

Submission from the Expert Mechanism on the Rights of Indigenous Peoples to the Working Group on the issue of human rights and transnational corporations and other business enterprises

8 December 2011

Introduction

1. The Expert Mechanism on the Rights of Indigenous Peoples (Expert Mechanism) thanks the Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group) for its invitation to submit proposals on the Working Group's key thematic priorities and activities.
2. The Expert Mechanism presents the following submission to the Working Group.

Expert Mechanism on the Rights of Indigenous Peoples

3. The Expert Mechanism, established by the Human Rights Council in 2007, is mandated to provide advice, in the form of studies and research, on the rights of indigenous peoples to the Human Rights Council.
4. The Expert Mechanism's studies constitute authoritative interpretations of indigenous peoples' rights. They are grounded in binding international human rights norms as applied to indigenous peoples, for example through the UN Declaration on the Rights of Indigenous Peoples. The Expert Mechanism is made up of experts on the rights of indigenous peoples, often also indigenous themselves, appointed by the Human Rights Council. The Expert Mechanism's studies are a resource to indigenous peoples, states, national human rights institutions, international organisations and other stakeholders on how to best protect, respect and promote the rights of indigenous peoples.
5. The Expert Mechanism has undertaken two studies: on indigenous peoples' right to education (2009) and right to participate in decision making (2011). Each study includes an "Advice", to states, indigenous peoples, international institutions, national human rights institutions, civil society and others.

Expert Mechanism work on indigenous peoples' participation in relation to extractive industries

6. In its Report of its Fourth Session of 2011, the Expert Mechanism:

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

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

7. In Human Rights Council resolution 18/8:

7. *Welcomes* the completion by the Expert Mechanism of its final study on indigenous peoples and the right to participate in decision-making and the inclusion of the examples of good practices at different levels of decision-making therein, including those in connection with the activities of extractive industries, and encourages all interested parties to consider them a practical guide on how to attain the goals of the United Nations Declaration on the Rights of Indigenous Peoples;

8. *Requests* the Expert Mechanism to continue to build on its previous studies, including its study on indigenous peoples and the right to participate in decision-making, as laid out in the Expert Mechanism's latest report;

8. The Expert Mechanism is building on its study on indigenous peoples and the right to participate in decision making, with a focus on extractive industries, in coordination with the Special Rapporteur on the rights of indigenous peoples. The outcome of that work will be submitted to the Human Rights Council in September 2012. The Special Rapporteur is also undertaking research on indigenous peoples and extractive industries operating on or near indigenous peoples' territories.

Coordination and cooperation between the Expert Mechanism and the Working Group

9. The Expert Mechanism notes that Human Rights Council resolution 17/4 requested the Working Group to "work in close cooperation and coordination with other relevant special procedures of the Human Rights Council, relevant United Nations and other international bodies ...".
10. In the light of the Expert Mechanism's work building on its study on indigenous peoples and the right to participate in decision making, with a focus on extractive industries, and the benefits associated with coordination and cooperation with other UN bodies engaged in similar areas of work, the Expert Mechanism would like to express its enthusiasm for working together with the Working Group in relation to issues relevant to both mandates.
11. The Expert Mechanism intends to share a draft of the outcomes of its work building on its study on indigenous peoples and the right to participate in decision making, with a focus on extractive industries, with the Working Group in the coming months. The Expert Mechanism would especially welcome any comments from the Working Group on that draft.

12. The Expert Mechanism expresses its warm regards to the Working Group and appreciation for the opportunity to make this submission.