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# **Addressee: Member States and Corporations**

**Paragraph #19 Session #8 (2009)**

## **Full Text**

The Permanent Forum calls upon States and corporations to fully recognize the presence and effective participation of indigenous peoples in all negotiation processes relating to the entry of extractive industries, infrastructure projects and other development projects into their communities, consistent with the United Nations Declaration on the Rights of Indigenous Peoples, inter alia, articles 19, 23 and 32. Furthermore, the Forum calls upon all relevant actors to ensure the application of culturally relevant, gender-balanced and gender-based analysis and gender budgeting as critical elements of economic and social development, consistent with articles 21 and 44 of the Declaration.

## **Comments**

Namibia reports (2010): In all decision-making processes, the Government of the Republic of Namibia always applies a community participatory approach.

Finland reports (2010): According to the Act on the Sámi Parliament (974/1995), Section 9, the domestic authorities have an obligation to negotiate with the Sámi Parliament in all far-reaching and important measures which may directly and in a specific way affect the status of the Sámi as an indigenous people and which concern matters in the Sámi Homeland as referred to in the Act. These matters are:

- Community planning;

- The management, use, leasing and assignment of state lands, conservation areas and wilderness areas;
- Applications for licenses to stake mine claims or file mining patents;
- Legislative or administrative changes to the occupations belonging to the Sámi culture;
- The development of the teaching of and in the Sámi language in schools, as well as social and health services; or
- Any other matters affecting the Sámi language and culture and the status of the Sámi as an indigenous people.

The negotiation obligation applies to all levels of administration, that is to say, to local, regional and national authorities alike.

Lately, legislative attempts have been made to improve the consideration of the status of the Sámi as an indigenous people and their opportunities to participate in decision-making. In example, both the new Government Bills for Mining Act (HE 273/2009), submitted to the Parliament on 22 December 2009, and Water Act (HE 277/2009), submitted to the Parliament on 15 January 2010, include provisions aimed at an improved consideration of the Sámi as an indigenous people. In addition, the Sámi Parliament is suggested to be given a possibility to appeal, if the rights of the Sámi as an indigenous people were not adequately considered when making decisions pursuant to these Acts.

The Spanish Government reports (E/C.19/2010/12/Add.9) that it recognizes the full presence and effective participation of indigenous peoples, as it is urged to do by the Permanent Forum. Accordingly, applying the principles laid down in the Spanish Strategy for Cooperation with Indigenous Peoples (ECEPI), it takes particular account of the principle of free, prior and informed consent in the development of activities or programmes that may directly or indirectly affect the indigenous people. Development cooperation project officers are therefore expected to be in constant contact with the main indigenous organizations in each country, creating opportunities for indigenous leaders and representatives to express their views on projects to be developed in their territories or in which they are the beneficiary population.

## **Area of Work**

Human rights