

## The UN Permanent Forum on Indigenous Issues, 10<sup>th</sup> Session

New York, 16-27 May 2011

### Statement by the Arctic Caucus

#### Agenda Item 3 (b) Report of the International Expert Group Meeting on Indigenous Peoples and Forests

Thank you Mdm Chairperson,

This statement is on behalf of the Arctic Caucus. We would like to take this opportunity to address the Report of the International Expert Group Meeting on Indigenous Peoples and Forests. The Arctic Caucus thanks the Experts for producing this report, which contains a number of useful elements. In particular, we appreciate the clear distinction the Report makes between *process rights*, on one hand, and *material rights*, on the other.

As the Report elaborates, the early indigenous rights discourse focused considerably on process rights, as evidenced by e.g. ILO 169, an instrument that prioritizes the facilitation of indigenous peoples' participation in decision-making processes. The last two decades or so, however, the indigenous rights discourse has increasingly directed its attention to material rights. For instance, it has been established that indigenous peoples are the beneficiaries of the right to self-determination, a right that entails much more than to *participate* in decision-making. It is a material right to exercise considerable influence over the *outcome* of such processes. As yet another example, international law has recently affirmed that indigenous peoples hold property rights to lands and resources traditionally used. Property rights too are of course a material, rather than, process rights. An indigenous community that hold property rights to its land does not hold a mere right to be consulted before a third party enters its territory. The community normally has a material right to agree on the terms for such entry - or to so say no to it altogether.

Mdm/Mr. Chairperson,

The Arctic Caucus therefore in particular supports the recommendation contained in para. 36 of the Expert Meeting Report, that the Office of the High Commissioner for Human

Rights, the Permanent Forum Secretariat, the ILO, the World Bank and other relevant UN system organizations focus on increasing the understanding of indigenous peoples' underlying material rights to land as well as on the need to give material rights priority over process rights. In doing so, these bodies should conduct analytical work on how the exclusivity criterion commonly encompassed in domestic property rights system is to be understood in the context of indigenous peoples' property rights to land.

In addition, the Arctic Caucus wishes to highlight the recommendation expressed in para. 41 of the Expert Meeting Report, that the Office of the High Commissioner undertakes a compilation of provisions of human rights instruments relevant to indigenous peoples' right to lands, forests and other natural resources, including jurisprudence from UN treaty bodies and recommendations by UN Special Procedures.

Finally, the Arctic Caucus calls on the states in which the Saami people today finds itself residing to comply with the recommendations contained in paras. 35 and 49 of the Report. In accordance with these recommendations, the states shall recognize the Saami people's right to our traditional forested areas and for this purpose amend their national legislations so to comply with the UN DRIP and other relevant international instruments as interpreted by the UN treaty bodies. The states with Saami populations shall further develop national legislations to ensure that corporations engaging in activities on Saami territory comply with the standards set by the UN DRIP, including respecting that any entry into forests traditionally used by the Saami presupposes that consent is given by the relevant Saami community prior to entry.

We thank you, Mdm Chairperson.