**Maluku Office**Batugajah, RT004/003, Sirimau, Ambon (Maluku)

October 30, 2022

Secretariat of the UN Office of the High Commissioner on Human Rights

**Re: Written submission to the Expert Workshop**

Tabea and respectful greetings,

 I have the honour to transmit herewith the written submission of Saniri Alifuru (Hereinafter Alifuru Council) to the *Expert Workshop on possible ways to enhance the participation of Indigenous Peoples in the work of the Human Rights Council.*

The Alifuru Council is the representative institution for the Indigenous Alifuru of Maluku, on behalf of the Council allow me to convey our appreciation for the work of the Human Rights Council, the UN Member States, the Indigenous Coordinating Body, Indigenous Peoples and the Office of the High Commissioner on Human Rights for the advancement of the enhanced participation process of Indigenous Peoples’ governments and representative institutions in the work of the Human Rights Council.

 As we continue our commitment to the enhanced participation process, we wish to convey our views based on the modalities to submit written contributions and look forward to the further elaboration and reflection of our views in the Expert Workshop to be held from Monday, 21 to Thursday, 24 November 2022.

Please accept the assurances of our highest consideration,

**Ms. Hunanatu Matoke**
Secretary General Saniri Alifuru

 **Submission of the Alifuru Council to the expert workshop on possible ways to enhance**

**the participation of Indigenous Peoples in the work of the Human Rights Council to be held from Monday, 21 to Thursday, 24 November 2022**

The Saniri Alifuru (hereinafter the Alifuru Council) congratulates the UN Member States, Indigenous Peoples and the Office for the High Commissioner on Human Rights on convening an important workshop to enhanced the participation of Indigenous Peoples’ governments and representative institutions in the work of the Human Rights Council.

The Expert Workshop represents a significant milestone in the ongoing efforts of the United Nations, its Member States and Indigenous Peoples to bestow a consultative and participatory status to the representative institutions of Indigenous Peoples within the United Nations that is justified and in line with the right to self-determination. It will undoubtedly serve as a forum to exchange and elaborate ideas towards strengthening the full, effective, direct and meaningful participation of Indigenous Peoples.

Present submission highlights the Alifuru Council’s understanding of the universal application of the right of self determination for all Peoples, and the Indigenous Peoples and Nations based on their original free existence, inherent sovereignty and the right of self determination in international law. Pursuant to the call of Indigenous Peoples to achieve, at a minimum, permanent observer status within the UN system enabling Indigenous Peoples’ direct participation through their own governments and representative institutions.

The Alifuru Council underscores that present submission summarises its views and appreciates any opportunity to elaborate its views and/or provide additional details during the Expert Workshop.

**Venues of Participation**

*How could the existing level of participation of Indigenous Peoples’ representatives and institutions at the Human Rights Council be enhanced in order to be effective and meaningful?*The Alifuru Council views the enhanced participation process to be strictly focused towards the creation of a new status for Indigenous Peoples’ governments and representative institutions. It is not the purpose of this process to conflate the enhanced status with distinct and separate from status and modalities for the participation of National Human Rights Institutions, individuals, non-governmental organizations, and/or observers at the United Nations.

In addition, the Alifuru Council is of the view that the process and outcome for the enhanced status of Indigenous peoples’ governments, should not be used to diminish, circumvent, undermine or do away with existing practices and rules for the accreditation of representatives of Indigenous Peoples at the United Nations.

Also, the new status or application to the status does not replace or limit Indigenous Peoples’ representative institution’s ability to apply for any other enhanced participatory status such as Permanent Observer status.

*To which venues would a new separate category of participation of Indigenous Peoples’ representatives and institutions in the Human Rights Council give access to?*The Alifuru Council is of the view that the new status should provide Indigenous Peoples’ governments and representative institutions access to meetings of the Human Rights Council, including *inter alia* sessions of the Human Rights Council; sessions of the Expert Mechanism on the Rights of Indigenous Peoples; panels; discussions; dialogues; and informal consultations on resolutions.

*Which criteria should be considered when deciding which meetings of the Human Rights Council should include the participation of Indigenous Peoples’ representatives and institutions?*

The Alifuru Council would like to underscore that Indigenous Peoples’ views and positions are relevant to the work of the Human Rights Council far beyond the discussions that include the word “indigenous” in them. Furthermore, Indigenous Peoples’ governments and representative institutions should have the right to participate in any venue of the Human Rights Council it considers to affect its rights, needs or interests.

Therefore, no criteria should be considered and all meetings of the Human Rights Council should be open to the participation of Indigenous Peoples.

**Participation Modalities**

*What are the current gaps and challenges in terms of existing procedures and practices?*

The Alifuru Council regrets that Indigenous Peoples’ governments and representative institutions experience a number of participatory and therefore self-determination and self-representation limitations. These limitations include the inability to address agenda items at meetings they deem relevant; no access to meetings of matters that affect them; inability to intervene in consultations on draft decisions and resolutions; inability to propose agenda items; and inability to documents and communications relating to the work of the Human Rights Council.

The most salient example is the requirement for Indigenous Peoples to be accredited by ECOSOC as non-governmental organizations in order to participate in the informal consultations of the annual HRC resolutions on human rights and Indigenous Peoples. Though the Alifuru Council appreciates the co-sponsors Mexico and Guatemala to allow Indigenous Peoples to participate in the resolution mentioned above, it underlines that Indigenous Peoples do not enjoy access to other resolutions they deem relevant to their needs, rights and interests.

*What kind of arrangements can be foreseen to ensure effective and meaningful participation of Indigenous Peoples’ representatives and institutions?*

The Alifuru Council envisions an arrangement that bestows Indigenous Peoples’ governments and representative institutions the same participatory rights as Member States. However, given the intergovernmental nature of the United Nations, the new status should not include the right to vote.

**Selection Criteria**

*What factors should be considered to assess if applicants are indigenous?*

The Alifuru Council emphasizes that any selection criteria must be rights-based and respect Indigenous Peoples right to self-determination and self-identification, furthermore the Council underscores that this process or status should not seek to determine criteria or a definition for “Indigenous”. Instead, the criteria should be centered on the representative institution.

As Indigenous Peoples are also Nations that in many cases have existed before the creation of Nation States and political borders, the Alifuru Council proposes to determine criteria drawing from standards and conventions that have already been established in international law, such as the Montevideo Convention. Selection factors that determine the representative nature of these Indigenous Institutions should derive from the UN Declaration on the rights of Indigenous Peoples identifying the population, territory, the institutional structure, and the applicant's ability to participate in UN processes and mechanisms.

The Alifuru Council underlines that the selection criteria should allow for the broadest and most generous interpretation of Indigenous representative institutions as decision making processes and governing structures of Indigenous Peoples may vary significantly from existing or modern structures of democracy. Also, no selection criterion should interfere with Indigenous Peoples’ traditional and/or internal designation procedures. Nor should National or State recognition of applicants be a criterion.

*Which credentials would be necessary for representatives of Indigenous Peoples’ institutions to be considered eligible?*

It is evident that the Indigenous government or representative institution needs to be recognised by their own Indigenous constituents as such.

*Which process would the new established mechanism apply in granting the status of the new category of participation? Are there similar existing accreditation processes that could be considered?*

The Alifuru Council has participated in the operationalisation of the Local Communities and Indigenous Peoples Platform, in particular its Facilitative Working Group and has studied the enhanced participation of National Human Rights Institutions, it looks to draw examples from one or more elements from these processes.

**Selection Mechanism**

*How would a new mechanism for the accreditation of Indigenous Peoples’ representatives and institutions facilitate the process?*

As the scope, purpose and objective of the enhanced participation process is unique from other participation processes, it is the Alifuru Council’s view that the selection mechanism should be separate from other UN bodies, as the selection task should not be assigned to the existing NGO-committee, nor the Permanent Forum, or EMRIP.

*What would be the nature and the membership of such a mechanism?*

The mechanism would objectively review applications by examining the criteria for Indigenous Peoples’ representative institutions and governments outlined under Selection Criteria. Owing to the unique nature of Indigenous Peoples’ decision making processes and institutions, the Alifuru Council proposes two potential selection mechanism models as a basis for discussion.

One possibility could be a selection mechanism composed of representatives of Indigenous Peoples’ governments. Inspired by the Global Alliance of National Human Rights Institutions (GANHRI) Sub-Committee on Accreditation, the examination could occur through peer review of applications and decided by consensus. The OHCHR would be involved to serve as Secretariat to the selection mechanism.

Another possibility would be a selection mechanism composed of representatives of Indigenous Peoples’ governments and Member States. Inspired by the Local Communities and Indigenous Peoples Platform’s selection process for the members of its Facilitative Working Group. This mechanism would consist of an equal membership of both representatives of Indigenous Peoples’ governments and representatives of Member States, on an equal footing with equal numbers and decisions would be made by consensus.

In both options or any other mechanism that includes the participation of Indigenous Peoples, the Alifuru Council underscores that when the membership of the selection mechanism includes Indigenous Peoples representatives and/or Indigenous Peoples’ government representatives that the selection of said members should be based on self-selection in line with Indigenous Peoples’ right to self-determination, participation in decision making processes, and free, prior and informed consent.

*Which powers would the mechanism have? Which other existing UN bodies could be involved in the decision on accreditations? How would its decisions be appealed?*

The Alifuru Council views that the selection mechanism should have the power and authority to make the final decision vis-a-vis applications for the new status. Furthermore, it supports the inclusion of an accessible, effective and timely appeal mechanism into the selection arrangement.

 **Next Steps & Recommendations**

The Alifuru Council welcomes further advancement of the enhanced participation process at the Human Rights Council, and therefore recommends the following steps forward:

1. First step, for the Human Rights Council to allow Indigenous Peoples organizations and representatives of Indigenous Peoples’ governments and representative institutions to participate in discussions about enhanced participation without requiring ECOSOC accreditation.
2. Second step, for the Human Rights Council to consider in September 2023 a standalone resolution on enhanced participation and to immediately start substantial consultations on the four topics of the enhanced participation process; venues of participation; modalities of participation; selection criteria and selection mechanism.
3. Third step, for the President of the Human Rights Council to appoint co-facilitators, one nominated by Member States and one nominated by Indigenous Peoples, to conduct on its behalf timely, representative and transparent consultations and negotiations with Member States and representatives of Indigenous Peoples, on the possible measures necessary, including procedural and institutional steps and selection criteria, to enable the participation of Indigenous Peoples’ representative institutions in meetings of the Human Rights Council on issues affecting them.
4. Fourth step, for the Human Rights Council to conclude consultations by September 2024 and decide on the venues of participation; modalities of participation; selection criteria and selection mechanism of the new participatory status of Indigenous Peoples’ governments and representative institutions.

In addition, the Alifuru Council recommends Member States to:

* Include Indigenous Peoples’ representatives in their delegations during the consultations and negotiations on enhanced participation in the Human Rights Council;
* Ensure that all informal and formal consultations and negotiations at the Human Rights Council associated with enhanced participation are conducted in an open, inclusive and transparent manner including Indigenous Peoples at every stage;
* Collaborate with Indigenous Peoples to organize regional consultations on enhanced participation;
* Engage in bilaterals with States and Indigenous Peoples to find common ground outside of informal and formal consultations and negotiations;
* Support Indigenous Peoples’ inclusion in all consultations and negotiations on enhanced participation including their appointment of advisers to the President of the Human Rights Council;
* Hold a series of informal but high-level meetings with States on Indigenous Peoples’ enhanced participation in the Human Rights Council, and;
* Seek common positions on the ways and means to achieve enhanced participation for Indigenous peoples in the United Nations.