



SRI LANKA

STATEMENT

By

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**ITEM 67 (c) : HUMAN RIGHTS SITUATIONS AND REPORTS OF
SPECIAL RAPPORTEURS AND REPRESENTATIVES**

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(Please check against delivery)

Mr. Chairman,

The statement of the EU delegation under this Item highlighted human rights concerns in respect of several countries, including Sri Lanka. The Special Rapporteur on Extra Judicial, Summary or Arbitrary Executions, Mr. Philip Alston, in his introductory statement presenting his report, also referred to Sri Lanka.

We appreciate the Special Rapporteur's abiding interest in Sri Lanka, following his recent official visit to my country and thank the EU delegation, for its support for pursuit of peace and promotion of human rights in my country. My delegation however, would like to take this opportunity to clarify some aspects of all concerns expressed and brief this Committee on recent developments in Sri Lanka.

First, we would like to recall that the recent escalation of violence in Sri Lanka was a result of the resumption of hostilities by the LTTE, including assassinations, suicide bombings, attacks against civilian targets and critical infrastructure facilities including depriving civilian populations of water. In the months building up to the resumption of hostilities by the LTTE, the largest number of casualties were the security forces in non-combatant situations. In August 2005, while the Ceasefire Agreement was fully in force the first clear signal that LTTE was preparing to resume hostilities came with the shocking assassination of the then Foreign Minister Lakshman Kadirgamar. Despite this severe provocation, the Government continued to exercise maximum restraint. In callous disregard to such gestures, LTTE accelerated its campaign of violence and terror throughout the country and as usual without taking responsibility for such acts. The Government, after exhausting all other peaceful options, therefore, was constrained to take limited and targeted

military action against LTTE, which was primarily defensive in nature, and to make clear the futility of returning to hostilities to settle an issue that can be solved through negotiation.

Mr. Chairman,

The Government's commitment to continuing the peace process with the facilitation of Norway and for resuming negotiations with the LTTE was reiterated on several occasions by the President of Sri Lanka following his election last November. The Government has since taken determined efforts to reach out to the LTTE, while taking measures to evolve national consensus for a negotiated settlement, including constituting of a Panel of Legal and Constitutional Experts to work out a framework for devolution of power. In this context, the Government is pleased that with the active facilitation of Norway, and as a result of the concerted efforts by the co-chairs of the peace process, peace talks with the LTTE will now resume in Switzerland on 28th October, in fact, tomorrow. We hope that commencement of these negotiations will afford the LTTE an opportunity to create forthwith, a climate in the North and East to uphold human rights, democracy and pluralism.

In the meantime, as part of the Government's effort to evolve a national consensus for a negotiated settlement, in addition to ongoing efforts of the All-Party Conference, a Memorandum of Understanding was concluded between the governing party and the main opposition last week, by which parties agreed to co-operate, on the resolution of the conflict in the North and East, electoral reforms, and good governance, among other issues. The MoU specifically mentions that action will be taken to implement the 17th Amendment to the Constitution under which provision for constituting of the independent National Police Commission, Public Service Commission and the Human Rights Commission have been made. This will, no doubt, facilitate addressing the issues highlighted by the Special Rapporteur in paragraphs 24 and 26 of his report.

At the same time, we hope that this commitment of the democratic leadership in Sri Lanka to advance the peace process will be reciprocated by the LTTE by engaging in meaningful negotiations from now on. We expect LTTE to heed the call of the international community, particularly the US, EU, Japan and friendly countries in our neighbourhood, as well as the facilitator Norway, that there is no other way to resolve the conflict in the North and East, than through peaceful means.

Mr. Chairman,

While taking all possible measures to advance the peace process and national consensus-building effort, the Government has manifested its commitment to address human rights concerns arising out of the recent resumption of hostilities by the LTTE. In this regard, our consistent policy of cooperation and constructive engagement with the special mechanisms of the UN and the international community, is an opportunity for working collaboratively and creatively to respond to such concerns. Let me briefly outline the measures taken by the Government;

With regard to allegations of extra-judicial executions, disappearances, other reported violations of the right to life, the Government has decided to establish a National Commission of Inquiry and invited an International Independent Group of Eminent Persons (IIGEP) to observe such inquiries. The IIGEP will have access to witnesses, satisfy itself as to whether investigations and inquiries are conducted in a transparent manner and in accordance with the basic international norms and standards, provide any technical or other advice to the commission of inquiry, and submit independent reports directly to the President including interim reports on the conduct and progress of investigations. Every member of IIGEP is entitled to release his or her observations in the form of public statements and will be

afforded the necessary diplomatic privileges and immunities by the Government for the effective performance of their functions. Criminal proceedings will be instituted against a particular person or group of persons , where a recommendation to that effect has been made by the Commission of Inquiry, following its investigations.

The National Commission will investigate and inquire into several incidents in respect of which accusations have been levelled on the parties to the conflict, including the killing of 17 local aid workers of the French NGO Action against Hunger; the killing of 51 persons in Sencholai; the killing of 68 persons at Kebithigollawa; the alleged execution of Muslim villagers in Muttur and killing of 10 Muslim workers at Pottuvil; as well as other assassinations and disappearances. This action taken by the Government addresses the concern raised in paragraph 18 of the report of the Special Rapporteur, that no domestic mechanism could respond effectively to conflict-related killings in Sri Lanka. It will help clarify, through independent inquiry, the veracity of his claim made in paragraph 11 of his report, i.e., that there was intentional targeting of civilians.

The Inter-Ministerial Committee on Human Rights plays an effective oversight role on the functioning of other Government mechanisms in regard to protection of human rights. A Task Force consisting of members of the civil society and law enforcement officials, established by the Inter-Ministerial Committee has undertaken several surprise visits to ensure that the Presidential Directive on the rights of persons arrested or detained is effectively complied with. The Committee also reviews Sri Lanka's compliance with international human rights instruments to which the country is a party.

With regard to access for humanitarian aid to the population affected by resumption of hostilities, the Government has taken a number of measures. This is to ensure expeditious

access, and has facilitated provision of food, and other essential supplies to displaced persons and others affected, directly through its own mechanisms as well as through international humanitarian organisations and agencies, in particular ICRC, and UN agencies. The Government has also sought at very high level, the assistance of UN agencies to transport essential items to affected areas, in particular, to the Jaffna Peninsula. The Government releases regular status reports regarding provision of food, medicines and other essential supplies, maintaining transparency in its activities. Since the Monsoon has now hampered transport by sea, essential food items are also airlifted by the Government to affected areas. Moreover, a High Level Consultative Committee with UN agencies, ICRC and the representatives of the EU has been set up, which meets every fortnight and addresses all relevant issues with regard to provision of food to affected populations.

As a further manifestation of its policy of active engagement with the UN, the Government has invited the Special Rapporteur on Torture and the Special Rapporteur on Freedom of Opinion or Expression to undertake missions. In November this year, Ambassador Allen Rock, Special Advisor of the Special Representative for Children and Armed Conflict will also visit Sri Lanka. These are in addition to the visits undertaken last year by the Special Rapporteur on Religious Freedom or Belief and the Special Rapporteur on Extra-judicial or Summary or Arbitrary Executions. We believe that such access to UN human rights mechanisms, amply manifest that the Government of Sri Lanka does not resort to a strategy of deniability with regard to allegations of human rights violations, as claimed by the Special Rapporteur in paragraphs 16 and 17 of his report.

Having outlined the measures taken by the Government in further demonstration of our policy of constructive engagement, my delegation, nevertheless, is constrained to reject three particular attributions made by the Special Rapporteur. These assertions border more

on political judgement, and therefore are not factual in so far as they relate to the Government. First, in paragraph 10, the Special Rapportuer maintains that "it is often argued (in Sri Lanka) that respect for human rights must await the emergence of political or military solution". This simply is not the position of the Government of Sri Lanka. The Government has consistently advocated the adoption of a human rights framework by the parties with clear bench marks and time-bound actions. However, unfortunately, the LTTE has not responded to this favourably.

Second, paragraph 12 of the report states that "the conflict between the Government and the LTTE is ultimately a struggle for legitimacy, not territory." This, in our view, is an oversimplification of reality and is an affront to a country that according to Madam Asma Jehangir, Special Rapporteur on Freedom of Religion, is a unique example of a country rich in democratic tradition. The Government does not need to struggle for legitimacy, because it is the legitimately constituted Government through democratic participation of people, who have exercised their franchise regularly since 1931. The present Government is now further strengthened as the Opposition too has joined hands in the national interest. Our common objective, however, is not to let the LTTE undermine territorial integrity of the country through its violent campaign aimed at establishing a separate mono-ethnic state in Sri Lanka. Sadly it is the LTTE that struggles for so-called legitimacy, which, it seems to believe, could be achieved through violence and terrorism, a vision which runs counter to all canons of civility and norms of democracy and pluralism. In this context, it is regrettable that the Special Rapporteur in footnote No. 18 to paragraph 15, makes an invidious value judgement on the conduct of the LTTE. Our view is that such comments may have emboldened LTTE to continue with terrorism and attacks on civilians including unarmed security personnel as manifested just recently.

Third, there is an attribution made in paragraph 13 that the GOSL has interpreted the wide-spread proscription of LTTE as a terrorist organization as an endorsement of its own record. This assertion is speculative and seems to cast aspersions on the judgement of countries that banned the LTTE. In this respect, we would like to recall that the Government of Sri Lanka has reiterated that proscription of the LTTE as a terrorist organization will not affect its own commitment including to resume negotiations with the LTTE. Further, the Government continues to work with its partners to improve its own record and subjects itself to scrutiny by being party to all seven core human rights instruments and several protocols as well as by inviting UN human rights special mechanisms to undertake investigative missions. The Government believes that proscription of the LTTE by other countries, is a result of their respective assessment; a group which relentlessly promotes international terrorism and pursues political ends through violent means. The Government also is of the firm view that the national commission of inquiry and the establishment of the IIGEP as well as the involvement of foreign forensic experts in investigations are further steps in its determination towards taking punitive action against perpetrators of gross violations of human rights, whether they are members of the armed terrorist groups or security personnel or other individuals or groups of persons.

In conclusion, Mr. Chairman, may I reiterate that the Government of Sri Lanka remains receptive to constructive criticism, and remains willing and committed to working with its partners and the special mechanisms of the UN in promoting and protecting human rights and fundamental freedoms, both nationally and internationally. We believe firmly in the policy of constructive engagement and cooperation, which is the cornerstone of our approach to peace process, and is at the core of the vision of the Government led by President Mahinda Rajapaksa, who himself is a firm advocate of human rights and individual freedoms.