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Minister Antonio Patriota
Ministry of External Relations
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5 November 2012

Dear Minister,

OPEN LETTER: BRAZIL'S CANDIDACY FOR ELECTION TO THE UN HUMAN RIGHTS COUNCIL

We write on the occasion of your country's candidacy for membership of the UN Human Rights Council in the elections scheduled for 12 November 2012. Amnesty International has received a copy of and welcomes your election pledges to promote and protect human rights at the national and international levels. We encourage you to ensure that these pledges are promptly made available on the UN Human Rights Council elections web site.

We recall that, according to General Assembly resolution 60/251, members of the Council shall uphold the highest standards in the promotion and protection of human rights and fully cooperate with the Council.¹ On the occasion of Brazil's candidacy, we take the opportunity to comment on your election pledges and to note additional opportunities for your government to promote and protect human rights. In doing so, we refer to the guidance of the Office of the High Commissioner for Human Rights on presenting voluntary human rights pledges and commitments, including that such pledges and commitments should be specific, measurable and verifiable.²

We further stress the importance of your support for and cooperation with the regional human rights system. In this regard, we urge you to comply with the decisions of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights; to engage constructively in the strengthening of the Inter-American human rights system; and to desist from adopting measures that could negatively affect the Commission's independence and autonomy.

Commitments at the international level

Ratification of international human rights instruments

We note your statement that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is under consideration in the National Congress. We encourage you to commit to ratify this instrument, as well as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

¹ A/RES/60/251, para 9.

² Office of the High Commissioner for Human Rights, *Suggested Elements for Voluntary Pledges and Commitments by Candidates for Election to the Human Rights Council*, available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/pledges.pdf>.

Cooperation with the Special Procedures

We welcome your pledge to continue transparent and constructive dialogue with international human rights mechanisms and to continue your standing invitation to the Special Procedures. In this spirit, we remind you of the recommendations made by the Special Rapporteur on contemporary forms of slavery following her visit to Brazil in 2010. We recognize the passing by Congress of constitutional amendment 438/2001, which allows for the confiscation of land where the use of slave labour has been proven. In line with the Special Rapporteur's recommendation to pass this amendment,³ we call on you to ensure expeditious passage of the amendment through the Senate. We note in this regard that Article 149 of the Penal Code is widely recognized around the world as a benchmark definition of the crime of slave labour, and we encourage you to ensure its full and effective implementation.

We further note that the Working Group on Arbitrary Detention is currently requesting permission to visit. We encourage your government to facilitate this visit without delay and to implement all recommendations made by the Working Group following its visit.

Cooperation with the treaty monitoring bodies

We welcome your pledge to submit, in the 2013-2015 period, all the periodic reports that are due to the Treaty Bodies and to follow up the implementation of their recommendations. In this regard, we urge you to submit without further delay the periodic reports that are due to the Committee against Torture; the Human Rights Committee; the Committee on the Elimination of Racial Discrimination; the Committee on the Rights of Persons with Disabilities; and the Committee on the Rights of the Child, including in relation to the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography.

Furthermore, we encourage you to ensure effective follow-up to all treaty body recommendations from previous reporting rounds that have not yet been fully implemented. We urge you to implement the recommendations made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment following its visit to Brazil in September 2011. In particular, we urge you to guarantee an open, transparent and inclusive process, in particular of civil society, for the selection and appointment of National Preventive Mechanism (NPM) members, and to provide for gender balance and ethnic and minority representation in the NPM, as required by the Paris Principles and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁴

Engagement with the Universal Periodic Review

We welcome your pledge to continue to support capacity-building in countries evaluated under the Universal Periodic Review (UPR), as well as to participate actively in all UPR evaluations, including by presenting recommendations that are sensitive to the needs of countries under review and capable of spurring dialogue and cooperation.

During the second UPR of Brazil in May 2012,⁵ a number of important recommendations were made to your government, including to implement measures to combat and prevent torture and ill-treatment, to thoroughly investigate killings by off-duty police officers, to ensure that Indigenous Peoples are guaranteed their right to ancestral lands and consulted on projects that may affect their rights, and to accelerate efforts to establish a national human rights institution in conformity with the Paris Principles. We take this opportunity to encourage your government to plan for the full and prompt implementation of these recommendations including in consultation with civil society.

³ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, Addendum, Mission to Brazil, 30 August 2010 (A/HRC/15/20/Add.4), para 106.

⁴ Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil, 5 July 2012 (CAT/OP/BRA/1), para 17.

⁵ Report of the Working Group on the Universal Periodic Review, Brazil, 9 July 2012 (A/HRC/21/11).

Participation in the deliberations of the Human Rights Council

We note your pledge to continue to participate in the activities of the Human Rights Council, in dialogue with other mechanisms of the UN human rights system, on the basis of the principles of universality, impartiality, objectivity, and non-selectivity, through reinforcement of dialogue and international cooperation. We also note your pledge to strengthen technical assistance and capacity building within the scope of the HRC.

In this regard, we urge your government to work with delegations from all regions to ensure that the Council addresses situations of human rights violations, including gross and systematic violations and human rights emergencies, without selectivity or double-standards. We also urge your government to support efforts to ensure that all credible allegations of reprisals or intimidation against persons and groups who have engaged or have sought to engage with the UN human rights machinery are brought to the urgent attention of the Council; that the Council demands the government concerned to ensure that any alleged reprisals are investigated in a prompt, impartial, transparent and effective manner and that perpetrators are held to account; and that the Council requests the government concerned to inform it of measures taken in this regard.

Commitments at the national level

We welcome your commitments to remain engaged in the elaboration of a National System of Human Rights Indicators; to combat sexual exploitation of children and adolescents, while working to reduce youth mortality, to improve the situation of young people in conflict with the law, and to give priority to early childhood; to reduce deficits in the penitentiary system through the implementation of the National Plan for the Improvement of the Penitentiary System; and to combat racism and racial discrimination, both domestically and internationally.

We note the alarming level of homicides of young black youth and urge you to enhance protections against racism-related violence. We also call on you to pass legislation to confirm the official status of the National Program for the Protection of Human Rights Defenders.

Additionally, we urge you to ensure that Indigenous Peoples are able to defend their constitutional right to ancestral lands without suffering discrimination, deprivation, threats, attacks or killings. We call on you to establish mechanisms and procedures, in consultation with Indigenous Peoples and in line with international human rights standards, to guarantee their right to free, prior and informed consent before projects that may affect Indigenous rights are initiated.

We welcome the pledges and commitments already made by Brazil, and we urge your government to use this opportunity to further strengthen its election pledges by including the additional elements listed above. We also encourage your government to announce the steps it will take to fulfil its electoral pledges and to regularly inform the General Assembly and the Human Rights Council of progress in implementing these commitments. This could be done, for example, in the form of an oral or written statement to these bodies.

We would be pleased to receive your comments and responses to the issues raised in this letter.

A copy of this letter has been sent to your country's permanent missions in Geneva and New York.

Yours sincerely,

Atila Roque
Executive Director
Amnesty International Brazil