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United Nations Security Council

Arria Formula Meeting

Statement by Mr. Paulo Pinheiro

Chair of the Independent International Commission of Inquiry

on the Syrian Arab Republic

New York, 12 October 2012

Mr. President,

Distinguished Members of the Security Council,

Thank you for the opportunity to address this Council. Since my last address to you in March of this year, the Commission of Inquiry on the Syrian Arab Republic has continued its investigations of violations of international human rights law. In April and again in May, we released updates detailing the deteriorating human rights situation. In late May a horrific massacre occurred in the region of Al-Houla. Sitting in special session, the Human Rights Council mandated the Commission to investigate the incident. In June I addressed the Human Rights Council updating it on our inquiry into Al-Houla as well as on the worsening human rights situation. I noted the increasingly militarized context in which violations were occurring. As the crisis began to display the characteristics of a non-international armed conflict, the Commission's investigations widened to include violations of international humanitarian law (IHL).

The Commission's investigations continued into September. At the 21st session of the Human Rights Council last month, we presented our latest report (A/HRC/21/50), which I understand has been forwarded to the Security Council. At that session, the Human Rights Council renewed our mandate, and added two well-known and well-respected Commissioners to our ranks – Madame Carla del Ponte (Switzerland) and Professor Vitit Muntarbhorn (Thailand).

We will be convening in our new set up in Geneva at the end of this month to finalize planning for the next phase. Together with the mandate renewal, the Human Rights Council has requested additional resources to strengthen our investigative capacity. The Office of the High Commissioner for Human Rights, which has supported us throughout, is working quickly to reassemble the Secretariat, including with additional staff. As we transition to the new phase,

we are counting on the support of Member States to secure approval of the funding for the Commission as the matter moves through the UN budget authorities.

Turning now to our main findings: violations of human rights and humanitarian law have escalated dramatically. They are occurring at a pace that outstrips our ability to investigate them. In front of our eyes the crisis devolved into a civil war – with all the attendant destruction that war inevitably inflicts.

Syrian Government forces, often in concert with the paramilitary *Shabbiha*, have committed gross violations of human rights, war crimes and crimes against humanity. Amongst the most egregious are murder, summary execution, torture, sexual violence and violations of children's rights. We have also found widespread arbitrary arrest and detention, pillaging and intentional destruction of civilian objects - including homes, hospitals and schools.

In recent months, the most flagrant violation has been indiscriminate attacks on civilian, residential neighbourhoods. These are occurring daily in Aleppo, Damascus, Dera, Latakia, Idlib, northern Hama, and Homs governorates. Although anti-Government armed groups are often present in the targeted areas, and in some cases are engaging army positions, the Government's indiscriminate shelling, combined with a failure to take all feasible precautions to protect civilians, reflects a repeated and blatant disregard for established rules of armed conflict.

In Aleppo, we are investigating a number of very serious incidents resulting in large part from the unbridled shelling. In multiple instances, ordinary civilians have been shelled as they queued for bread. The city's historic souk was

burned, and the Commission is investigating reports that many more of Syria's rich cultural and historic sites are being damaged in hostilities in what may be violations of IHL. Homs city has been devastated, while towns in Idlib governorate and northern Hama have been effectively emptied of their populations, due to sustained indiscriminate shelling and shortages of food, water and other necessary supplies.

In Damascus governorate, our investigations are focused on the widely reported killings in Daraya where initial indications are that the Syrian army and *Shabbiha* may have executed scores of fighting age men.

Turning to violations by anti-Government armed groups, despite indications that the Free Syrian Army (FSA) had adopted a code of ethics, the Commission has documented many cases of war crimes, including murder, extrajudicial execution and torture. On 10 September media reported that 21 captured Government soldiers were summarily executed in Aleppo. Groups have also admitted taking captives and holding them solely for ransom or exchange. On 4 October, for example, FSA forces holding a number of Iranian hostages, threatened to execute them if their demands were not met. Anti-Government groups also use imprecise or indiscriminate weapons, such as Improvised Explosive Devices (IEDs), that pose a danger to civilians.

The conduct of hostilities in urban settings exposed the civilian population to greater risk. The Commission has not seen the parties taking the necessary steps to minimise harm to the civilians. Anti-Government armed groups are failing to adequately distinguish their fighters from the civilian population.

Violations committed by anti-Government groups, though serious, did not reach the gravity and scale of those committed by the Government forces and *Shabbiha*. As the conflict intensifies, however, it is equally clear that the leadership within anti-Government armed groups must take steps to prevent excesses and enforce discipline within their ranks.

The Commission could not confirm the perpetrators of the large number of deadly explosions throughout Syria. We have noted that jihadi groups, such as al-Nusra, frequently claim responsibility. The Commission's investigations have confirmed an increasing presence of foreign elements, including jihadist militants, particularly in the north-west of Syria. Some are joining anti-Government forces while others have established their own groups and operate independently. These groups tend to push anti-Government fighters towards more radical positions. Jihadist elements are also less likely to obey or respect the laws of war or international human rights standards. Their presence is particularly dangerous in an already volatile conflict.

There has been a dramatic rise in sectarian tensions. The Commission noted a shift in the language employed by interviewees who increasingly describe the hostilities in sectarian terms. Abductions and killings are occurring on the local level between Sunnis on one side, and Shias and Alawites on the other. Other minority groups, such as Christians and Druze are organizing their own self-defence groups as their communities feel threatened by the increasingly sectarian violence.

Addressing a core aspect of our mandate, accountability, we have collected a significant body of evidence, including over 1100 interviews, which will remain in the custody of the Office of the High Commissioner for Human Rights

for use in future accountability mechanisms. We have delivered to her a second confidential list of individuals and units we believe to be responsible for many of the violations on which we reported.

While some have called for a public release of these names, we consider it improper to do so. Commissions of Inquiry employ a lower standard of proof as compared to a court of law. Releasing the names undermines the fundamental right to the presumption of innocence. This is of particular concern given there is currently no credible accountability mechanism before which a named individual could contest the allegations. The High Commissioner has been advised to release the lists when doing so would contribute to credible investigations by competent judicial authorities. I believe it is the responsibility of this Council to adopt a clear stance vis-à-vis the legitimate demands for accountability by the victims of these crimes.

Excellencies,

Civil wars go beyond simple confrontations between opposing segments of a society. They are the very absence of law and order – legalizing the use of brute force and enforcing the will of the strongest. Following swiftly on its heels come murder, pillage, reprisals, torture, and rape.

The crisis has unfolded for 18 months, with a confrontation of multiple internal and external actors. It appears set to continue until the collapse of one side or the other. The increased militarization has multiplied the violations exponentially. Enhancing the military capacity of the Government, or supplying arms to its opponents, only aggravates and ultimately extends the conflict.

The conflict is spilling over into neighbouring countries, threatening their stability and the security of the region as a whole. This has been poignantly

illustrated by the deaths of five Turkish women and children last week, and the continued exchanges of (lethal) shelling.

A political settlement is imperative, and as they rarely occur without negotiation, they must be accompanied by dialogue, encompassing both government and opposition. It is critical that the international community renew its efforts to support the mission of the Joint Special Representative of the United Nations and the League of Arab States, Lakhdar Brahimi, to stop the violence and steer the dialogue towards finding a durable solution to the crisis.

The unrelenting spiral of violence is inflicting untold damage to the foundations of Syria as a State and to its people. Our most important goal should be to protect the human rights of all those comprising the mosaic of Syrian society.