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Commission on Human Rights

SUB-COMMISSION ON FREEDOM OF INFORMATION

AND OF THE PRESS

Third session

(Item 5 of Provisional Agenda)

ESTABLISHMENT OF PROCEDURE FOR HANDLING COMMUNICATIONS

Note by the Secretary-General

1. According to paragraph (b) of the new terms of reference of the Sub-Commission on Freedom of Information and of the Press as defined by (resolution 197 (VIII)) of the Economic and Social Council, the Sub-Commission may: "(b) Receive communications from any legally constituted national or international press, information, broadcasting or newsreel enterprise or association relating to the items enumerated in (a) above*, with a view to assisting it in the formulation of general principles and proposals in the field of freedom of information."

*"(The Sub-Commission) may:

(a) Study and make reports as well as recommendations to the Council on:

- (i) Political, economic and other barriers to the free flow of information;
- (ii) The extent to which freedom of information is accorded to the various peoples of the world;
- (iii) The adequacy of the news available to them;
- (iv) The development of high standards of professional conduct;
- (v) The persistent dissemination of information which is false, distorted, or otherwise injurious to the principles of the Charter of the United Nations;
- (vi) The operation of any inter-governmental agreements in the field of freedom of information;
- (vii) The promotion of a wider degree of freedom of information and the reduction or elimination of obstacles thereto;
- (viii) The promotion of the dissemination of true information to counteract nazi, fascist or any other propaganda of aggression or of racial, national, religious or any other discrimination;
- (ix) The conclusion or improvement of inter-governmental agreements in the field of freedom of information; and
- (x) Measures to facilitate the work of foreign news personnel, and to assist them in disseminating true information on political, economic and other events in their countries of residence and in promoting friendly relations between States in such a way as to further the cause of strengthening international peace and security."

2. The procedures under which communications concerning human rights in general are dealt with by the United Nations is set out in document E/857/Rev.1*. In particular, the attention of the Sub-Commission is drawn to the fact that under resolution 75 (V) of the Council, a distinction is made between communications dealing with the principles involved in the promotion of universal respect for and observance of human rights and those concerning complaints and requests for action and assistance. It is to be noted, however, that communications containing complaints may also deal with matters relating to the items enumerated in paragraph (a) of resolution 197 (VIII) of the Council and may also assist the Sub-Commission "in the formulation of general principles and proposals in the field of freedom of information."**

3. In considering the method in which communications shall be presented to it, the Sub-Commission may wish to take into consideration Council resolution 2/3, Sections IV and V, and articles 78-81 of the rules of procedure of the Council, which grant certain privileges to organizations having consultative status with the Council as regards submission of written communications to the Council and as regards consultation with Commissions. Under the above quoted paragraph (b) of its terms of reference the Sub-Commission may, however, regulate the procedure for receiving communications from enterprises and associations in the way it considers most appropriate for its particular tasks.

4. The Sub-Commission, in deciding upon the manner in which it will receive and deal with communications, may wish to consider the following:

- (a) The Secretary-General might be requested to compile for each session of the Sub-Commission a list of communications coming under paragraph (b) and relating to the items enumerated in paragraph (a) of its terms of reference, with a brief indication of the substance of each;
- (b) The Sub-Commission may wish that its members, after receiving the list of communications containing a brief indication of the substance of each communication should, upon request, be able to consult the originals of these communications;

* The attention of the Sub-Commission is drawn also to document E/CN.4/165, submitted to the Commission on Human Rights at its fifth session, in which the Secretary-General reports on the present situation with regard to communications concerning human rights and on his experience in handling such communications.

** The attention of the Sub-Commission is drawn to a relevant discussion at the United Nations Conference on Freedom of Information, contained in document E/CONF.6/C.4/SR.13.

(c) The Sub-Commission may wish to provide that any of its members should have the right to request the reproduction of a communication in full. In this event, the Sub-Commission may also wish to lay down a rule whereby lengthy communications would be distributed only if sufficient copies were furnished by the enterprise or association forwarding the communication.

(d) The Sub-Commission may wish to request the Secretary-General to acknowledge receipt of communications and to inform the writers that they will be handled according to the procedure laid down by the Sub-Commission.

(e) The Sub-Commission will note that under resolution 75 (V) of the Economic and Social Council, the list of communications concerning human rights which the Secretary-General is requested to compile is confidential and is furnished to the Commission on Human Rights in private meeting. In view of the fact that freedom of information is the main preoccupation of the Sub-Commission, the Sub-Commission may wish to request the Secretary-General that the list to be submitted to it be not confidential and that it be furnished to the Sub-Commission in open meeting.

(f) Under the rules laid down in resolution 75 (V) of the Economic and Social Council, as amended by resolution 116 (a) (VI), the identity of the authors of communications is not divulged except in those cases where the authors of communications state that they have already divulged or intend to divulge their names or that they have no objection to their names being divulged. For the reason indicated in paragraph (e) above, the Sub-Commission may wish to request the Secretary-General that in the list which he is furnishing to it the names of authors of communications should be divulged in every case except where the authors expressly desire that their names be kept confidential. Should the list contain brief indications of the substance of communications which contain complaints, but nevertheless are capable of assisting the Sub-Commission in the formulation of general principles and proposals in the field of freedom of information, special precautions would appear to be appropriate. Such special precautions might include the following:

- (1) When preparing the brief indication of the substance of communications containing complaints

/the Secretary-General

the Secretary-General would have to bear in mind that the list would be furnished in open meeting of the Sub-Commission;

- (ii) The Sub-Commission may decide that its members should not have the right to consult the originals of such communications;
- (iii) It may also decide that the right to request reproduction in full should not apply to such communications.

5. The Sub-Commission may wish to decide in connexion with the criteria for determining what is a "legally constituted" enterprise or association that every national or international press, information, broadcasting or newsreel enterprise or association which sends a communication to it is presumed to be legally constituted within the meaning of resolution 197 (VIII) of the Council until an objection is raised and the Sub-Commission is satisfied that the enterprise or association is not legally constituted. It is submitted that this presumption cannot be rebutted in the case of Non-Governmental Organizations which have been granted consultative status by the Council and which must, therefore, be considered as being legally constituted as far as the United Nations is concerned.
