

EMRIP 4 - ITEM 4
Statement by New Zealand

Kia Ora Tatou, Greetings to you all.

New Zealand is grateful for the opportunity to comment on the final study on indigenous peoples and the right to participate in decision making. We contributed willingly to this study, in recognition of the importance of the topic. Allow me first to congratulate and warmly welcome the newly elected members of EMRIP to their roles. We look forward to continuing to work with the expert mechanism. I would also note that we were grateful to have been present for the opening of the session with mihi and karakia from Anahera Scott of New Zealand. As we have just celebrated Te Wiki o Te Reo Maori, or Maori Language Week in New Zealand, we were honoured to hear the indigenous language of our country shared as a taonga or treasure here to open our session.

New Zealand's support for the Declaration on the Rights of Indigenous Peoples reflects the Government's Treaty of Waitangi (the treaty signed in 1840 between Maori and Queen Victoria) commitment to work with Maori, in good faith and in a cooperative manner, on all aspects of law and policy and particularly on those issues which affect them and in which they have an interest, including natural and mineral resources. As set out in our statement of support for the DRIP, New Zealand recognises that Maori have an interest in all policy and legislative matters. Maori have been and continue to be active in developing innovative responses to issues with a strong indigenous perspective.

New Zealand has developed distinct processes and institutions to realise for Maori the opportunity to be involved in decision making. These processes comprise a range of approaches to participation in statutory and operational decision making processes, such as consultation, cooperation, collaboration,

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consensus, negotiation, joint planning, advisory committees and management bodies. Involvement in these approaches ranges from broad guarantees of participation and consultation, to those particular instances in which a requirement of consent is appropriate. These approaches also indicate that participation can be achieved through both formal and informal structures, which may be site-specific, issue-specific, relationship-specific, statutory or non-statutory. Some have legal effect while others comprise unwritten partnerships based on common understandings.

Allow me to give a brief example of a statutory and a non-statutory approach to indigenous participation in decision making. The non-statutory example relates to marine mammals. The Government, through the Department of Conservation, works both nationally and with individual tribes and communities on protocols for the management of stranded marine mammals in New Zealand, taking into account that whales are generally considered to be a sacred species and thus respecting the appropriate guardianship role of the local tribe.

A recent example of a statutory basis to ensure the ongoing participation of Maori in decision making is the establishment, through legislation, of a regime and associated structures between local government, central government and Maori for shared management of the Waikato River, one of New Zealand's most important water resources.

Since our comments made at last year's session on indigenous peoples and the right to participate in decision making, New Zealand has appreciated the opportunity for dialogue afforded by a visit from the Special Rapporteur, Professor James Anaya. The Special Rapporteur found that, especially in recent years, New Zealand has made significant strides to advance the rights of the Maori people. He also identified some key areas for improvement, including recommendations on effective Maori participation in decision making. We look forward to further dialogue with Professor Anaya on his report on New Zealand at the 18th session of the HRC in September.

New Zealand's participatory processes continue to develop. A further perspective on those processes has been provided by a major report that was released in New Zealand at the beginning of this month following an extensive enquiry spanning 21 years, into flora, fauna, cultural and other rights. This report, known as WAI262, was released by New Zealand's Waitangi Tribunal and is currently under consideration by the Government. This Tribunal was established in 1975 as a permanent commission of enquiry into acts or omissions of the State that amount to breaches of the Treaty of Waitangi. Along with the formal response the government will make in due course, the Tribunal's report has the potential to inform future decision making processes in New Zealand.

Kia ora, I thank you.