

Statement by Sweden on behalf of the Group of Like-Minded States on Targeted Sanctions

**UN Security Council open debate on Security Council Working Methods
“Agility and innovation: lessons for the future from the COVID-19
Pandemic”**

16 June 2021

Mr. President,

Ms. Chair,

I would like to thank the Estonian presidency and Saint Vincent and the Grenadines' Chair of the Informal Working Group on Documentation and Other Procedural Questions for convening this open debate, and I would like to thank the briefers for their remarks.

This statement is on behalf of the **Group of Like-Minded States on Targeted Sanctions**: Austria, Belgium, Chile, Costa Rica, Denmark, Finland, Germany, Ireland, Liechtenstein, the Netherlands, Norway, Sweden and Switzerland.

Ensuring transparency, efficiency and effectiveness in the work of the Security Council includes the **strengthening of fair and clear procedures and due process** for UN sanctions regimes.

While underlining that sanctions remain an indispensable tool for the Security Council to address global security challenges, the Group of Like-Minded States on Targeted Sanctions considers that the UN must take a leading role in devising sanctions with adequate safeguards to protect the rights of those listed under its sanctions regimes.

Acts of transposition of UN sanctions have been and continue to be scrutinized by national and regional courts around the world. Fair and clear procedures at UN level are necessary to avoid any gap in Member States' abilities to implement UN sanctions, which in turn is critical to ensuring the effectiveness and legitimacy of UN sanctions.

The Office of the Ombudsperson is mandated to review cases from the ISIL (Da'esh) and Al-Qaida sanctions list only. There are 13 other sanctions

committees, for which there is no independent and effective system to review listings. **Due process concerns** exist, therefore, in relation to **other Security Council sanctions regimes**. Courts and tribunals are increasingly facing questions in relation to sanctions regimes without an Ombudsperson mechanism and have underlined their lack of due process protection.

For this reason, we ask the Council to address these concerns in an agile and innovative manner, by considering the option of creating a **review mechanism that provides a protection equivalent** to the Ombudsperson for other sanctions regimes, while taking into account their specific context. To support these discussions, the Group of Like-Minded States submitted proposals to the Security Council on 11 June 2021.

Key elements of fair and clear procedures for a context-sensitive mechanism include:

- access to a review mechanism for designated individuals and entities;
- access to counsel for the designees;
- an impartial and independent review of the evidentiary base on which designations are made and maintained; and
- a binding decision on maintenance of a listing or delisting.

The goals of the Office of the Ombudsperson and the proposed independent review mechanism are fundamentally the same – to provide fair procedures for designated individuals and entities. Both entail impartial review, both must be independent, and both require a meaningful hearing and engagement with petitioners. Both are intended to improve the accuracy, effectiveness, and legitimacy of sanctions regimes.

The Group also would like to reiterate that there are a number of other options available, such as extending the mandate of the Ombudsperson to all sanctions regimes or the enhancement of the Focal Point for De-Listing into an independent and effective review mechanism. The COVID-19 pandemic has demonstrated that the Council can be innovative, agile, flexible and creative. We urge the Council to use this spirit going forward to improve the due process protections for its sanctions regimes.

With regard to the Office of the Ombudsperson, the *Virtual Conversation Strengthening Due Process within the United Nations Sanctions System*, held on 17 December 2020, demonstrated and acknowledged the

achievements of the Office since its establishment. The mechanism has proven its value in the safeguarding of individuals' human rights.

The Office of the Ombudsperson should be able to carry out its mandate in an **independent, impartial and effective manner**, as set out in Resolution 2368 (2017). The members of the Group of Like-Minded States on Targeted Sanctions are concerned that this independence is being undermined by the current contractual status and institutional arrangements of the Office of the Ombudsperson within the UN Secretariat.

We therefore also urge the Secretary-General and the Security Council to strengthen the capacity of the Office of the Ombudsperson and to make the necessary arrangements to ensure its continued ability to carry out its mandate independently and effectively. The Office must also be given the necessary resources and support.

The Group of Like-Minded States on Targeted Sanctions urges the Security Council and the Secretary-General to continue their efforts to improve the Council's working methods by ensuring that due process is guaranteed and that **human rights** are respected, both in the **process of imposing sanctions**, and in **subsequent implementation measures**. The Group stands ready to support these efforts to improve UN sanctions in the future in order to ensure that sanctions continue to be an effective tool for the Security Council in contributing to the maintenance and restoration of international peace and security.