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Mohd Hasim
Counsellor
Permanent Mission

STATEMENT BY MALAYSIA

Agenda Item 3: Clustered IDs with SR on Indigenous People and Expert Mechanism on the Rights of Indigenous People (EMRIP)
21st Regular Session of the Human Rights Council
18 September 2012

Thank you Madam President,

My delegation would like to express our appreciation to Mr. James Anaya, the Special Rapporteur on the rights of indigenous people and members of the Expert Mechanism on the Rights of Indigenous People for their work, comprehensive report and presentation on the indigenous people. Malaysia also reaffirms its support and commitment to the promotion and protection of the rights of indigenous people as set out in the United Nations Declaration on the Rights of the Indigenous People (UNDRIP).

2. Malaysia shares the concern as highlighted by the Special Rapporteur on the issue of violence against indigenous women and the issue relating to the extractive industries operating on or near indigenous territories that could potentially impinge the rights of the indigenous people.

3. Malaysia shares the view that combating violence against indigenous women requires a holistic approach and cannot be addressed in isolation from the range of rights of indigenous people in general. We do recognise that there are instances where indigenous women are more vulnerable to incidents of violence due to their geographical remoteness. We further wish to highlight that violence against women, including indigenous women, are offences under Malaysia's Penal Code. As any other Malaysian citizen, they are accorded equal protection and rights under the law.

4. It is important to have a proper consultative mechanism involving the indigenous people in the decision making process of the extractive industries on or near indigenous territories. Nevertheless, it is also equally important to strike a

balance on the interests of all the parties involved, including the State's interest for public and national development, which in the long-run could bring the overall improvement for the well-being of the people and the indigenous groups in particular, without undermining the indigenous people's fundamental rights. These rights should not come into conflict but rather be complementary of one another.

5. Malaysia agrees with the view that the participation of the indigenous people in the decision-making process vis-à-vis their substantive rights prior to any natural resource extraction activity is vital in addressing their concerns related to the potential adverse impacts of such activities conducted on or near the indigenous area. We also wish to highlight that the indigenous people in Malaysia are accorded native customary rights over the lands that they have settled for generations. As such, they do have certain rights in which they could bring an action in the courts of law if such activities were carried out without their consent or have undesirable impacts on their native customary lands.

6. As citizens of Malaysia, the indigenous groups in Malaysia are entitled to the same rights as other ethnic groups and these rights are not only protected but also guaranteed under the Federal Constitution and the Aboriginal People Act 1954. The Government gives priority in helping the community preserve their traditional cultural heritage. Malaysia tries to find a balance between their economic rights and the preservation of their cultural traditions and way of life. Malaysia believes that all races and groups, without discrimination, should be able to enjoy the rights and benefits as provided by the Constitution.

7. At the same time, Malaysia continues its on-going efforts in the promotion of the rights of the indigenous people through comprehensive policies and strategies for the development of the indigenous people which focuses on uplifting the status and quality of life of the indigenous people. These ~~has~~ have been ~~done~~ achieved through socio-economic programmes that include the provision of education and skills training, opportunities, infrastructure facilities and basic amenities such as electricity and water supply, as well as through the eradication of poverty by formulating specific income-generating programmes.

8. The Government, through collaborations with the relevant local agencies and civil society organisations, has also embarked on efforts to create awareness among the indigenous people in Malaysia on their rights, as well as on providing the necessary consultative platform for the indigenous groups to voice their concerns on the various issues impacting them. Such efforts include the work by the Human Rights Commission of Malaysia (SUHAKAM) in initiating a national inquiry on the issue of customary land rights of the Orang Asli (indigenous people in the peninsular of Malaysia) and other indigenous people of Sabah and Sarawak in 2011.

9. In conclusion, my delegation wishes to reaffirm our support to the work of the Special Rapporteur and the Expert Mechanism on the protection and promotion of the rights of the indigenous people in line with the UNDRIP.

Thank you.

GENEVA
18 SEPTEMBER 2012