Permanent Mission of the Kingdom of Swaziland to the United Nations

STATEMENT BY

H.E. MR. ZWELETHU MNISI

AMBASSADOR AND PERMANENT REPRESENTATIVE

OF THE KINGDOM OF SWAZILAND

TO THE UNITED NATIONS

BEFORE THE THIRD COMMITTEE

ON AGENDA ITEM 69: PROMOTION AND PROTECTION OF HUMAN RIGHTS

NEW YORK

1 NOVEMBER 2013

Please Check Against Delivery
Chairperson,

The Constitution of the Kingdom of Swaziland protects and promotes human rights and fundamental freedoms. The rights guaranteed by the Constitution are drawn from the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the African Charter on Human and Peoples Rights (ACHPR), and the core International Labour Organization (ILO) Conventions.

We also reaffirm our commitment to the full respect for all universal, indivisible, interdependent and interrelated human rights; international law and the principles and purposes outlined in the Charter of the United Nations, the sovereign equality of all States, peaceful dialogue, and non-interference in the internal affairs of others.

Chairperson,

The Kingdom of Swaziland also regards the Special Procedures of the Human Rights Council, as a very important mechanism for the promotion and protection of all human rights. We also trust in their professionalism and freedom from political partiality. In this regard, we seek constructive engagement with the United Nations Human Rights mechanisms, including the Office of the High Commissioner for Human Rights, special thematic procedures, and the Universal Periodic Review. As a member of the Non-Aligned Movement we believe the UPR is the main inter-governmental mechanism, to review human rights issues, at the national level, in all countries, and thus reject the establishment of any additional country-specific tools that lead to politicization, double-standards and selectivity when dealing with human rights issues.

Chairperson,

Allow me to turn to the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association. The comments in paragraph 55, pertaining to the government of the Kingdom of Swaziland are non-objective and non-factual. Thus we would like to set the record straight regarding the issue of the Trade Union Congress of Swaziland (TUCOSWA) as follows:

1. We wish to reiterate that the de-registration of TUCOSWA was NOT linked to the electoral process that took place this year but was due to the fact that not all the due processes of law had been followed by the parties concerned, when applying for recognition.

2. On 25th January, 2012, the Commissioner of Labour, issued a certificate of registration to the Trade Union Congress of Swaziland (TUCOSWA), under Section 27 of the Industrial Relations Act of 2000 (as amended), on the understanding that such registration was in conformity with the provisions of the Act, and that all the due processes of the law had been followed and complied with, by all parties concerned. However, the Office of the Attorney General, thereafter, advised TUCOSWA in
writing, the Ministry of Labour and Social Security in general; and the Commissioner of Labour in particular, that the registration of TUCOSWA under Section 27 of the Industrial Relations Act, was a non-act, because TUCOSWA is not an organization as defined in the Industrial Relations Act. In terms of Section 2 of the Act, an organization shall mean a trade union, a staff association, or employers association, in good standing as the context may require, whereas the same Section 2 of the Act defines a Federation as a body registered in terms of this Act, which is wholly comprised of employers and/or a combination of employers’ associations, trade unions or staff association as the case maybe.

3. There is no provision in the Act that provides or regulates the merger of two or more federations, or a combination of trade unions, as it would seem TUCOSWA intends doing so. He also advised that such provisions are essential because federations, unions and their members, hold both movable and immovable properties, and other real rights in their names, or on behalf of affiliated organizations and their members.

4. Furthermore; Section 27 requires lodgment, with the Commissioner of Labour of certain facts/information in the “prescribed form”, which seems not to have been done, resulting in another irregularity. Certain information should be spelled out, which should have been availed to the Commissioner of Labour for purposes of registration.

5. Following the advice of the Attorney-General, the Commissioner of Labour has since complied and implemented fully the advice, including the withdrawal of Certificate of Registration No. 1 of 2012. The Commissioner of Labour will soon commence facilitating the amendment of the Act in consultation with the social partners (i.e. employers and workers) to fast track the registration of federations in general or the merger of the federation as applied for by TUCOSWA.

In conclusion, Chairperson my delegation wishes to clarify that as far as the Industrial Relations Act of 2000 is concerned, the Swaziland Federation of Trade Unions (SFTU) and the Swaziland Federation of Labour (SFL) still exist yet there is no law that provides for the existence of two federations. Their existence can only be nullified by invoking the provisions of Section 38 of the Act. The Section provides for amongst other things, a court declaration that shall include, such directions for the disposal of the organizations or federation’s assets if any, as the court may deem just, having regard to the Constitution of the organization or federation.

We request that this statement be reflected in the official records of this meeting.

I thank you.