

Permanent Forum on Indigenous Issues

Tenth Session

New York 16-27 May 2011

Agenda Item 4(a): Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

ASIA CAUCUS STATEMENT

On this agenda item on implementation of the United Nations Declaration on the Rights of Indigenous Peoples, the Asia Caucus wishes to put forward this collective statement recalling the General Comment No.1 (Annex of E/2009/43) and its related issues contained in the document no. E/C.19/2011/2 that referenced Article 42 of the Declaration regarding the mandate of the Permanent Forum on Indigenous Issues.

Article 42 stipulates that, “The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.”

The Declaration provides the legal framework of the Forum, together with resolution 2000/22 of the Economic and Social Council, therefore the Forum has the mandate to follow up on the effective implementation of the Declaration.

The Declaration constitutes universal human rights for indigenous peoples that affirmed substantive rights and obligations under existing treaty law. It also has majority support from the member-states and therefore has the binding effect of customary international law. As such, we request all member-states to fulfill their obligations under the Charter of the United Nations¹ to promote and respect for human rights, including the rights of indigenous peoples.

This holds true also for international negotiations being conducted under the UN Commission on Sustainable Development, the Convention on Biological Diversity and the UN Framework Convention on Climate Change, as well as in the review of safeguard policies by international financial institutions.

For example, the UN Permanent Forum is informed that at the session of the UN Commission on Sustainable Development (UNCSD19) member-states, led by

¹ Article 1, 55 and 56.

Canada, the United States, Australia and New Zealand, deleted all references to indigenous peoples' right to Free, Prior and Informed Consent with respect to mining on ancestral lands.

Finally, we wish to acknowledge the Questionnaire to Governments developed by the Secretariat of the Forum that demonstrates a good working method leading to effective implementation of the Declaration. We noted that no Asian states have responded to this good practice at this time of our intervention. We urge the Asian states as well as all other member-states to participate in this exercise to demonstrate their pledge and commitment to the Declaration.

Given the above,

- ◆ We call upon the General Assembly to formalize the mandate of the Forum according to Article 42 of the Declaration,
- ◆ We call upon all member-states to fulfill their obligations according to the UN Charter to respect and promote human rights, including the rights of indigenous peoples as enshrined in the Declaration and other international human rights standards,
- ◆ We call upon the 11 member-states that abstained from voting at the time of the Declaration's adoption (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine) to change their positions and pledge to support the Declaration,
- ◆ We call on the governments of Canada, the United States, Australia and New Zealand to respect the right to Free, Prior and Informed Consent of Indigenous Peoples, including with respect to policies, programmes and projects affecting our lands and our well-being,
- ◆ We call upon all member-states to respond to the Questionnaire to Governments prepared by the Forum that provides a good practice leading to the effective implementation of the Declaration,
- ◆ Finally, we urge the member-states to recognize the status of indigenous peoples as indigenous peoples in their respective countries through constitutional and supportive enabling laws to facilitate the implementation

of the Declaration.

Thank you very much for your kind attention, Madam Chairperson.