

Permanent Mission of The Arab Republic of Egypt

**Review of the Work and Function of
The Human Rights Council**

2nd Meeting of the Open-ended Intergovernmental Working Group

7th of February 2011

**Statement by
Ambassador Hisham Badr
Permanent Representative of Egypt to the United Nations
and other international organizations in Geneva**

on behalf of the Non-aligned Movement

(Geneva, 7th of February 2011)

Mr President,

I have the honor to make the following statement on behalf of the NAM. The Movement has been deeply and constructively engaged in the process of review of the work and functioning of the Human Rights Council. Extensive meetings were organized within our group at both ambassadorial and expert levels, as well as consultations with capitals of the 118 countries forming the movement, and let me thank all the NAM ambassadors and experts for their great contribution and work. This statement represents the collective response to the compilation you have circulated on February 3rd, enriched by African, Asian, and Latin American wisdom.

Mr President,

The NAM's approach has been very clear and consistent since this review process started and was based on a number of key principles and let me mention seven of them. The seven pillars of wisdom if you will. First, that we are embarking in a review and not a reform nor overhaul of our four year old council. Second, that it should be guided by the famous saying 'if it ain't broken don't fix it'. Third, that we should be engaged in a limited fine-tuning with a view to preserve the delicate balance achieved painstakingly in 2006/2007 and re-writing history. Fourth, that this review should adopt a uniform methodology across all its clusters, as we cannot have varying levels of ambitions from one cluster to the other. We cannot be told on some proposals important to us that we should agree to disagree while on others we see attempts to move forward in an incremental manner beyond the status quo under the notion of ambition. Let us not distort the word ambition and use it selectively. Fifth, that no one should try to claim that success of the review is dependent on what happens in one cluster or another. All the clusters are important, and achieving a good outcome in all of them is of equal importance, hence we will look at any outcome both vertically and horizontally. Sixth, we should all be committed to a consensual approach, and the outcome of the review to be submitted to the

GA should therefore exclusively contain those areas which enjoy consensus. Seventh, nothing is agreed till everything is agreed.

Mr President,

The NAM will restrict itself to general comments on the distributed compilation in light of your affirmation that we will not embark on a drafting exercise today. We call on you to take all comments today into account when developing the President's paper on which negotiations are to start on the 17th of this month.

Let me at this stage emphasize that the Movement is steadfast in the need for your paper to include the issue of the relationship between the Council and the OHCHR as we believe that it represents part and parcel of the review process as agreed in the structure of the compilation document issued at the end of the first meeting of the working group.

The NAM expresses its appreciation to all facilitators/coordinators for their valuable work during the preceding months and thanks them for the consultations which they have organized. We would have expected that they follow a uniform approach and that they refrain from tampering with the IBT, focusing instead on consensual elements that would be incorporated in any supplement arising out of our review. Having said that, let me now turn to our general comments on the most important issues in the various clusters of the compilation before us.

With regard to the UPR, let me remind you Mr. President of the basic principles on which this exercise should be premised. The IBT which we all adopted included inter-alia that the UPR should promote universality, be a cooperative intergovernmental and member-driven mechanism that should not be overly burdensome to the concerned state. This cluster has seen important efforts for convergence but we would like to state at

this stage that we should not eliminate the possibility of moving year cycle, if that were to lead to cost savings and to reduce the load on the Council's annual program. In addition, the UPR adoption plenaries should in the view of the NAM be restricted to the adoption of the reports of the UPR Working Group. If this were not to be the case, and that some attempt to use them as a vehicle for mini-sessions or other similar purposes, then the NAM would like to submit the following three options: a) revert back to the idea of holding three regular Council sessions annually with a segment for the adoption of UPR WG reports imbedded in them, or b) add three days at the end of each UPR Working Group session dedicated exclusively to the adoption of the reports of the previous session, or c) add additional days in the two regular sessions of the Council for the sake of adopting UPR WG reports. The NAM also stresses that there should be no attempt at formalizing some of the ideas presented as "voluntary" from the part of states, like mid term reporting or implementation plans from the part of the state under review. In addition, we reaffirm the need for clear and detailed elaboration of the modalities, governance structure, and disbursement methods of the two funds, the UPR Voluntary Trust Fund and the Voluntary Fund for Financial and Technical Assistance, and of incorporating specific language on the specific needs of LDCs and Small Islands States

With regard to the cluster on Special Procedures, the NAM reiterates the importance of its proposals under this cluster as we believe that these proposals will contribute to the improvement in the relationship between states and special procedures. The countries of the NAM oppose making the views of special procedures as some kind of trigger mechanism for actions by the Council, and reiterate that recommendations by special procedures are not to be treated at the same level as those emanating from treaty bodies. In addition, I would like to remind in this regard of our strong proposal on establishing a legal committee to examine in a non-politicized manner differences

between special procedures and states as we believe that self-regulation mechanisms will not be sufficient. We also remind of our proposal regarding attaching an expenditure report to special procedures reports presented to the Council, and on the requirement of two third majority for the establishment of a new country mandate, and for the continuation of the RRI of special procedures, and for a common fund that would allocate adequate and equitable level of resources to all mandate holders without distinction. Furthermore, we call for our review to address the reporting gap of special procedures to Geneva about the reports and discussions in NY and its financial implications for the Council.

With regards to the cluster on the Advisory Committee and Complaints Procedure, allow me to address first the complaints procedure, and emphasize NAM repeated call for preserving the working group on situations as the intergovernmental filter before anything reaches the Council, and our rejection of any attempts to merge it with the working group on communications, or to allow for joint meetings between the two working groups. The NAM maintains its call for ensuring strict adherence to the admissibility criteria, and opposes proposals entailing any form of direct reporting to the Council by the Working Group on Communications, or reporting by the working group on situations to the President of the Council. Instead we reaffirm that we have to limit ourselves to the mandates given to both Working Groups as per resolution 5/1 and that confidentiality be preserved.

As far as the Advisory Committee, the NAM supports more interaction with the Council, and that the latter should give the Committee clearer guidance. However, we do not agree with changing the present election method and are not convinced that there is a need to apply similar selection method as the one presently used in the case of special procedures mandate holders.

With regard to the cluster on the Agenda and Program of Work, the NAM supports that we preserve the present agenda

and framework for program of work. We also support the declustering of the interactive dialogues with special procedures and the proposal presented by the facilitator for addressing the competing claims on the time of the two regular sessions. There remains a need for more clarity regarding the annual cycle of the Council and whether or not it will be aligned with the calendar year, and whether or not we will end up with only two regular annual sessions in view of the differences existing with regard to the UPR adoption plenaries.

Last but not least, with regards to the cluster on Methods of Work, the NAM believes that there is no need for any additional mechanism to deal with emergency situations. The UNSG himself said when he addressed recently here the member states of the UN in Geneva that the Council held during 4 years of work more special sessions than during the whole history of the Human Rights Commission. Hence, there is no institutional gap and indeed there are ample vehicles at present to deal with emergency situations. We believe we should stick to special sessions if the Council is not in session, and to move up the relevant agenda item on the programme of work in order to hold a special sitting if the Council is in session.

Upholding the intergovernmental nature of the Council's operations is indispensable. The President and the Bureau maintain their present procedural and organizational roles. Therefore triggering, automatic or otherwise, including any role to be played by the High Commissioner to draw the attention of the president of the Council to emergency situations is strongly opposed by the NAM. The NAM totally rejects the proposal presented as appendix to the compilation on the trigger mechanism to deal with emergencies and affirm that it should not be put for further discussions, in implementation of the cardinal consensus rule. Let us be clear, the High Commissioner already does the function of alerting the council of her views in her statements and press releases. The independence of the council should be preserved.

We also believe that the mainstreaming panel should be held only once a year, with as outcome a negotiated presidential statement, and should respect fully the respective mandates of the various participants and that of the Council. The theme of the panel should be determined on the basis of proposals put forward by the different regional groups.

Mr. President,

NAM calls for the modalities of special sittings to remain as they are at present and not be on the basis of request by a third of the Council's membership nor by the president. Instead we ask for the continuation of the current practice and for bringing the relevant agenda point forward if an event happens while the council is in session.

As regards to work formats, they should be restricted to those mentioned in the IBT para 115. Any calendar of resolutions should respect the balance between civil/ political and economic, cultural and social rights. Stakeholders participation through video conferencing, video messages need further discussion as it is unclear for us, particularly in the case of NGOs, how the conformity with ECOSOC consultative status and on points of order would be enforced. Most importantly, we are not convinced that oral reports should replace written documents of the human rights council as we believe that states need to know the content of the reports on which they are expected to comment on in the Council, otherwise we would have harmed the often stated objective to improve the quality of interactive dialogues and general debates taking place in the Council.

Mr President

In closing, I would like to address the issue of the nature of report to be presented from the Council to the GA, as much as it is premature to talk about it for now before we have reached any concrete negotiated outcome, the NAM affirms nevertheless that

such report should be limited solely to the negotiated text on which there is consensus by all, annexed to a procedural resolution from the Council, including all proposals which the Council would like to draw the attention of the GA to regarding cross-cutting issues or otherwise. In fact, the practice in the UN has been that outcome documents of any intergovernmental negotiation is transmitted as an annex to a procedural resolution/decision to the GA. We do not see a reason for the outcome of the review of the work and functioning of the Human Rights Council to be any different.

Finally, we will remain engaged with other countries and you Mr. President in a constructive spirit and dialogue to promote the cause of human rights.

Thank you Mr President