

Statement on the review of the Council

First part of second session of the working group – 7 February 2011

Mr President,

We welcome this opportunity, and appreciate your efforts to lead the Council towards a successful outcome of the review process. In particular, we appreciate the open format for the second session of the Working Group, allowing for the most effective participation of both members and observers, including NGOs and NHRIs.

We agree with the intervention by one State that comparable ambition should be shown across all areas of facilitation, but we oppose the minimalist approach taken by many to the review. The Council needs to become more responsive to the needs and expectations of human rights defenders around the world. This should be the benchmark against which the success or failure of the review process should be judged.

We are therefore dismayed that some States continue to block progress in the review. This morning we have heard repeated calls to maintain the status quo in areas where the Council has been dysfunctional, while at the same time old efforts reemerged to cripple those aspects of the Council's work that have actually provided concrete protection to the victims of human rights violations. We therefore look to you, Mr President, to find courageous ways forward and to ensure the Council upholds the highest standards of human rights protection.

Let us offer a some specific comments that could help us move in that direction:

In all aspects of its work, the Council depends on the contribution of civil society, individuals and organisations who provide the Council with the necessary information to carry out its tasks. The Council has a responsibility for the safety of these individuals and for protecting them against reprisals - a responsibility it has in many instances failed to fulfil. While we welcome the inclusion of reprisals under the heading of 'Cooperation' in the special procedures part of the compilation, the final supplement to the institution-building text should contain a separate crosscutting section on this. It could contain concrete measures to address reprisals, including regular follow-up to cases of reprisals and a clear role for you, Mr President, in drawing the Council's attention to these cases.

We welcome the continued discussion of innovative proposals to address situations of human rights violations in a timely way. Such a mechanism needs to allow the Council to address both chronic and urgent situations. We admire the courage and

resolve of those States that continue to support a constructive discussion around the proposal made by the Ambassador of Brazil, despite the purported positions of political groupings they belong to. With regard to the functioning of the mechanism proposed, however, we deem it unacceptable that NGOs and NHRIs would be barred from participating fully in the process. The Council cannot arrive at a meaningful decision in relation to situations on the ground if it does not take into account experiences and information provided by human rights defenders.

This concern is a crosscutting issue, and applies to all clusters of the review. Of course, the Human Rights Council is an intergovernmental body. But while members take decisions, the Council has always followed the practice of full and effective participation of observers, including NGOs and NHRIs. The review should recognise and build on this heritage, rather than undermine it.

In relation to the special procedures, we welcome efforts to improve the selection process for mandate holders. However, any changes need to safeguard the transparency of the process including by ensuring that a list of applicants is made public on a rolling basis. Continuing attempts to undermine the independence of the special procedures through calls for the establishment of a legal committee are regrettable. We support the efforts of the facilitator to find common ground, including his call that existing accountability mechanisms should be strengthened. Increased trust between mandate holders and States would improve the effectiveness of the system of special procedures; but such trust can only be built from a basis of mutual cooperation.

The UPR has been one of the better elements of the Council's work, yet again we have seen attempts made to undermine it. In particular we regret attempts to limit the scope of the second cycle by restricting follow-up to accepted recommendations only. This would allow the State under review to unilaterally define the scope of future reviews, and would deprive the process of its 'universal' scope.

These are preliminary comments on the review, and we look forward to working with you, Mr President, in the coming weeks towards a successful outcome of the review process.