**UN Expert Mechanism on the Rights of Indigenous Peoples**

Measures and implementation strategies in order to attain the goals of the

United Nations Declaration on the Rights of Indigenous Peoples (“Declaration”)

Response by the New Zealand Government

In April 2010 Hon Dr Pita R Sharples, Minister of Māori Affairs, announced to the Permanent Forum the New Zealand Government’s move to support the Declaration. In doing so, Minister Sharples emphasised that New Zealand’s support for the Declaration reflected New Zealand’s longstanding commitments to Māori under the Treaty of Waitangi and with the protections afforded to all its people through its national and international human rights obligations.

1. **Does the state have an overarching national implementation strategy to attain the goals of the Declaration?**

The move to support the Declaration is in keeping with New Zealand’s strong commitment to human rights, and indigenous rights in particular. New Zealand’s statement of support reaffirmed the legal and constitutional frameworks that underpin New Zealand’s legal system, noting that those existing frameworks define the bounds of New Zealand’s engagement with the aspirational elements of the Declaration.

1. **Have specific legal, policy or other measures been adopted especially to implement any or all rights in the Declaration?**

The New Zealand Government maintains its commitment to the rights of indigenous people in New Zealand. The Treaty of Waitangi is New Zealand’s founding document and therefore the cornerstone upon which New Zealand Governments relationship with New Zealand’s indigenous people (Māori) is based.

Our Government is therefore committed to settling outstanding historical grievances under the Treaty of Waitangi and has set the aspirational goal of completing this work by 2014. The Treaty settlements process continues to be supported by increased resources and funding. New Zealand’s approach and processes to the resolution of historical breaches are distinct and well-established. It respects the important relationship between Māori as tangata whenua (people of the land) with their lands and resources but also maintains the existing legal regimes for the ownership and management of land and natural resources.

In June 2010, the New Zealand government commenced implementation of a new culturally-anchored approach to whānau/family wellbeing and development, called Whānau Ora. Whānau Ora is an inclusive approach to providing services and opportunities to families. It requires multiple government agencies to work together with families rather than separately with individuals. The aim of the approach is to empower whānau to take control of their future, to be living healthy lifestyles, to be participating fully in society and to be economically secure.

1. **When devising laws, policies or other measures that affect indigenous peoples, do governmental bodies routinely take into account the Declaration (including indigenous peoples’ rights to participate in decision making that affects them)?**

The Government has made positive steps towards the involvement of Māori in decision making through a range of legal and policy initiatives. For example, Māori have negotiated co-governance arrangements with the Government through the Treaty settlement process. Similarly, Māori now work together with the Department of Conservation (which manages Crown-owned conservation lands and National Parks) and regional authorities to develop regional policy statements and participate in the management of natural resources.

Also in 2010, the New Zealand Government agreed to a wide ranging review of New Zealand’s constitutional arrangements. This includes a review of the role of the Treaty of Waitangi in our constitutional arrangements.  The initial stage of the Consideration of Constitutional Issues is focused on stimulating public interest in, and awareness of, constitutional issues.  This initial stage incorporates the creation of a strategy to develop and share a range of views, including the views of Māori, in a manner that is reflective of the Treaty of Waitangi relationship and responsive to Māori consultation preferences. Public engagement, including engagement with Māori, will begin this year.

Recently the New Zealand Court of Appeal (*Takamore v Clarke* [2011] NZCA 587) considered emerging human rights jurisprudence concluding there is a need to develop the common law, where possible, consistently with the Treaty of Waitangi and the international covenants to which New Zealand is a party.

1. **Has the Government endeavoured to raise awareness about the Declaration at various levels of the community and governance to enhance the prospects of its implementation?**

The Government’s support for the Declaration was also announced in the national Parliament and received widespread publicity. The content and significance for the Declaration have been publicised since, including through the work of the Human Rights Commission. The Commission’s work has included the translation of the Declaration into te reo Māori.

1. **What are the main challenges encountered in adopting measures and implementing strategies to attain the goals of the Declaration?**

New Zealand supports the aspirational goals of the Declaration. Many of the rights in the Declaration have been enjoyed in New Zealand for a number of years. For example:

* Live in freedom, peace and security as distinct peoples
* practise to revitalise their cultural traditions and customs
* participate in decisions in matters that affect their rights
* Practice and teach their spiritual and religious traditions

1. **In the light of the information provided above, what are your views on best practices regarding possible appropriate measures and implementation strategies to attain the goals of the Declaration?**

New Zealand has affirmed that the Treaty of Waitangi is the founding document of this country, and is a unique feature of our constitutional arrangements, establishing a foundation of partnership, mutual respect, cooperation and good faith between Māori and the Crown. In addition, New Zealand does look to the Declaration as a reaffirmation of existing and valued rights and as a source of aspiration and, in this latter respect, looks with interest to the Expert Mechanism and to the current and future practices of other member states and other indigenous peoples to determine the Declaration’s developing role.