

**Human Rights Council 2011 Review  
Open-ended Working Group  
Statement by the Delegation of the United States of America  
On Universal Periodic Review**

**February 17, 2011**

Thank you, Mr. President.

We first would like to thank you for producing this document and for your extensive efforts to engage delegations in dialogue both formally and informally.

We will continue to work actively in support of your efforts to achieve a credible and satisfactory outcome to this exercise.

Before discussing our response to the negotiating text on the Universal Periodic Review, we would like to once again underline the United States' disappointment with the state of this review. We are concerned that this process has been undermined by spurious procedural arguments, by the premise that consensus must be the starting point for negotiations and not the conclusion, and by the repetition of fixed positions rather than genuine give and take. We will be judged by the results of this process, notably how well we advanced the ability of the Council to improve the human rights situation around the world, address

violations, and prevent abuses. Only a genuine and legitimate exercise will allow us to better meet our mutual goal to strengthen this Council.

The negotiating text that forms the basis for these discussions falls short of what is needed to significantly improve the Council. On February 7, we underlined that the negotiating text should reflect all serious proposals to allow for a genuine debate. Not only does the document not meet that standard, but it also seems, at times, divorced from the discussions led by the facilitators for each cluster. It leaves off many proposals, presents other proposals that are far from consensus as if they are agreed, and even inserts new ideas that were never seriously discussed in informal sessions. The fact that we are only beginning negotiating a text two weeks before the main session of the Human Rights Council further restricts our ability to engage in a meaningful process before we must transmit our outcome to New York.

We will actively engage in these discussions with a view to ensuring that this review results in an overall improvement to the work of the Council and the cause of human rights. Our perspective on any given cluster or proposal will be viewed through the lens of entire product that we submit to New York.

**Turning to the Universal Periodic Review**, the United States agrees that the second and future cycles of the review should build upon the existing foundation for the UPR; however, we would not support language that restricts the UPR or the ability of states to raise pertinent human rights issues during a UPR session. The second and future cycles of the UPR must not be limited to the situation since the preceding review or to the implementation of accepted recommendations. It must cover the overall human rights situation in a country. We believe the current language is not clear enough on this point.

Further, we must ensure that recommendations made by states during the UPR are focused, action-oriented, implementable, consistent with international human rights law, and designed to improve the human rights situation in the states under review. Furthermore, no recommendation, or state response to a recommendation, should be construed to limit the human rights obligations of the state under review.

We are also concerned that the language in this draft document could lead to a misinterpretation that technical and financial assistance are the focus of a State's

UPR. While we acknowledge the benefit of technical and financial assistance, paragraph 7(a) seems to give disproportionate weight to assistance. Fulfilling human rights obligations is the responsibility of the state and a lack of assistance is not a reason to disregard those obligations.

Mr. President,

We support adding a section in the UPR reports for contributions by the National Human Rights Institutions, as outlined in paragraph 10, but we must ensure that this section does not count towards the existing page limit of the stakeholder's report. We would also note that all reference to NHRI's should specify that it refers to accredited NHRI's that are "in compliance with," and not "consistent with," the Paris Principles.

We are pleased with the proposal to expand and rationalize the speakers list for the UPR as outlined in paragraph 15 and Appendix I. These proposals address the biggest issue with the UPR as it currently stands. However, we do not think that the speaking time of the state under review needs to be extended; that time could be used for state and stakeholder interventions. The new speaker's list

process should also be adapted to the UPR plenary adoption. Moreover, the language in paragraph 14 should explicitly state that stakeholders and non-State observers have time to speak.

Paragraph 18 should explicitly state that states must provide a clear answer regarding their acceptance or non-acceptance of all recommendations. This response must be submitted in writing before the UPR adoption to ensure a meaningful dialogue. The Council can encourage mid-term reporting, and any mid-term reporting should be circulated as an official document.

Finally, paragraph 23 should keep the original language in the IB package, which makes clear that the international community, and not just the UN, can provide technical assistance and capacity building at the state's request.

Thank you, Mr. President.