



PERMANENT MISSION OF NORWAY

STATEMENT

24st session of the Human Rights Council, Geneva, 18 September 2013

Items 3 and 5: Clustered ID with the Special Rapporteur on IP and EMRIP

Statement by H.E. Ambassador Steffen Kongstad,

Permanent Representative of Norway

Norway wishes to commend the Expert Mechanism for focusing on indigenous peoples' **access to justice**, and encourage EMRIP to continue this work.

Norway also wants to commend the Special Rapporteur for his work over the last years related to **extractive industries and the rights of indigenous peoples**. Extractive industries in indigenous peoples' areas can be challenging. Norway has a legal framework that aims at securing participation of Sami people in decision-making processes. The Norwegian Minerals Act establishes special rules to ensure the basis for Sami Culture in the county of Finnmark. The Government has recently initiated consultations with the Sami Parliament and the Sami Reindeer Herders' Association of Norway to consider whether specific rules should be introduced to protect Sami interests in connection with mineral operations outside Finnmark.

Further, Norway acknowledges the states duty to consult indigenous peoples. States shall undertake these consultations in good faith, and with the objective of achieving agreement or consent to the proposed measures. The Government and Sami representatives do not always reach agreement. However, our experience is that these

consultations have enhanced awareness and knowledge of Sami issues in Government and Parliament.

In March this year, the Government presented its Strategy for the Minerals Industry. The Strategy recognizes the need for knowledge relating to mineral activities in areas with Sami interests.

Chairperson,

We have studied the latest report carefully (A/HRC/24/41), including the list of recommendations. We would like to ask the Special Rapporteur to elaborate on the following two questions:

Firstly: Both ILO Convention no. 169 and UNDRIP have provisions on States duty to consult with Indigenous Peoples with the objective of achieving agreement or consent to the proposed measures. The final thematic report suggests a general rule which establishes indigenous peoples' right to withhold consent and stop a project. This general rule perhaps goes beyond the wording in legally binding documents.

Could the Special Rapporteur elaborate on the distinctions, if there are any, between the principle of consultations with the objective of achieving agreement or consent, and the principle of free, prior and informed consent?

Secondly, the report concludes that as a general rule, indigenous peoples' free, prior and informed consent is required when extractive industries are carried out within indigenous territories. ILO Convention no. 169 article 14 no. 1 distinguishes between lands which indigenous peoples traditionally occupy and lands not exclusively occupied by indigenous peoples, but to which they have traditionally had access.

To what extent does the report take into consideration the definitions of land in article 14 no. 1, when one should determine the importance of the indigenous peoples' consent or disagreement in matters concerning extractive industries?