. 19, among others) were also recognized and are central to any discussion of Indigenous Peoples' participation in the United Nations.

7. Indigenous Peoples have been advocating for increased participation in the Human Rights Council since its establishment.⁶ In the context of the Council, the main venues of participation have been the sessions of the Expert Mechanism on the Rights of Indigenous Peoples, in which Indigenous Peoples can request accreditation as representatives of their own organizations and institutions without the need for consultative status with the Economic and Social Council, and the interactive dialogues with the Expert Mechanism and the Special Rapporteur on the rights of Indigenous Peoples, which take place annually during the September session of the Council. Until recently, Indigenous Peoples' representatives needed to be accredited by a non-governmental organization in consultative status with the Economic and Social Council and they could not participate in their own right. Arrangements were made at the fifty-seventh session of the Council⁷ to allow Indigenous Peoples' representatives and institutions duly established by themselves to participate in those interactive dialogues in their own right for the first time.

8. The Human Rights Council subsequently extended that measure indefinitely,⁸ acknowledging that participation as of the sixtieth session did not prejudice the outcome of the ongoing discussions on concrete ways to enhance the participation of Indigenous Peoples in the work of the Human Rights Council and emphasizing the unique character of that participation, based on the United Nations Declaration on the Rights of Indigenous Peoples. Indigenous Peoples were also accredited to participate in their own right in both intersessional meetings on enhanced participation.

9. Following the adoption of the outcome document of the World Conference on Indigenous Peoples in 2014, various consultation processes, both in-person and online, were initiated by the President of the General Assembly to gather input on enhancing the participation of Indigenous Peoples in the United Nations system. In September 2017, the General Assembly adopted resolution 71/321 on enhancing the participation of Indigenous Peoples and requested that three more interactive hearings be organized. Those interactive hearings concluded in 2023. The General Assembly subsequently adopted, in September 2024, resolution 78/328 on enhancing the participation of Indigenous Peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them. At the time of submission of the present report, the process at the General Assembly was still ongoing. At the same time, the agencies of the United Nations system have been working to enhance the participation of Indigenous Peoples in accordance with the sixth element of 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.

10. Meanwhile, in 2018, the Human Rights Council, in its resolution 39/13, welcomed the efforts of the General Assembly on enhancing the participation of Indigenous Peoples and decided to organize a half-day intersessional interactive dialogue on ways to enhance the participation of Indigenous Peoples' representatives and institutions in meetings of the Council on issues affecting them, building on the work done by the General Assembly.

11. The intersessional interactive dialogue was held in 2019,⁹ followed by an intersessional round table in 2021¹⁰ and most recently a four-day expert workshop on possible ways to enhance the participation of Indigenous Peoples in the work of the Human Rights Council in 2022.¹¹ Following the adoption of resolution 54/12, the Council decided to address the issue over two intersessional meetings in 2024.

⁶ See, for example, [A/HRC/21/24](#).

⁷ Human Rights Council resolution 54/12, para. 23.

⁸ Human Rights Council resolution 57/15, para. 25.

⁹ [A/HRC/44/35](#).

¹⁰ [A/HRC/49/69](#).

¹¹ [A/HRC/53/44](#).

III. First intersessional meeting

12. The first intersessional meeting was held on 18 and 19 July 2024 and co-facilitated by the Permanent Representative of Australia to the United Nations Office and other international organizations in Geneva, Amanda Gorely, and Mr. Dhamai.¹²

13. The meeting was attended by representatives of States, Indigenous Peoples from all seven Indigenous sociocultural regions, United Nations agencies, and civil society organizations. The United Nations Voluntary Fund for Indigenous Peoples supported the attendance of 14 Indigenous participants and played a crucial role in ensuring that Indigenous voices from all seven Indigenous sociocultural regions were heard.

14. The meeting was opened by the President of the Human Rights Council, followed by a traditional Indigenous opening ceremony. Opening remarks were delivered by: the Chief of the Rule of Law, Equality and Non-Discrimination Branch of OHCHR, Abdoul Aziz Thioye; Mr. Dhamai; Ms. Gorely; and the Permanent Representative of Guatemala to the United Nations Office and other international organizations in Geneva, Ángela Chávez Bietti, on behalf of the core group of sponsors of the Human Rights Council resolutions on human rights and Indigenous Peoples.¹³

15. The meeting's programme of work addressed the following issues: stocktaking gaps and good practices regarding Indigenous Peoples' participation in the United Nations system; accreditation principles; accreditation criteria; accreditation mechanism; and conclusions and recommendations, including programme of work for the second intersessional meeting.

16. The co-facilitators structured each session using discussion questions, taking the outcomes and conclusions of the expert workshop on possible ways to enhance the participation of Indigenous Peoples in the work of the Human Rights Council as a point of departure.¹⁴

A. Stocktaking gaps and good practices

17. The session opened with a presentation by the Chief of the Indigenous Peoples and Minorities Section of OHCHR, Hernan Vales, in which he identified gaps and good practices. He underscored the contributions of Indigenous Peoples to the international human rights system and the imperative of amplifying their participation. He reiterated key recommendations from the expert workshop held in 2022, including the establishment of a separate accreditation status for Indigenous Peoples and the continued support of the United Nations Voluntary Fund for Indigenous Peoples. Crucially, participation measures must align with the foundational principles of the United Nations Declaration on the Rights of Indigenous Peoples, such as self-identification, self-determination, and free, prior and informed consent. He also called for strengthened protection against intimidation and reprisals for cooperation with the United Nations.

18. The session continued with a presentation by a member of the Permanent Forum on Indigenous Issues, Darío Mejía Montalvo. He highlighted the establishment of the Permanent Forum as a groundbreaking development, following the two decades of the Working Group on Indigenous Populations. He illustrated how States, Indigenous Peoples' organizations from the seven Indigenous sociocultural regions and the presidency of the Economic and Social Council each have a role to play in the selection and appointment of expert members. He then provided an overview of the Permanent Forum's accreditation procedures, which were carried out under a mandate from the Economic and Social Council and implemented by the Department of Economic and Social Affairs. He highlighted the contributions of Indigenous Peoples to several United Nations mechanisms and processes, including the

¹² For further information on the first intersessional meeting, including links to the webcast archive, concept note and programme of work, see <https://www.ohchr.org/en/hr-bodies/hrc/1st-intersessional-meeting-participation-indigenous-peoples>.

¹³ Statements available at <https://hrcmeetings.ohchr.org/HRCSessions/IntersessionalActivities/20240718/Pages/default.aspx>.

¹⁴ A/HRC/53/44.

Committee on the Elimination of Discrimination against Women and the 2030 Agenda for Sustainable Development, and encouraged States to take specific steps to enhance the participation of Indigenous Peoples throughout the United Nations system.

19. Member States and Indigenous Peoples took the floor in the discussions following the opening presentations. Most participants who spoke underlined the contributions that Indigenous Peoples had made throughout the United Nations system and supported enhancing their participation in the work of the Human Rights Council. Most States and Indigenous Peoples called for the creation of a separate status for Indigenous Peoples to participate in Council meetings. Many also recognized that the intersessional meeting was historic in establishing such a status for the first time in an official meeting of the Council.

20. Participants indicated that the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Local Communities and Indigenous Peoples Platform Facilitative Working Group (established by the Conference of the Parties to the United Nations Framework Convention on Climate Change) and the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions had good practices for Indigenous Peoples' participation that could be replicated in the context of the Human Rights Council. Participants also stressed the importance of the right to self-determination and the principle of self-identification in the context of participation in the Council.

21. Several participants referred to the importance of capacity-building to enhance participation, as well as the language barriers that Indigenous Peoples often faced in international forums. One Member State expressed concerns about the legal basis for Indigenous Peoples' accreditation and suggested that the Office of Legal Affairs and the Economic and Social Council be consulted.

B. Accreditation principles

22. The session on accreditation principles opened with a presentation by a Co-Chair of the Indigenous Coordinating Body, Kenneth Deer. He laid out key principles for accreditation, based on the United Nations Declaration on the Rights of Indigenous Peoples. He indicated that the right to self-determination (art. 3) constituted the fundamental principle, as it was the basis for Indigenous Peoples to pursue their economic, social and cultural development. He also emphasized article 1, whereby Indigenous Peoples had the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law; article 2 on non-discrimination; articles 5 and 18 on participation; article 34 on institutional structures, distinctive customs and legal systems; and article 41 on the role of the United Nations towards the full realization of the United Nations Declaration on the Rights of Indigenous Peoples. He then set out a series of more specific criteria for accreditation, based on the following overarching principles, which included having: an identity that had persisted from time immemorial; an identifiable land base, without excluding peoples who had been forcibly removed; distinct languages; the ability to make laws or rules; and relations with other Indigenous Peoples, States and other entities through agreements, treaties, accords and other arrangements that clearly demonstrated their collective ability of representation. Lastly, he stressed that State recognition should not be considered as a principle for accreditation.

23. Discussions ensued after the opening presentation, guided by the following question: given the outcomes of the expert workshop held in 2022, which accreditation principles should be included in the accreditation process?

24. Several States, Indigenous Peoples and non-governmental organizations (NGOs) made statements in response to that question, many of whom had convergent views on the following principles:

(a) Indigenous Peoples were not NGOs and, as such, required an accreditation category separate from that of NGOs in consultative status with the Economic and Social Council;

(b) The United Nations Declaration on the Rights of Indigenous Peoples and, in particular, the principles of self-determination and self-identification should form the basis for all accreditation principles and criteria;

(c) Transparency and accountability were key principles for the accreditation of Indigenous Peoples in relation to meetings of the Human Rights Council;

(d) There was a need to ensure that Indigenous Peoples, in all their diversity, were able to participate, without discrimination, in the Human Rights Council;

(e) Elements for accreditation should be flexible enough to account for the diverse forms in which Indigenous Peoples organize themselves. Elements should also be open to evolve as required to adapt to the changing realities that Indigenous Peoples faced.

25. One contentious issue was whether State recognition of Indigenous Peoples should be required to be accredited in relation to meetings of the Human Rights Council. One State supported that view, while a large number of States and most Indigenous participants felt strongly that, while State recognition could be considered, it should by no means form the basis for accreditation by the Council.

C. Accreditation criteria

26. The session on accreditation criteria opened with a presentation by the Special Rapporteur on the rights of Indigenous Peoples, Francisco Cali Tzay. He stressed that Indigenous Peoples must be accredited under an observer category separate from NGOs or national human rights institutions. In addition to the United Nations Declaration on the Rights of Indigenous Peoples, he cited the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as legal sources that supported that proposal under the right to self-determination. He praised Indigenous Peoples for their perseverance in the struggle to carve out participation spaces in the United Nations. He underlined that establishing accreditation criteria was a complex task due to the complexity and diversity of Indigenous Peoples and that any approach must be solidly based on the principles of inclusion, self-determination, diversity, self-identification and equality of representation. He underlined that, during the drafting of the Declaration, Indigenous Peoples had stressed the importance of maintaining the right to define themselves and to abstain from creating a rigid definition of Indigenous Peoples. He referred to the description put forward by José Martínez Cobo in his 1986 study, which was non-exhaustive.¹⁵ Under the right to self-determination, accreditation criteria should be established by Indigenous Peoples themselves. Furthermore, State recognition should never be a criterion for accreditation.

27. Discussions ensued after the opening presentation, guided by the following question: given the outcomes of the expert workshop held in 2022, which criteria should be taken into consideration for the accreditation of Indigenous Peoples?

28. Several States and Indigenous participants underlined that the accreditation process should focus on the unique historical and cultural contexts that characterized Indigenous Peoples, including their right to define their own identity and representation, emphasizing a holistic connection to land, culture, language, spirituality and traditions, as supported by the United Nations Declaration on the Rights of Indigenous Peoples, without extending it to groups whose identities did not encompass those unique characteristics.

29. Building upon the findings of the expert workshop held in 2022 and the practices of the Expert Mechanism on the Rights of Indigenous Peoples and those of the Permanent Forum on Indigenous Issues, and with the aim of implementing the underlying principles of the United Nations Declaration on the Rights of Indigenous Peoples, several proposals were put forward as accreditation criteria, with the understanding that they should not be applied strictly, but rather following a flexible approach to account for diversity among Indigenous Peoples and differing national and regional contexts. Several participants stressed that those criteria should in no way be interpreted as an attempt to define Indigenous Peoples, although

¹⁵ See <https://social.desa.un.org/publications/martinez-cobo-study>.

one State argued that an agreed definition was important. Crucially, several participants called for the Human Rights Council to move away from specific criteria and a proposal was made for it to only consider broad accreditation principles and not use the term “criteria”.

30. Several Indigenous participants pointed out that the purpose of a distinct status should be to accredit Indigenous participants not as individuals, but on behalf of a collective Indigenous People or nation. Also, both States and Indigenous participants stressed that Indigenous Peoples’ chosen representatives before the Human Rights Council should have the authority to speak for their own nation or people and be accountable to them.

31. The specific elements that were proposed included:

(a) The purpose of a distinct status should be to accredit Indigenous representatives not as individuals, but on behalf of a collective Indigenous People, nation or group;

(b) Indigenous Peoples’ representatives should have the authority to speak for their own nation, people or group and be accountable to them;

(c) There should be reciprocal recognition by other Indigenous Peoples;

(d) Self-governance, traditional authorities or representative institutions should be present, taking into account the diversity in forms of organization;

(e) There should be a meaningful relationship with traditional lands and territories;

(f) There should be common ancestry with the original occupants of traditional or ancestral lands and territories;

(g) There should be a shared history and culture and knowledge of and participation in distinct cultural beliefs and practices;

(h) There should be some form of preservation, possession or use of Indigenous languages;

(i) State recognition of Indigenous Peoples, while a relevant factor in some contexts, should not be a determinative criterion for accreditation.

D. Accreditation mechanism

32. The item on accreditation mechanism was split into two sessions, each with an opening presentation and subsequent discussion around guiding questions.

33. The first session on an accreditation mechanism opened with a presentation by a member of the Expert Mechanism on the Rights of Indigenous Peoples, Sheryl Lightfoot, from the North America sociocultural region. She welcomed the efforts of the Human Rights Council to facilitate the participation of Indigenous Peoples in its work, based on the United Nations Declaration on the Rights of Indigenous Peoples. The Expert Mechanism had proposed to the Council that it adopt a resolution on enhancing the participation of Indigenous Peoples in its work, based on the outcome of the two intersessional meetings. She encouraged States to continue to contribute to the United Nations Voluntary Fund for Indigenous Peoples to continue to facilitate participation. It was essential that an Indigenous-led mechanism be established to accredit Indigenous Peoples. She raised the possibility of the Expert Mechanism playing a role in the accreditation process as a starting point or interim measure. However, she made it clear that the Expert Mechanism’s mandate must be its priority and that any role in accreditation would require additional financial and human resources. Ms. Lightfoot reiterated support for the principles for an accreditation mechanism emanating from the expert workshop held in 2022.

34. The second session on an accreditation mechanism opened with a presentation by the Chair of the Inuit Circumpolar Council, Sara Olsvig, delivered on behalf of the Indigenous Coordinating Body. The principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples, such as the collective right to self-determination and Indigenous Peoples’ right to determine their own identity or membership, must be the foundation of the work of an accreditation mechanism. The mechanism must be independent and its members

must have the insight to know if applicant entities had legitimacy as decision-making bodies of the peoples whom they represented. In a context set up by and for nation States, it would be challenging, but necessary, to establish a new status for Indigenous Peoples' governance bodies. Ms. Olsvig reiterated the conclusions of the Expert Workshop held in 2022 and emphasized the importance of including expertise from all seven Indigenous sociocultural regions. She highlighted the experience of national human rights institutions, indicating that, although it did not provide a model that could be directly applied to accrediting Indigenous Peoples' governing bodies, it could nevertheless serve as source of inspiration for an accreditation mechanism.

35. Discussions in both sessions were guided by the following questions: given the outcomes of the expert workshop held in 2022, what key features should an accreditation mechanism include? How could existing United Nations bodies be adapted or expanded to better facilitate the accreditation of Indigenous Peoples? What elements should guide the work of the accreditation mechanism? What good practices could be adapted from existing accreditation mechanisms?

36. Over the course of the two sessions, most States and Indigenous participants agreed that it would be necessary for the Human Rights Council to establish a new accreditation mechanism. Some States and most Indigenous participants recommended the existing Expert Mechanism on the Rights of Indigenous Peoples assume the role of accreditation mechanism, with a commensurate increase in staffing and financial resources. Many also indicated that the existing mandate of the Expert Mechanism must remain its priority. The Expert Mechanism could continue to play a temporary consultative role on accreditation matters, but given its mandate and limited resources, participants generally agreed that the Expert Mechanism could not absorb a more long-term role in accreditation matters without a substantial increase in its financial and human resources. One State proposed that, rather than create a new mechanism, the Committee on Non-Governmental Organizations of the Economic and Social Council should be adapted to carry out the accreditation of Indigenous Peoples and foster their participation in United Nations bodies.

37. The following elements were some of those proposed for consideration in establishing a new accreditation mechanism:

(a) The accreditation mechanism would require a well-resourced and staffed secretariat to function adequately;

(b) The accreditation mechanism should be composed of Indigenous Peoples from the seven Indigenous sociocultural regions who had been nominated by and had the broad support of the peoples whom they represented, with staggered terms and limits. Gender balance should be taken into account;

(c) The accreditation mechanism must act independently and should be guided by the accreditation principles set out above;

(d) In terms of working methods, accreditation decisions should be made on the basis of simple majority and there should be no power of veto for States. There should be an appeal procedure for Indigenous Peoples' representatives who were denied accreditation;

(e) The accreditation procedure should be easy to understand, accessible and widely publicized in all official United Nations languages to allow for maximum participation of Indigenous Peoples' representatives and institutions in the work of the Human Rights Council. States and Indigenous Peoples should be encouraged to also publicize those procedures in other languages where possible.

E. Conclusions from the first intersessional meeting

38. Representatives of States and Indigenous Peoples thanked the co-facilitators and all delegations that had participated in the meeting. States put forward the following conclusions and recommendations: establish a separate status to accredit Indigenous Peoples; establish a new accreditation mechanism that was guided by the principles of self-determination, self-identification, accountability and independence; consider the Expert Mechanism on the

Rights of Indigenous Peoples serving as an interim accreditation mechanism until a new mechanism could be established; take measures to overcome the language barriers faced by Indigenous Peoples; and ensure inclusion of women, youth, older persons and Indigenous persons with disabilities in the participation process and more broadly in the work of the Council. One State pointed out that there were only a few States participating and suggested that that situation be addressed in advance of the second meeting.

39. Indigenous participants who had taken the floor had convergent views regarding the next steps. Several of them requested that the co-facilitators prepare a discussion paper summarizing the outcomes and proposals emanating from the first intersessional meeting in advance of the second meeting. They reiterated the need for a separate accreditation status for Indigenous Peoples, and that self-determination, self-identification and flexibility should be key principles in the accreditation process. Indigenous participants called for the establishment of a new accreditation mechanism and for the Expert Mechanism on the Rights of Indigenous Peoples to serve as an interim mechanism until such a mechanism could be established. Indigenous participants acknowledged the essential role of the United Nations Voluntary Fund for Indigenous Peoples and requested that it continue to support the participation of Indigenous Peoples in that process.

IV. Second intersessional meeting

40. The second intersessional meeting was held on 17 and 18 October 2024 and was co-facilitated by the Permanent Representative of Canada to the United Nations Office and other international organizations in Geneva, Peter MacDougall, and Mr. Dhamai.¹⁶

41. The meeting was attended by representatives of States, Indigenous Peoples from all seven Indigenous sociocultural regions, United Nations agencies, and civil society organizations. The United Nations Voluntary Fund for Indigenous Peoples once again played a crucial role in ensuring that Indigenous voices from all seven Indigenous sociocultural regions were heard at the intersessional meeting by funding the attendance of 20 Indigenous participants.

42. The meeting was opened by the Vice-President of the Human Rights Council, followed by a traditional Indigenous opening ceremony. Opening remarks were delivered by the Deputy High Commissioner for Human Rights, Nada al-Nashif; Mr. Dhamai; Mr. MacDougall; and the Deputy Permanent Representative of Mexico to the United Nations Office and other international organizations in Geneva, Fernando Espinosa, on behalf of the core group of sponsors of the Human Rights Council resolutions on human rights and Indigenous Peoples.

43. The co-facilitators designed the programme of work taking into consideration the discussions at the first intersessional meeting. The following issues were addressed: recommendations to the Human Rights Council on accreditation principles and criteria; recommendations to the Council on an accreditation mechanism; venues of participation; participation modalities; preventing and addressing reprisals; and conclusions and recommendations to be made to the Council.

44. Following a request made by several State and Indigenous delegations at the first intersessional meeting, the co-facilitators prepared a discussion paper in advance of the meeting, gathering the main proposals emanating from the first intersessional meeting.¹⁷ The co-facilitators structured each session using discussion questions, taking the outcomes of the first intersessional meeting and the conclusions of the expert workshop held in 2022 as a point of departure.

¹⁶ For further information on the second intersessional meeting, including links to the webcast archive, concept note, discussion paper and programme of work, see <https://www.ohchr.org/en/hr-bodies/hrc/2nd-intersessional-meeting-participation-indigenous-peoples>.

¹⁷ See <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/inter-session-meetings/participation-indigenous-peoples/2-intersessional-discussion-paper-site.docx>.

A. Recommendations to the Human Rights Council on accreditation principles and criteria

45. The session on recommendations to the Human Rights Council on accreditation principles and criteria opened with a presentation of the discussion paper by Mr. MacDougall in his role as State co-facilitator. He explained the six key accreditation principles contained in the discussion paper, noting that, although there were differing opinions on specificities, there was a general agreement among both States and Indigenous Peoples regarding those principles, namely: self-determination; self-identification; flexibility; equality among the seven Indigenous sociocultural regions; non-discrimination; and transparency and accountability. He also presented the specific criteria that could inform the accreditation of Indigenous Peoples, which emanated from the first intersessional meeting.

46. The session continued with a presentation by Mr. Deer, who began by acknowledging the efforts of Cayuga Chief Deskaheh (Levi General) and Ratana, a Māori leader from New Zealand, both of whom had attempted to address the League of Nations in the 1920s to raise the challenges faced by their Peoples. Both of their requests to address the League of Nations had been denied. Some 100 years later, Indigenous Peoples found themselves in a meeting of the Human Rights Council, exercising the rights recognized by States in the United Nations Declaration on the Rights of Indigenous Peoples. The most important principle was the right to self-determination, flowing from the fact that Indigenous Peoples were peoples and subjects of international human rights law, including the International Covenant on Civil and Political Rights. He highlighted the need for flexibility, given the diverse forms in which Indigenous Peoples organized themselves, as well as the need to treat all seven Indigenous sociocultural regions equally. He emphasized that Indigenous Peoples exercised their rights collectively.

47. Discussions ensued after the opening presentation, guided by the following request: the discussion paper for the second intersessional meeting, in particular its annex, lists a series of principles and criteria that were proposed during the first intersessional meeting. Please provide any further proposals, comments and suggestions on accreditation based on the annex of the discussion paper.

48. States and Indigenous Peoples' representatives who took the floor were generally supportive of the proposals made in the discussion paper regarding accreditation principles and criteria, which some participants suggested should be entitled the Geneva principles. One of the common themes that arose was the need to prioritize the rights of Indigenous Peoples to self-identification and self-determination as central principles.

49. While most States expressed the view that there should be a focus on accreditation principles, rather than fixed criteria, others expressed a preference for fixed criteria. Some States emphasized the importance of aligning the accreditation process, including the principles, criteria and modalities thereof, with the institution-building package of the Human Rights Council contained in its resolution 5/1. Several States noted the unique historical and cultural realities of Indigenous Peoples, and the need to ensure that any new status was not extended to groups whose identities did not reflect those specific characteristics. A majority of States expressed the view that, although State recognition could inform accreditation in certain contexts, it should not be a prerequisite. Some held the view that it should be considered as a criterion.

50. Indigenous Peoples who intervened consistently emphasized that self-determination and self-identification must be foundational principles. They opposed the use of prescriptive criteria, which could run the risk of defining Indigenous Peoples. They called for a process that respected diverse governance structures and cultural protocols. While State recognition might be relevant, Indigenous participants emphasized that it should not be determinative.

B. Recommendations to the Human Rights Council on an accreditation mechanism

51. The session on recommendations to the Human Rights Council on an accreditation mechanism opened with a presentation of the discussion paper by Mr. Dhamai in his role as

Indigenous co-facilitator. He recalled that there was agreement at the first intersessional meeting that it would be necessary for the Council to establish a new accreditation mechanism and outlined the elements for that mechanism as presented in the discussion paper.

52. The session continued with a presentation by Diego Tituaña, PhD candidate at the Universidad Carlos III de Madrid. He underlined that Indigenous Peoples were not NGOs and required a separate accreditation status before the Human Rights Council and, therefore, a mechanism to accredit them should be established. He put forward four options:

(a) Establishing a new accreditation mechanism that was independent from the Expert Mechanism on the Rights of Indigenous Peoples, composed of seven Indigenous Peoples' representatives (one for each sociocultural region);

(b) Establishing a new accreditation mechanism, composed of seven members nominated by Indigenous Peoples and seven members nominated by States, following the model of the Permanent Forum on Indigenous Issues;

(c) A hybrid mechanism, whereby the Expert Mechanism on the Rights of Indigenous Peoples would serve as an accreditation mechanism, together with seven members nominated by States. That would entail a meeting separate from the annual session of the Expert Mechanism on the Rights of Indigenous Peoples to consider accreditation requests;

(d) A restructuring of the Expert Mechanism on the Rights of Indigenous Peoples and its mandate so that it served as an accreditation mechanism.

53. Mr. Tituaña underlined that any of those options would require additional human and financial resources and that the members of any accreditation mechanism that was established must be experts on Indigenous Peoples' issues with broad knowledge of the United Nations Declaration on the Rights of Indigenous Peoples, international experience and experience working on the ground with Indigenous Peoples.

54. Discussions ensued after the opening presentation, guided by the following question: the discussion paper provides some elements that were proposed at the first intersessional meeting for the establishment of a new accreditation mechanism. Are these elements suitable? What elements would you add, remove or modify?

55. There was broad support from both States and Indigenous Peoples for the creation of a new transparent, inclusive, independent, Indigenous-led mechanism, with equal representation from the seven socioeconomic regions. An alternative proposal was also raised by a State and some Indigenous representatives, whereby the accreditation mechanism could be composed of seven Indigenous members (one for each socioeconomic region) and five State representatives (one for each regional group). Many suggested staggered terms of office of three or four years with a maximum of two consecutive terms.

56. Many States and Indigenous participants emphasized the need for the new accreditation mechanism to be adequately resourced, including a dedicated secretariat. Most States and Indigenous participants proposed that the Expert Mechanism on the Rights of Indigenous Peoples could act as an interim mechanism, if provided with a commensurate increase in staffing and financial resources, although the Expert Mechanism must also maintain focus on its existing mandate.

57. Many Indigenous participants suggested that applicants should be asked to provide comprehensive documentation, including information about their governance structures and decision-making processes; and evidence of their having been recognized as an Indigenous organization.

58. Many participants emphasized that decisions of the accreditation mechanism could be made by simple majority, with some noting a preference for consensus. Indigenous participants stressed the importance of an appeal and review process. Indigenous participants and many States recommended that States should not be able to exercise a power of veto. Many expressed a need for information surrounding the accreditation mechanism to be broadly accessible and circulated in different formats, including in Indigenous languages.

C. Venues of participation

59. The session on venues of participation opened with a presentation by a representative of the Aotearoa Indigenous Rights Trust, Tracey Whare. Ms. Whare referred to the practice of the Working Group on Indigenous Populations (1982–2007), which had established procedures to allow Indigenous Peoples to participate in its sessions without consultative status with the Economic and Social Council. Indigenous Peoples and States had participated on an equal basis in the informal sessions of the Working Group. Ms. Whare referred to participation modalities in other parts of the United Nations system, such as the World Intellectual Property Organization and the International Fund for Agricultural Development. She indicated that Indigenous Peoples' participation was crucial, as they had much to contribute to the international community. She recalled the findings of the expert workshop held in 2022, advocating for Indigenous Peoples' participation in regular and special sessions of the Human Rights Council, interactive dialogues, panel discussions, universal periodic review meetings, informal consultations on resolutions and parallel events.

60. Discussions ensued after the opening presentation, guided by the following question: given the outcome of the first intersessional meeting, and the experience of Indigenous Peoples' participation in interactive dialogues during the fifty-seventh session of the Human Rights Council, is the list of venues¹⁸ of participation contained in the report of the expert workshop held in 2022 suitable?

61. There was broad agreement among both Indigenous representatives and States that Indigenous Peoples should be able to participate in venues of the Human Rights Council that might address issues affecting them. Although there should be flexibility in that regard, Indigenous Peoples proposed that venues of participation include at least: regular and special sessions of the Council and its subsidiary bodies, including interactive dialogues and panel discussions; sessions of the Working Group on the Universal Periodic Review; intersessional activities; and informal negotiations on resolutions.

62. Many participants expressed support for the recommendations contained in the report of the expert workshop held in 2022 and emphasized that, at a minimum, Indigenous Peoples should have the same opportunity to participate as NGOs in consultative status with the Economic and Social Council. Participants also highlighted the positive developments at the fifty-seventh session of the Human Rights Council, in which Indigenous Peoples had participated in two interactive dialogues. Moreover, there was a suggestion that the implementation of enhanced participation could begin immediately by creating space for Indigenous Peoples to participate in informal negotiations and to organize side events.

D. Participation modalities

63. The session on participation modalities began with a presentation by a representative of the International Indian Treaty Council, Ghazali Ohorella. He outlined current constraints on the participation of Indigenous Peoples in the work of the Human Rights Council, including access to meetings, and constraints on agenda items and processes in which they could contribute. He presented some of the reservations expressed by States regarding enhanced participation, particularly in the context of the institution-building package, before providing arguments to overcome them, based on the text of the resolution itself. Those constraints included the limited precedent for accrediting non-State actors as observers, the fact that accrediting Indigenous Peoples as observers might undermine the intergovernmental nature of the Council, and the perception that observer status for Indigenous Peoples could violate the principle of non-selectivity and universality. In addition to fully supporting the recommendations on participation modalities included in the report of the expert workshop held in 2022, Mr. Ohorella proposed that the Council: bestow on Indigenous Peoples the full set of participation rights afforded to observer States; ensure that participation modalities were permanent and not subject to annual review; and build on the modalities successfully

¹⁸ [A/HRC/53/44](#), para. 53.

demonstrated during the first intersessional meeting and the fifty-seventh session of the Council.

64. Discussions ensued after the opening presentation, guided by the following question: is the list of modalities contained in the report of the expert workshop¹⁹ suitable? Please provide any further proposals or comments on modalities of participation.

65. Both States and Indigenous participants expressed support, in general, for the recommendations on participation modalities contained in the report of the expert workshop. They provided several suggestions, including the need to have reserved seats in the Human Rights Council, with some States recommending two such seats. Several States also stressed the need to ensure regional representation. Many States indicated that modalities for Indigenous Peoples' participation should be equivalent to, or greater than, those applicable to national human rights institutions and NGOs, with many mentioning the importance of equal and fair speaking time. One State mentioned the importance of providing interpretation services for Indigenous participants who did not speak one of the United Nations official languages.

66. Indigenous participants shared the view that the principles of self-determination and self-identification should underpin participation modalities and called for the continuation and expansion of modalities that had already been demonstrated at recent meetings. Those included designated seating, co-facilitation of events and distinct badges for Indigenous Peoples. Many Indigenous participants also proposed that Indigenous Peoples be granted observer status without voting rights.

E. Preventing and addressing reprisals

67. The session on reprisals started with a presentation by the Chair of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Peoples, Pablo Miss. He provided an overview of the Fund and welcomed the 20 Indigenous human rights defenders present, through its support, at the meeting. Grantees of the Fund increasingly faced threats, harassment and violence for their participation at United Nations meetings, with those reprisals aiming to silence their voices and deter them from exposing human rights violations. He stressed that, as the participation of Indigenous Peoples in the Human Rights Council was enhanced, exposure to reprisals for cooperation with the Council and its subsidiary bodies and mechanisms would inevitably increase and measures needed to be taken in that regard. He called upon the Council, States and other stakeholders to fully implement existing measures and protocols in the context of enhanced participation. He commended the Expert Mechanism for its position strongly condemning any form of intimidation or reprisals against individuals and groups who participate in its sessions. He proposed several measures, including putting in place clear guidelines to address intimidation and reprisals for cooperation with the Council and its mechanisms; raising awareness and disseminating information on how to report incidents; and issuing zero-tolerance messaging. He underscored the crucial principles of do no harm; confidentiality; safety and security; and free, prior and informed consent. He closed by reminding States that the Fund was dependent on their contributions and encouraged continued support, both political and financial, to keep the Fund thriving.

68. Discussions ensued after the opening presentation, guided by the following questions: how can the Human Rights Council and other stakeholders ensure that existing measures to prevent and address intimidation and reprisals are fully implemented?²⁰ What additional measures can the Council and other stakeholders take to prevent and address intimidation and reprisals against Indigenous human rights defenders in the context of enhanced participation in the Human Rights Council?

69. Participants stressed that Indigenous Peoples must be able to participate freely, safely and fully in the work of the United Nations without fear of intimidation or reprisals. States strongly condemned reprisals, in all forms, against Indigenous Peoples, including Indigenous

¹⁹ A/HRC/53/44, para. 54.

²⁰ See <https://www.ohchr.org/en/reprisals>.

human rights defenders and Indigenous women, for their engagement with the Organization. Many States referenced the importance of the annual report of the Secretary-General on reprisals for cooperation with the United Nations.²¹ States emphasized the need to strengthen and adequately resource existing United Nations mechanisms and protocols for reporting and addressing such reprisals and intimidation.

70. Indigenous Peoples stressed the importance of developing a rapid response protocol for cases of intimidation or reprisals. They called for a review of existing protective arrangements and the establishment of clear guidelines for Member States regarding the protection of Indigenous Peoples and their representatives.

V. Conclusions and recommendations

71. Indigenous Peoples have a long history of contributing to and enhancing the work of the United Nations in tackling some of humanity's most pressing challenges. The expertise, perspectives and contributions of Indigenous Peoples are indispensable to support the work of the Human Rights Council and they should have a seat at the table.

72. Indigenous Peoples are distinct peoples, equal to all other peoples, with their own traditional governance and customary legal systems and the recognized right to self-determination. They are therefore not NGOs, and the current system of accreditation of Indigenous Peoples' representatives by NGOs in consultative status with the Economic and Social Council is not fit for purpose.

73. The following recommendations and proposals are presented for further discussion and consideration by the Human Rights Council, based on the outcome of the two intersessional meetings, as well as the conclusions and recommendations of OHCHR in its stocktaking report²² and the recommendations contained in the report of the expert workshop held in 2022.

74. Nothing in the present report nor in the implementation of the present recommendations should be interpreted as affording a lesser degree of participation, nor as being to the detriment of existing venues and modalities of participation, including participation in interactive dialogues as stipulated in Human Rights Council resolution 57/15 (para. 25).

75. The Human Rights Council should take action on the present recommendations to enhance the participation of Indigenous Peoples in the work of the Council.

76. The Human Rights Council should establish a new, separate accreditation status for Indigenous Peoples, allowing them to participate in the work of the Council in their own right. The purpose of a distinct status should be to accredit Indigenous Peoples not as individuals, but as a collective Indigenous People or nation. Indigenous Peoples' representatives before the Council should have the authority to speak for the nation or People and be accountable to them. The process of granting accreditation should in no way be deemed to define Indigenous Peoples.

77. The accreditation process must be rooted in the United Nations Declaration on the Rights of Indigenous Peoples, in particular article 1 (full enjoyment of all human rights and fundamental freedoms as a collective or as individuals); articles 2 and 22 (equality and non-discrimination); articles 3 and 4 (self-determination); article 18 (participation in decision-making); article 33 (self-identification); and articles 41 and 42 (role of the United Nations in implementing the Declaration). It must also be rooted in the Charter of the United Nations, the institution-building package of the Human Rights Council, and relevant provisions of international human rights law.

78. The accreditation process should be informed by the principles of:

²¹ All reports are available at <https://www.ohchr.org/en/reprisals/annual-reports-reprisals-cooperation-un>.

²² A/HRC/57/35.

- (a) **Self-determination;**
- (b) **Self-identification:** no external definitions or criteria regarding Indigenous identity should be imposed;
- (c) **Flexibility:** the diverse forms in which Indigenous Peoples organize themselves, including, but not limited to, Indigenous governments, Indigenous parliaments, councils, assemblies and traditional authorities, should be accounted for;
- (d) **Equality among the Indigenous sociocultural regions:** Indigenous Peoples from all seven sociocultural regions should be able to engage with the Human Rights Council and should be represented;
- (e) **Non-discrimination:** accreditation procedures should consider the breadth and diversity of Indigenous Peoples, without discrimination;
- (f) **Transparency and accountability:** accreditation principles should be objective and transparent, and the accreditation process should be open, transparent and guided by the principle of accountability.

79. In addition to the principles above, the process of granting accreditation should be guided in a flexible manner by the following elements:

- (a) **Reciprocal recognition as Indigenous Peoples by other Indigenous Peoples;**
- (b) **Presence of self-governance, traditional authorities or representative institutions, taking into account the diversity of forms of organization;**
- (c) **Connection to or relationship with lands, territories and resources;**
- (d) **Common ancestry with the original occupants of traditional or ancestral lands and territories;**
- (e) **Shared history and culture; knowledge of and participation in distinct cultural beliefs and practices;**
- (f) **Preservation, possession or use of shared Indigenous languages, including those in the process of revitalization;**
- (g) **State recognition of Indigenous Peoples, which, while a relevant factor in some contexts, must not be a determinative criterion for accreditation;**
- (h) **Indigenous Peoples' representatives before the Human Rights Council should be legitimately representative of their Peoples and chosen by Indigenous Peoples in accordance with their own procedures.**

80. The principles and elements set out above should be formalized to inform participation in interactive dialogues as stipulated in Human Rights Council resolution 57/15 (para. 25).

81. The Human Rights Council should create a new, independent accreditation mechanism to determine the eligibility of Indigenous Peoples. The mechanism should be composed of Indigenous individuals from each of the seven Indigenous sociocultural regions nominated by Indigenous Peoples from the sociocultural regions from which they come. It should be supported by a well-resourced and staffed secretariat to function adequately.

82. The mandate of the mechanism should emphasize independence and should be guided by the principles and elements set out above. The mandate should also direct the mechanism to try to achieve consensus and, if unsuccessful, make decisions by a simple majority and within clear timelines. The decisions of the accreditation mechanism should not be subject to a veto. Applicants whose requests are denied should be provided with the reasons for the rejection and should have access to an appeals procedure. The application process should be expeditious, straightforward, easy to understand, accessible and widely publicized in all official United Nations languages, without being overly burdensome for applicants. States and Indigenous Peoples should be encouraged to also publicize those procedures in other languages where possible.

83. As an interim measure until the creation of the new mechanism, the Human Rights Council should mandate the Expert Mechanism on the Rights of Indigenous Peoples to serve as a temporary accreditation mechanism. The necessary human and financial resources should be provided for delivery of that additional mandate.

84. Indigenous Peoples should be able to participate under their new status in venues of the Human Rights Council that may address issues affecting them, including, at a minimum, in Council venues open to national human rights institutions and NGOs.

85. Indigenous Peoples should be granted arrangements and modalities that allow for their effective and meaningful participation in the work of the Human Rights Council. Existing practices and modalities should be continued and enhanced. Indigenous Peoples should be distinctly recognized in all participatory processes and should not be grouped with NGOs. Speaking time and other arrangements and modalities should be at least equivalent to those granted to national human rights institutions and NGOs. Representation of the Indigenous sociocultural regions should be taken into account when finalizing the speakers' lists.

86. Bearing in mind its commitment to ensuring the safe and meaningful participation of Indigenous Peoples in its work, the Human Rights Council should take measures to ensure that Indigenous Peoples are able to freely, safely and fully participate in its work without limitations or obstacles and that, should intimidation or reprisals occur, they are addressed in a timely manner.

87. To that end, existing mechanisms and protocols for reporting and addressing intimidation and reprisals for cooperation with the Human Rights Council should be strengthened and adequately resourced. The Council should also raise awareness on procedures and protocols to report and respond to cases of intimidation and reprisals.

88. The Human Rights Council should raise awareness among Indigenous Peoples of the importance of timely reporting of cases of intimidation and reprisals. Indigenous Peoples engaging with the Council and its subsidiary bodies should be encouraged to safely report such incidents.

89. The Human Rights Council should continue to reaffirm in all venues that acts of intimidation and reprisals are not acceptable. Responses to reprisals should continue to be grounded in the principles of do no harm, confidentiality, safety and security, and in the free, prior and informed consent of those concerned.

90. States should ensure that sufficient resources are available to implement all measures necessary for the enhanced participation of Indigenous Peoples in the work of the Human Rights Council, notably by continuing to support the United Nations Voluntary Fund for Indigenous Peoples.
