

Questionnaire for written contributions to the Expert Workshop on the Review of the Mandate of the Expert Mechanism on the Rights of Indigenous Peoples

**Response by Denmark and Greenland
16 February 2016**

Question 1

What are the most valuable aspects of the current mandate of the Expert Mechanism on the Rights of Indigenous Peoples?

Denmark and Greenland has found the work of the Expert Mechanism in providing advice on the rights of Indigenous Peoples to the Human Rights Council through its thematic studies to be valuable, but the actual impact of these studies on the country level has been difficult to assess. To use the full potential of EMRIP and ensure greater impact, the Expert Mechanism should be provided with a specific mandate to assist States to monitor, evaluate and improve the achievement of the ends of the Declaration.

A valuable aspect of the current mandate of the EMRIP is that it, as a subsidiary body of the Human Rights Council, focuses exclusively on human rights issues affecting Indigenous Peoples. EMRIP should remain as a unique subsidiary body of the Human Rights Council. There is no need to change EMRIP to a working group or treaty body mechanism.

Question 2

How can the Expert Mechanism's role in assisting States to monitor, evaluate and improve the achievement of the ends of the Declaration be strengthened?

First, EMRIP should be provided with a defined, specific and more independent mandate in the sense of not having its work determined by the Human Rights Council. This should be done by amending the HRC resolution 6/36.

The mandate of EMRIP must continue to be complementary to the mandates of the other UN indigenous specific mechanisms, but it may be necessary to accept a slight duplication of work. There should in other words be a healthy complementarity between the mechanisms.

There are numerous existing recommendations to Member States from UN monitoring mechanisms relevant to Indigenous Peoples. Denmark and Greenland is of the view that EMRIP could play an effective role in regard to the follow-up on such recommendations from other bodies through the following two activities:

1) Practical and technical assistance and advice: There is a need for practical country-specific **technical assistance** and expert advice to Member States and Indigenous Peoples upon request in regard to, *inter alia*, preparing national action plans or strategies to overcome obstacles to achieving

the ends of the Declaration, including ways to implement indigenous specific recommendations from treaty bodies or the UPR.

Such technical assistance could also be offered to the private sector.

2) Facilitating dialogue and/or hearings: There is also a need for a platform for **constructive engagement between Member States and Indigenous Peoples** on specific challenges in achieving the ends of the UNDRIP which EMRIP could facilitate. Such engagement should be done on a voluntary and request basis and ideally at the national level. EMRIP could also conduct thematic, country or case specific hearings with the participation of States and Indigenous Peoples with the purpose of finding the most suitable measures for each national situation to reach the ends of the Declaration.

Due to the expected increased workload following from the revised mandate, EMRIP should no longer be asked to undertake thematic reports. This would also reduce duplication with the Special Rapporteur and the Permanent Forum.

Denmark and Greenland supports the proposal made in the Report by the UN Secretary-General of 18 May 2015 on Progress made in the implementation of the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples (A/70/84-E/2015/76) to mandate EMRIP to **report annually on the implementation of the UNDRIP worldwide**. Such a report could provide a global overview of the state of Indigenous Peoples in the world.

The key source of information for this report – and EMRIPs work in general - would be the vast amount of information on the situation of Indigenous Peoples held by other UN Human Rights bodies. The report could also be based on information submitted voluntarily by or collected through different sources, including Member States, Indigenous Peoples, NHRIs, non-governmental organisations and other stakeholders. States should, however, not be placed under an obligation to report on the Declaration but be provided with an opportunity to share information on a voluntary basis.

Question 3

Do you have any suggestions to strengthen the Expert Mechanism's collaboration with other bodies and mechanisms working on the rights of indigenous peoples?

Collaboration could be improved through a timely exchange of information e.g. through an annual meeting of the chairs of relevant mechanisms, including Special Rapporteur(s), the Permanent Forum, EMRIP, CERD and as well as the Human Rights Committee.

Collaboration could be further strengthened through a referral system from the Special Rapporteur to EMRIP and *vice versa*.

To ensure a more effective link to the Human Rights Council it could be useful for the Chair of EMRIP to have a regular dialogue with the President for the Human Rights Council.

Question 4

Do you envision a role for the Expert Mechanism in supporting States in the implementation of Universal Periodic Review, treaty body and special procedures recommendations relating to the rights of indigenous peoples?

Please see the response to question 2.

Question 5

How could a new mandate for the Expert Mechanism contribute to greater engagement between States and indigenous peoples to overcome obstacles to the implementation of indigenous peoples' rights?

Denmark and Greenland are open to explore the possibility that EMRIP is given a mandate to provide country specific recommendations for the promotion and protection of the rights of Indigenous Peoples, as appropriate, and to give space for an informal and constructive dialogue between the country concerned and its Indigenous People(s). This could be done based on its findings and conclusions of the annual report. Reference is further made to the response to question 2.

Question 6

Do you have any comments or suggestions concerning the composition and working methods of the Expert Mechanism?

The working methods should be determined by its mandate. The frequency and structure of its meetings should follow from its mandate functions. The specific working methods should, however, fall within the competence of the Expert Mechanism.

As regards the membership, Denmark and Greenland finds that the composition of EMRIP could continue to be the same as now (5 members). An expansion of the membership could reduce its efficiency. As it is of utmost importance that the members have the required expertise and qualifications, the selection process could continue to follow the process for selection of members to the special procedures.

It is crucial that EMRIP receives adequate secretarial support from the OHCHR to effectively fulfil its strengthened mandate. Therefore it cannot be expected that the review will be cost-neutral but it should, considering the financial situation of the OHCHR, be as cost effective as possible. Moving ahead it would be important that the OHCHR provides budget estimates early in the process.
