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**Human
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The Hon Stephen Smith MP
Minister for Foreign Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to your comments on ABC Radio yesterday morning concerning the Durban Review Conference to be held in Geneva from 20 to 24 April 2009.

The Human Rights Council of Australia urges the Australian Government to participate fully in the Durban Review Conference. The Conference will consider progress in the implementation of the Durban Declaration and Program of Action adopted at the World Conference Against Racism held in Durban in September 2001.

Our Council participated in the Durban Conference. We were deeply disappointed at the results of the Conference, especially in relation to the arguments about the continuing consequences of colonialism and the focus on Israel to the virtual exclusion of other significant situations of racial discrimination. We have also followed developments since then in relation to the Durban Declaration and Program of Action and to the preparation for the Durban Review Conference. We certainly share fears that the Review Conference will be marred by the same deficiencies as the original World Conference in 2001. In addition we are most concerned by the increasing determination of many States to legitimise the concept of "defamation of religion" that has no basis in human rights law.

However, we are convinced that human rights generally and Australia's role specifically in promoting human rights will be better served by Australian participation in the Review Conference than by boycotting it. We consider that Australian participation would have four substantial benefits.

First, by participating Australia can join other progressive States in attempting to influence the final statement in a far more positive direction than the current draft. We would hope that significant improvement is still possible. You referred in your ABC Radio comments yesterday to efforts in this direction by the European Union. We expect that these efforts will continue throughout the Review Conference. Australia should be there to contribute actively those efforts.

Second, if attempts to improve the text are not successful, then as a participant Australia is in a position to dissent from the final statement, denying it the status of a consensus

document of the Review Conference. That would undermine its legitimacy in the future, denying its use as an authoritative statement of international law and opinion.

Third, participation would enhance Australia's reputation and influence as a State fully engaged in the international human rights system. Many States, especially African States, give the highest priority in international human rights forums to issues of racism. They are convinced that Western States generally are not totally committed to opposing and eliminating racism. Australia's past record on issues of race, both domestically and in international forums, has lent credence to these convictions and reduced Australia's influence for good. In our view, these States will be very hostile towards States that boycott the Review Conference. Indeed they will take a far more negative attitude towards boycotting States than towards those that participate, genuinely seek consensus on the statement but then find that they are unable to support the final text. Even more, if final consensus is achieved on the basis of bona fide negotiation and compromise, then those States that contribute by their participation to that consensus will have greatly increased credibility and influence in future human rights discussions.

Fourth, by participating Australia will be able to distinguish itself from States that are seen as hardline and generally uncooperative in international human rights forums. The Howard Government consistently lined up with these States on all significant issues, to Australia's detriment in terms of credibility and influence. The Durban Review Conference is an ideal opportunity to continue and build on the Rudd Government's efforts to change that perception and distinguish Australia's views, positions and roles more clearly.

Although our Council's concern is Australia's contribution to and influence in the promotion of human rights, we consider that the third and fourth points are also of significance in the context of Australia's candidacy for election to the Security Council. Participation in the Durban Review Conference, in our opinion, would contribute to Australia's prospects. Boycotting it would be detrimental to that.

The Human Rights Council of Australia therefore urges the Australian Government to participate fully and positively in the Durban Review Conference next month.

Yours sincerely



Andrew Naylor
Chairperson

19 March 2009