

**Questionnaire to Indigenous Peoples in relation to International Investment Agreements (IIAs)  
and the Rights of Indigenous Peoples**

*International Investment Agreements (IIAs) include Bilateral Investment Treaties (BITs), and investment protection chapters of multilateral and regional Free Trade Agreements. These agreements provide protections for the rights of foreign investors who frequently operate extractive, agricultural or infrastructure projects in or near indigenous peoples' territories. They provide investors with the right to sue States in international arbitration tribunals if their expectations of how they are to be treated are not met. Many of these cases arise in the context of extractive industry projects, where concessions are cancelled or delayed as a result of community opposition. The following questions seek to obtain the perspectives of indigenous peoples and indigenous organizations with regard to the impact of these agreements.*

- 1) How do your people or your organization perceive the impact on indigenous peoples' rights of IIAs entered into by your government?
  - a. To your knowledge, have existing IIAs resulted in negative impacts on the enjoyment of your or other indigenous peoples' rights, either as a result of claims made by investors or due to the reluctance to regulate arising from the prospect of possible arbitration?
  - b. If they have, what were these impacts and how have you responded to them?
  
- 2) Have your people, or your representative organizations, ever been consulted by your national government, or been involved in drafting and negotiating delegations, in relation to:
  - a. the formulation of national policies and action plans in relation to IIAs?
  - b. the text of Model BITs and IIAs and any exception clauses related to protecting indigenous peoples' rights?
  - c. negotiation and ratification of IIAs or impact assessments related to them?
  - d. international arbitration cases related to projects in your territories?
  
- 3) Have your people been consulted in good faith in order to obtain your consent relation to investor-State contacts for projects in or near your territories which may impact on your rights?
  - a. Has the government attempted to obtain your free and informed consent through representative institutions prior to entering into these contracts, and if it did was your decision respected?
  - b. Have these contracts included provisions to protect your rights, or have any other legal agreements been entered into with you to guarantee protection of your rights and providing for fair and equitable benefit sharing?
  - c. Have these projects resulted in negative impacts on your rights, and if so have you had access to effective remedies to address these impacts?
  - d. What pro-active steps have your people taken to ensure your rights are respected before or after investor-State contracts impacting on your rights were signed?