



Permanent Mission of Norway
to the United Nations

STATEMENT by Minister Deputy Trine Heimerback

**Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) 11th Session.
Item 4 – Study and advice on free, prior and informed consent**

9 July 2018

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Thank you Chair,

This statement is made on behalf of the following countries: Sweden, Finland, Iceland, Denmark together with Greenland and my own country Norway.

We welcome EMRIPs study on free, prior and informed consent. We wish to use this opportunity to comment on a few issues pertaining to the concept of free, prior and informed consent, which is referred to in several international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples article 19.

The concept of free, prior and informed consent is closely connected to consultations. Consultations serve as an important tool to secure participation from indigenous peoples in decision-making processes and as a tool to increase knowledge of indigenous peoples' issues in Government ministries and agencies.

Consultation in order to obtain free, prior and informed consent demands a real and substantive consultation process, without locked positions from the parties, and with full disclosure of relevant documents.

Time is a key factor; the consultations must take place at a time where it is still possible to influence the legislative or administrative measures. As stated in the ILO Convention No. 169 article 6, consultations shall be undertaken in good faith, and the objective of the consultation process is to achieve agreement or consent. Without early involvement and adequate information, it is not possible to obtain a free, prior and informed consent.

The UN Human Rights Committee has also interpreted ICCPR article 27 as to involve a requirement for indigenous peoples' right to effective participation in decision-making processes. Further details of what this right to participate includes are unclear.

While the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is not a legally binding document, it does provide important guidance. Article 19 declares that states should consult in good faith in order to obtain a free, prior and informed consent. As observed earlier by James Anaya in his capacity as Special Rapporteur on Indigenous Peoples (A/HRC/12/34), this provision of

UNDRIP should not be regarded as according indigenous peoples a general “veto power” over decisions that may affect them, but rather as establishing consent as the objective of consultations with indigenous peoples.

In the negotiations on a Nordic Sami Convention, Sweden, Finland and Norway – and the Sami parliaments in the three states – have agreed on rules for consultations adopted to a Nordic Sami context. It is our view that common rules for consultations will enable the Sami parliaments to strengthen their position as representative voices for the Sami people in our region.

The Act of Greenland Self-Government in many fields goes beyond ensuring free, prior and informed consent. The Act facilitates the transfer of a long range of competences and responsibilities to the Greenlandic Self-Government – or gives the Greenlandic Self-Government the option to have them transferred to it.

Even though agreement is not achieved in every process, it is our experience that consultations often lead to a common understanding of the issues at stake, and thereby to better decisions. Representatives for indigenous peoples and authorities work closer together and strive to achieve a common solution – to the benefit of both parties.

Thank you.