

Statement by Delegation of the Republic of Indonesia

10th Session of the Expert Mechanism on the Rights of Indigenous Peoples

Item 4: Study and Advice on Good Practices and Challenges in Business and in Access to Financial Services by Indigenous Peoples

Geneva, 11 July 2017

Mr. Chair,

First of all, we would like to congratulate you on your re-election as Chair of EMRIP and take note of the draft study of the Expert Mechanism on the good practices and challenges in business and in access to financial services by indigenous people.

We reiterate Indonesia's position on our support for the adoption of UNDRIP with the understanding that it is instrumental for the promotion of human rights of peoples to whom it is intended to be applicable. However, we consider that it is not applicable in our national context given the nature that Indonesia, as a multicultural and multi-ethnic nation with unchanged demographic composition at the time before and after independence.

Furthermore, in accordance to our Constitution, national laws and policies, Indonesia continues to promote and protect traditional collective rights of sub-ethnic/local communities, known as "*Masyarakat Hukum Adat*". In addition, the Government has taken numerous efforts legislatively and administratively to enhance the promotion and protection of the traditional collective rights of Masyarakat Adat, including the enactment of the Minister of Internal Affairs Regulation on the Guidelines on the Recognition and Protection of Masyarakat Hukum Adat (No.52/2014).

Mr. Chair,

With regard to the good practices and challenges in business and in access to financial services, the National Planning Agency issued a Decree on Guidelines for the Implementation of Cooperation between the Government and Business Entities in the Provision of Public Infrastructure (No.3/2012), which requires public consultation with all stakeholders prior to the commencement of development projects.

Moreover, through Law on the Protection and Management of Environment (No.32/2009), the legislation ensures the respect of local wisdom and Masyarakat Hukum Adat's cultures in the implementation of environmental management programs and policies at the regional levels.

Along with the implementation of various laws and regulations at the local level that guarantees the rights of Masyarakat Hukum Adat, the Government has implemented the principle of "Free and Prior Informed Consent" with regard to development projects that touch upon the issue of land rights of Masyarakat Hukum Adat. This principle underlines the importance of consultation by all parties, including the Government, Masyarakat Hukum Adat, and the business sector. This principle is enshrined in various laws and regulations, such as the Law on Forestry (No.14/1999), Law on Plantation (No.18/2014), Law on Mineral and Coal (No.4/2009), Law on Village (No.6/2014), and the Ministry of Agriculture Regulation Guidelines for Plantation of Business Permit (No.98/2013).

Mr. Chair,

Indonesia attaches great importance to Business and Human Rights, including the inclusive, constructive, and balanced implementation of the UN Guiding Principles on Business and Human Rights (UNGPs).

Nationally, we have integrated Business and Human Rights into our National Action Plan on Human Rights, which include the appointment of focal point, dissemination of UNGPs towards all stakeholders, and formulation of national guideline on Business and Human Rights. Furthermore, the Government has welcomed the initiatives of the National Commission on Human Rights to launch the Business and Human Rights Action Plan this past June.

Mr. Chair,

We acknowledge that challenges remain, in forms of allegations of improper consultation and consent of the local communities, lack of compensation or environmental degradation. However, the Government is committed to continue efforts in addressing the shortcoming and any unintended impacts.

Furthermore, the Government takes seriously any allegations of violations of human rights which have caused loss of means of livelihood and environmental degradation, which will be resolved through mediation or legal procedures and followed up according to the prevailing laws and regulations.

I thank you.