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Statement by
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Chairperson-Rapporteur of the Open-ended Working Group of the
Human Rights Council on an optional protocol to the Convention on
the Rights of the Child to provide a communications procedure

Palais des Nations, Room XX

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Mr. President, Distinguished delegates, Ladies and Gentlemen,

It is a pleasure for me to come before you today in my capacity as Chairperson-Rapporteur of the Open-ended Working Group of the Human Rights Council on an optional protocol to the Convention on the Rights of the Child to provide a communications procedure.

Two years ago, at its 11th session, the Council decided to establish the Working Group with the mandate to explore the possibility of elaborating an optional protocol to the Convention on the Rights of the Child to provide a communications procedure, complementary to the reporting procedure under the Convention. The Group met for the first time in December 2009, with the participation of experts, and as a result of its deliberations the Council decided, in March 2010, to extend its mandate until the current session with a view to elaborate an optional protocol.

In compliance with its mandate, the Working Group held its 2nd session, which for the sake of efficiency was divided in two parts. The first part took place from 6 to 10 December 2010 and the second part from 10 to 16 February 2011. Also in compliance with the mandate and in order to facilitate the discussions in the Working Group, I prepared an initial proposal for the draft optional protocol that was circulated in August 2010 and served as a basis for the negotiations in the December meetings of the Working Group. After an intensive week of deliberations during which many State delegations, experts, NGOs and National Institutions expressed their views openly and constructively, in January 2011, I prepared a revised proposal that was then discussed during the session of the Working Group. The result of this second round of deliberations is the text now before the Council, as an annex to the report on the second session of the Working Group (A/HRC/17/36) that I have the pleasure to present to you today.

Distinguished delegates,

The text of the draft optional protocol is a result of a compromise, on which the Working Group agreed by consensus after an intense and thorough effort by all those involved. It may not meet our initial expectations fully that it constitutes an instrument through which we can provide children with an increased level of protection for their rights under the Convention. The text draws from existing similar instruments, especially the most recent ones, using wherever possible and appropriate, agreed language in order to ensure consistency and coherence within the treaty body system. Thus, it provides the Committee with the competence to examine individual and inter-State communications as well as to initiate inquiry procedures for grave or systematic violations, in connection with both the Convention itself and its first two optional protocols.

Furthermore, it allows the Committee to request the adoption by the States concerned of interim measures to avoid possible irreparable damage, as well as protection measures to ensure that individuals are not subjected to human rights violations, ill-treatment or intimidation as a result of their activities under the optional protocol. It also contains provisions regarding the Committee's role with respect to friendly settlement agreements and follow-up procedures. The text also takes into consideration the specificities of the Convention on the Rights of the Child and the special needs of children, who will be the primary beneficiaries of the new procedures. Thus, it establishes, for instance, that in fulfilling its functions under the Protocol, the Committee shall be guided by the principle of the best interests of the child and shall have regard to the rights and views of the child; that the Committee will guarantee child-sensitive procedures and that safeguards will be introduced to prevent the manipulation of the child by those acting on his/her behalf under the Protocol.

Distinguished delegates,

In order to draft this text I conducted many consultations not only during but also outside the Working Group sessions. I met on several occasions with all regional groups and individual delegations, experts, including members of the Committee on the Rights of the Child, NGOs, representatives of national institutions, the High Commissioner for Human Rights and OHCHR staff. I made myself available at all times to discuss matters of concern in an open and transparent manner and spared no efforts to meet the expectations of all those involved, while keeping in mind that a compromise had to be reached at the end of the process. This compromise was possible after only two sessions, hardly two years after the adoption of the resolution that established the Working Group. However, the fact that the Group managed to complete its work in such a relatively short period of time does not mean that the issues at stake were not given serious consideration, on the contrary. The reports of the respective sessions reflect the different arguments, proposals and positions, showing that the work accomplished was the result of a careful reflection.

I believe that we should feel enthusiastic about the obstacles overcome and the results reached and I very much hope that the Council will share my view.

Distinguished delegates,

It is now time for the Council to take a decision on the text received from the Working Group. It is my sincere hope that the text will be adopted during this session and transmitted to the General Assembly for its final adoption. I see no viable alternative to this process.

On this occasion, I would like to share with you as well that I have been recently contacted by a number of individuals who asked me about the Optional Protocol and have expressed high hopes with regard to this instrument in order to address the problems they are facing. And I should tell you that I have been deeply touched by the stories which I had the opportunity to listen to. This has strengthened my faith, beyond any doubt, in the necessity of having the Optional Protocol as soon as possible. Any further deferral of this issue would have a detrimental effect on the rights of many.

Mr. President,

If we do not act now, the whole project will be jeopardized. It was the sense of responsibility which led me as a Chairman and the Working Group to take very important and responsible decisions. I do hope that the Council will follow the same path, to act in a very responsible manner, in order to provide children with the protection of their rights at international level. This process is neither about me nor about the Council. The Optional Protocol is about the rights of the child.