Thank you, Mr. President,

I would like to make an explanation of position on behalf of India regarding the report of the 8th Session of the Permanent Forum on Indigenous Issues to the ECOSOC, as contained in document E/2009/43.

Mr. President,

India has consistently supported the promotion and protection of the rights of the indigenous peoples. In this regard, we had also supported the UN Declaration on the Rights of the Indigenous Peoples in 2007 on the basis that the Declaration does not define what constitutes "indigenous peoples" and it was our understanding that the issue of indigenous rights pertains to peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. This is precisely the definition used in ILO Convention No. 169 of 1989. Consistent with this definition, we regard the entire population of India at the time of our independence, and their successors, to be indigenous.

Mr. President,

In one of the recommendations of the Permanent Forum’s last meeting in May 2009, namely E/C.19/2009/L.3, the Forum adopted General Comments No. 1 (2009), as noted in paragraph 87 of the Forum’s report and annexed to it, on the Article 42 of the United Nations Declaration on the Rights of Indigenous Peoples. In this regard, we would like to emphasize that there is a clear understanding in international law about what constitutes customary international law, and about the status of a Declaration adopted by the UN
General Assembly. We believe that legally binding norms are created only by a Convention and in respect of State Parties to that particular instrument.

Further, Mr. President, one of the reports that was submitted by the UNDP to the Permanent Forum namely, E/C.19/2009/3/Add.5, interchangeably used the terms ‘tribals’ with ‘indigenous’ in the Indian context, especially in paragraphs 17, 30 and 58. We would like to reiterate that there is a clear distinction between the two terminologies and we have stated the same in various international fora, including at the UN General Assembly. Therefore, the UN System, including its various Specialised Agencies and Funds and Programmes, should ensure that it uses correct terminologies in all its public documents and reports.

Thank you, Mr. President.