

## **Position of Cuba for the informal consultations by the President on the modalities of the HRC Review Process**

### General scope of the review

- The resolution 60/251 is not due for review. Only the status and the work and functioning of the HRC are to be reviewed as mandated in op. 1 and 16. Therefore, issues relating to HRC composition, requisites for election and other elements contained in 60/251 fall outside the purview of the review processes.
- The review of the *status* is limited only to considering whether the Council should remain a subsidiary body of the GA, be elevated to main body or go back to become again a commission under the ECOSOC.
- The review of the work and functioning comprises the review of the implementation of the IB package and other documents related to the institutional building (decisions & presidential statements adopted to complete elements missing in the IB).
- Preserving the positive developments achieved during the establishment and institutional building of the Council, and avoiding the enhancement of tools for political manipulations and selectivity must be important priorities of the review process.
- Reopening of the IB package should be avoided as much as possible, as the review should be focused on filling existing gaps and on making the necessary fine-tunings to improve the work and functioning of the Council.

### General Assembly and Human Rights Council processes

- The General Assembly should not start working on the review of the HRC status until the Council finishes the review of its work and functioning. To that end, a resolution may be passed by the GA delaying the beginning of the review of the Status.
- The HRC could make a recommendation to the GA on its own status. This would not contradict the mandate given to GA in op 1 of res. 60/251, as the GA would be the one taking the final decision. As a subsidiary body, the HRC can make recommendations to the GA.
- As the open ended WG established by res. 12/1 was mandated to deal only with the work and functioning of the Council, a recommendation on the status would be a separate document, adopted at the level of the Council.

- The ideal package of the review would comprise two resolutions recommended to the GA: one on the status and one on the work and functioning.

#### Agenda and Programme of Work

- The work of the review process should build on the experience of the IB process. To that end, the agenda of the review should be based on the structure of the IB package. Following this approach would avoid lengthy and complex discussions to agree on a different structure or to agree on an agenda.
- The proposal for modalities advanced by a number of NGO's is flawed and if taken would render the process repetitive, disorganized and confusing. This is just one example of how complicated the process could be if we start trying to re-invent the wheel and deviate from the IB structure.
- As during the IB process, the President may appoint, in consultation with all Groups, facilitators to conduct the discussions and negotiations of the review. Such facilitators would cover the Chapters of the IB text, which encompass all areas relevant to the work and functioning of the Council.
- The review process is to be strictly intergovernmental, though due consideration should be given to the contributions by the civil society.

#### Preparation of the Working Group Sessions

- The reports emerging from different informal parallel processes are to be considered only as a source of information for delegations, but not as official documents or negotiating basis for the process. No compilation of these documents is needed, as all of them have been widely distributed by their authors. We should also bear in mind that not all these processes have been open to the participation of all.
- Member States, regional and political Groups are in complete liberty to prepare proposals and submit them for consideration.
- Two sessions of five working days each, as mandated by resolution 12/1, might not be enough to finalize the negotiating process. Therefore informal consultations by the facilitators should be encouraged prior and after the WG meetings in order to have more time for discussions and negotiations.
- After thorough discussions and on the basis of the agreements reached, the facilitators would prepare concrete proposals to be handed over to the President. The President would then compile all the proposals in a review package to be considered for adoption in June 2011.

- The GA would then take up the package for consideration and adoption after September 2011.