



UNITED NATIONS WORKING GROUP ON INDIGENOUS POPULATIONS

ELEVENTH SESSION

AGENDA ITEM 4 : STANDARD SETTING ACTIVITIES

TEXT OF NEW ZEALAND STATEMENT

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ITEM 4 : STANDARD SETTING ACTIVITIES

STATEMENT BY NEW ZEALAND GOVERNMENT OBSERVER DELEGATION

I should like to begin by greeting you, Madame Daes, the other members of the Working Group, and the many representatives of indigenous peoples here today, as well as delegations from other Governments and representatives of non-governmental and intergovernmental organisations. The New Zealand Government is pleased to be participating once again in the Working Group on Indigenous Populations. We hope that in this, the International Year of the World's Indigenous People, the Working Group will be able to reach agreement on the text of a draft declaration on the rights of indigenous peoples for forwarding to the Sub-Commission. It would be a fitting culmination of a Year, which while it may not have fulfilled all hopes, has increased the prominence of the concerns of indigenous peoples on the international agenda, and will, we trust, advance the process of righting injustices.

We are grateful to the Chairperson/Rapporteur for her considered revision of the draft declaration. We have read the text we now have before us with great care, taking particular note of the changes introduced since the Working Group met last year. What we now have is a document which seeks to deal comprehensively with the issues confronted by indigenous peoples everywhere; in defining rights, it reflects in a mirror image the wrongs committed against and the hurts suffered by indigenous peoples. That it is so detailed is understandable; for many years the Working Group has been the only forum within the UN system at which indigenous peoples could make their voices heard. It is only in the last year or so that the UN system has been prepared to take account of the special position of indigenous peoples, for example in the context of the UNCED process, and there is still a way to go before their contribution can be valued as it should.

What we have before us represents a growing international consensus, which this body has helped to shape, on principles which should govern the relationship between indigenous peoples and the states in which they live. There can be no argument for example, that indigenous peoples have the right to exist as a distinct community with their own cultural identity, that their relationship with the land is special and must be taken into account by those who have arrived after them, and that they must be involved in determining their own economic and social destiny. For these reasons, my Government generally speaking is sympathetic to the overall

thrust of the Declaration before us; it enunciates many principles which we are trying to put into practice in New Zealand as we seek to build a nation based on partnership between the Maori people and those who are there by right of the Treaty of Waitangi.

We hope to meet the spirit of the Declaration; where we have difficulties is frequently in relation to the level of detail and the categorical nature of the rights set out in a document which will have to cover a wide range of national situations. My delegation made its concerns clear last year on a number of specific points. These remain on the record and I don't propose to revisit them now; the problem is however one that most Governments will face in relation to the Declaration, and it is one that needs a solution.

One issue I would like to raise again, because it is fundamental to the document as a whole and to its future prospects, is that of self-determination. Last year some speakers drew a distinction between the right of self-determination as it currently exists at international law, a right which developed essentially in the post-World War Two era and which carries with it a right of secession, and a proposed modern interpretation of self-determination within the bounds of a nation state, covering a wide range of situations but relating essentially to the right of a people to participate in a state on terms which meet their aspirations and which enable them to take control of their own lives. In our view, as it is currently drafted the Declaration does not adequately reflect this distinction. My delegation believes we will be doing everyone in this room a disservice if we do not come to grips with this issue within the document itself. For those of us who have participated in this working group, Governments and indigenous peoples alike, our goal must be adoption of the Declaration on the basis of a consensus of all 183 members of the United Nations - not an easy thing to achieve given widely differing national situations. For this reason, as the draft works its way through the UN process, we would prefer to see language on self-determination which commits Governments to work with indigenous peoples in a process of empowerment within the state in which they live, rather than language which sets out a right in terms which cause difficulties to most governments, including my own.

Closely allied to the problem of the use of the term self-determination is the question of the use of peoples, rather than people, throughout the Declaration. My delegation understands the importance indigenous peoples attach to the use of the term in the plural as a reflection of their collective dignity. The difficulties with "peoples" relate essentially to the use of the term self-determination; if we can reach agreement on the elements which make up the latter, and have it reflected in the Declaration, then we do not need to refer to indigenous peoples in the singular.

I would now like to refer to a point I made earlier, and which others have made before me, about the complexities of elaborating a document which can apply equally to a range of circumstances. The founding document of the New Zealand nation, and acknowledged as such by Government and Maori alike, is the Treaty of Waitangi. This is a deceptively short document, freely entered into by the Crown and sovereign Maori chiefs more than 153 years ago. By virtue of its first article, the Crown was ceded "kawanatanga", generally defined as the right to govern. In the second article Maori were guaranteed "tino rangatiratanga", a term which is open to a range of interpretations but which has been described as "full chiefly authority".

I have referred to the provisions of the Treaty because I believe its existence as New Zealand's founding document highlights the complexities of drawing up a Declaration as detailed as the one we have before us. In line with the partnership established under the Treaty the New Zealand Government has moved to support Maori initiatives in areas such as broadcasting, health and education. At the same time the settlement of Treaty claims is gradually restoring to Maori tribes their economic base and enabling them to take charge of their own affairs; my delegation will be referring to the most recent developments under the appropriate agenda item. There are however certain areas, such as taxation and a unified legal system, which the Crown believes are basic to the right to govern it assumed in 1840. Their inclusion in the Declaration is therefore problematic for us, while at the same time we can understand their significance for indigenous peoples who operate under a different set of circumstances.

I would like to conclude by suggesting that we think carefully about what happens next, as the Declaration is considered by the Commission on Human Rights, by ECOSOC, and finally by the General Assembly of the United Nations. Unlike this working group, these are bodies made up of Governments. Arrangements can and should be made for the views of indigenous peoples to be heard, but in the final analysis it is Governments which have to accept the obligations in the Declaration. Here I would like to refer to a possibility which I understand was raised at the last Working Group by you, Madame Chair, after you had heard the views of a number of speakers. I refer to the suggestion that the Declaration should be a shorter, much simplified text which enunciates broad principles; what one representative of indigenous peoples called "norms reflecting the aspirations of indigenous peoples...strongly rooted in a broad consensus among the international community". My delegation believes this approach is the one which is most likely to produce results, in terms both of the Declaration itself, and of a real improvement of the situation of indigenous peoples around the world.

I thank you Madame Chair.