

**Statement by Delegation of Sri Lanka following Special Rapporteur  
Mr. Philip Alston's presentation at the HRC on 19<sup>th</sup> September, 2006**

Mr. President,

I would like to begin by thanking Mr. Alston for acknowledging the cooperation extended by the Government and we appreciate also his transparency, keeping us informed at every step of his advocacy on Sri Lanka involving different recommendations and actions at different times. We would have preferred however that the report should have first been discussed in the Council and the views of the concerned country taken into account, certainly before 'alarm bells' are rung on the basis of a visit of 7 days.

The Government of Sri Lanka has followed a consistent policy of cooperation and open and constructive engagement with the special procedures mechanisms by extending regular invitations to such mechanisms to undertake missions in Sri Lanka, even during the years of conflict. In 2005, invitations had been extended to the Special Rapporteur on extra-judicial summary or arbitrary executions and the Special Rapporteur on the freedom of religion or belief, both of whose reports will be presented this week. The Government has also recently extended invitations to the Special Rapporteur on the question of torture as well as the Special Rapporteur on the freedom of expression and opinion to undertake missions in Sri Lanka in keeping with the pledge made with our candidature to the Human Rights Council. We also welcome the impending visit of Ambassador Allen Rock from the Office of the Special Representative on Children and Armed Conflict focussing mainly on the issue of recruitment of child soldiers by the LTTE. In our view these are already elements of an existing international human rights monitoring mission.

The initiative of President Rajapaksa to invite an international independent body of eminent persons to act as observers of investigations into recent allegations is in fact an additional voluntary mechanism to existing cooperation with special procedure mechanisms and as we emphasised last morning we have done so out of commitment to the protection of human rights while combating terrorism and the Government's desire to place itself beyond reproach regarding such concerns. A consultation process has already begun with Amnesty International in London and OHCHR with regard to modalities of the proposed international independent group which will function within the domestic legal framework. Should not our objective be to strengthen national protection systems rather than to supplant them?. The killing of ACF workers which the Government has strongly condemned will also be taken up under this new body and in the meantime the latest developments on the investigation are also posted on our Mission website. Mr. Alston's views on our criminal justice system will in this way be put to international test.

It should also be recalled that as far back as 2003, at the Tokyo Donor Conference a comprehensive programme for the promotion and protection of human rights was incorporated into the peace process with the assistance of Mr. Ian Martin, then Adviser on Human Rights to the peace process. However, the LTTE declined to participate in the Tokyo conference and as a result it has not been possible to implement this joint programme which would have required the LTTE to cease all recruitment of child soldiers. Does Mr. Alston have any recommendations on how to achieve progress in this regard now?

03/05

Mr. Alston's visit to Sri Lanka in November/December 2005 took place in the background of increasing violence by the LTTE. The first clear sign that the LTTE was preparing to resume hostilities came with the shocking assassination of Foreign Minister Lakshman Kadirgamar, a moderate Tamil intellectual who was held in high esteem both nationally and internationally. The investigation into Mr. Kadirgamar's assassination which established the direct complicity of the LTTE, was acknowledged by the European Union in its press statement of September 26<sup>th</sup> 2005 which warned that the EU was actively considering the formal listing of the LTTE as a terrorist organization. It is a matter of regret that it was only one year later with the assassination of the Deputy head of the Government Peace Secretariat Mr. Ketheshwaran Loganathan on August 12<sup>th</sup> 2006, that Mr. Alston spoke out against "the LTTE's systematic elimination of Tamils who hold independent views".

With regard to the comment made by Mr. Alston on 'legitimacy' let me state that, in Sri Lanka, as a democracy since independence, the legitimacy of the Government is derived from the people who cast their votes freely at regular elections. I would suggest that questions of 'legitimacy' should rather be addressed to the LTTE. The EU Observer Mission report on last November's Presidential elections stated "that Election day in the South proceeded satisfactorily. However, voting in the North and East was marred by violence accompanied by an enforced boycott by the LTTE, resulting in extremely low voter participation in many areas".

In the report of his visit to Sri Lanka, Mr. Alston refers to 'many Tamils and Muslim civilians having been killed'. However, during the time of Mr. Alston's visit and the following months the largest number of casualties was among the security forces in non combatant status, totalling 512, mounting for 8 months under LTTE attacks. The Government during this time showed maximum restraint despite severe provocation.

The first defensive operation launched by the Government came only in late July 2006 consequent to the Mavil Aru incident when the LTTE closed down the sluice gate thereby denying water to some 15,000 families downstream which necessitated sending a small contingent of security forces to restore water. In the North and East, LTTE attacks closed down Palaly airport and threatened Trincomalee harbour. In Muttur a predominantly Muslim area, the LTTE forcibly evicted thousands of inhabitants. The Government had thus no alternative in the interest of national security to establish control of these areas and to prevent any further threat of LTTE attacks. Mr. Alston's presentation however does not take into consideration legitimate national security imperatives, which is inexplicable.

I am also attaching for purposes of record the Government response to the High Commissioner's letter of 30<sup>th</sup> June, 2006 regarding the position on the Constitutional Council to which Mr. Alston referred with our full statement which will be distributed.

OA/05 2