

Human Rights Council 2011 Review
Open-ended Working Group
Statement by the Delegation of the United States of America
On Advisory Committee/Complaints Procedure
and Agenda and Framework for the Program of Work
February 18, 2011

Thank you, Mr. President.

We would also like to thank the facilitators for these clusters. We appreciate all their efforts.

We continue to maintain that the **Advisory Committee** is not functioning properly or effectively and should be abolished, and those budget resources shifted to the Special Procedures. However, if the Advisory Committee is not abolished, we must at least improve the expertise of the Advisory Committee and ensure it can contribute to the work of the Council. One way to do this would be to adopt the proposal made by the Europeans and others to create an ad hoc advisory committee based on a reserve of internationally recognized experts. We ask that you include the European proposal in the draft document.

We generally welcome the provisions in paragraph 42 to improve the selection process. Paragraph 42(a) should make clear that civil society and accredited National Human Rights Institutions can also propose candidates. Paragraph 42(c) should also be modified to delete "from their own region" from paragraph 66 of the IB package.

Paragraph 43 should be deleted as it is inappropriate to require the Council to increase the engagement of a body that is not performing to expectations. The Advisory Committee must show it can perform its current mandate effectively before being asked to do more. For paragraph 44, the last sentence should be deleted as establishing multiple channels for directing the Advisory Committee could lead to confusion for the Advisory Committee and the Council. While we would welcome an interactive dialogue, as called for in para 46, we do not want such to occur if it come at the expense of other, more important work of the Council. Finally, we support paragraph 47, as it could be a way to streamline our work.

Mr. President,

We are concerned that the **Complaints Procedure** is often slow, unresponsive, and ineffective in protecting individual victims of human rights violations and we are not convinced that the proposals in this section are geared to be more responsive to victims. We appreciate paragraph 48, but would underline that this only clarifies one aspect of the existing procedure. To further clarify the existing practice we should add to the end of para 48: "Furthermore, the consideration of a situation by the Complaint Procedure does not preclude action by the Council."

To increase the transparency and effectiveness of the Complaint Procedure we propose adding 49bis which would state: "The Working Group on Situations shall publish their findings at an appropriate time, and these reports shall be distributed as official documents. In addition, the Working Group on Situations may decide to publish a report on a situation when it decides the state in question is not cooperating with the process."

Mr. President,

We are surprised that the **Agenda and Framework for the Program of Work** has so few elements considering the importance of this cluster and the fact that the

agenda and program of work forms the foundation for all the work we do in the Council. Paragraph 51 is completely non-substantive, makes no change, and should be deleted. For paragraph 52, we cannot accept any reduction in the regular sessions of the Council unless there are solid mechanisms in place to ensure the Council will address urgent and chronic situations, including leaving the option of passing resolutions, throughout the year. This can be done by creating a triggering mechanism, or by allotting fixed times throughout the year for additional plenary meetings. Otherwise, we face the prospect of having six months or more without any affirmative action by the Council. This Council should be doing more, not less.

We also propose a paragraph 52bis which states that "once per year, the Council shall review state cooperation with the Council and other human rights bodies and mechanisms under agenda item 5."

Finally, discussing the elimination of Item 7 must remain part of this review. This is the only agenda item that is dedicated to one situation, and we have not heard any explanation of how this agenda item meets the Council's stated principles of fairness, even-handedness and non-selectivity. Thank you, Mr. President.