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COMMISSION ON HUMAN RIGHTS

Sixty-second session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 27 March 2006, at 3 p.m.

Chairperson: Mr. RODRÍGUEZ-CUADROS (Peru)

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The meeting was called to order at 3.10 p.m.

RESUMPTION OF THE SIXTY-SECOND SESSION (agenda item 1)

1. The CHAIRPERSON drew attention to Economic and Social Council resolution 2006/2, adopted on 22 March 2006, entitled “Implementation of General Assembly resolution 60/251”, in which the Council requested the Commission on Human Rights to conclude its work at its sixty-second session, which should be “short and procedural” and to transmit its final report to the Council. The Human Rights Council had been established by a large majority, reflecting a basic consensus on ensuring respect for human dignity and a vision shared by diverse cultures and civilizations. The Human Rights Council had instruments, mechanisms and mandates at its disposal which, if properly employed, should enhance its effectiveness and legitimacy during the months and years ahead. It could also examine the human rights situation in all countries, and the General Assembly had mandated it to review, and if necessary update, the mechanisms and procedures that the Commission had put in place during its 60 years of existence. The establishment of the Human Rights Council was undoubtedly a positive step for the human rights community, especially within the United Nations, but its achievements and effectiveness would be assessed in the light of practical experience, which would in turn reflect the resolve of Council members and their interaction with NGOs and civil society.

2. Ms. ARBOUR (United Nations High Commissioner for Human Rights) said that the creation of the Human Rights Council was without question a historic event that should be situated in the broader context of efforts in recent months to return human rights to their place at the centre of the United Nations and the decisions taken to achieve that aim. Human rights had been acknowledged, for instance, as one of the three pillars of the United Nations system, since securing peace, enhancing development and exercising human rights were inextricably interlinked. All Member States had undertaken to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The right to development had been explicitly reaffirmed and the system of human rights treaty bodies was to be strengthened. For the first time, an explicit intergovernmental mandate for the mainstreaming of human rights had been issued. The vital role played by human rights education had been unambiguously recognized. Moreover, there had been firm support for the rights of women, minorities, indigenous peoples, children, internally displaced persons, refugees and persons with disabilities, and the particular human rights needs of countries emerging from conflict had been tangibly acknowledged through the recent creation of the Peacebuilding Commission. At the same time, major progress had been made by the Office of the High Commissioner for Human Rights, which had sharpened its understanding over the past year of how best to implement its mandate and had received the support of Member States through their commitment to the doubling of its resources from the regular budget. A quiet revolution had thus clearly taken place in human rights at the United Nations.

3. But while the decision taken in New York was of truly historic significance, its actual impact on people’s lives was still to be determined. Much would depend on the profound culture shift that must accompany the institutional reform. The protection of human rights called for a rigorous, frank and cooperative environment, since progress could not be made in an atmosphere of distrust and disrespect and in the pursuit of narrow self-interest. Millions of people all over the world were looking to the United Nations for protection and redress against the violation of their rights and deprivation of their freedoms. It was to them and to future generations that the work of the Human Rights Council must be dedicated.

4. The resolution adopted by the General Assembly, which had already elicited a great deal of comment, marked a major step forward for the United Nations human rights system. In September 2005, all heads of State and government had resolved to strengthen the system with a view to ensuring the effective enjoyment of all human rights by all. For the time being, nothing should be taken for granted: the founding document of the Human Rights Council created a strong global human rights body, but there was no guarantee that the Council would fully realize the goals for which it had been created. It still existed only on paper and it would take the election of its members, scheduled for 9 May 2006, to breathe life into it. That would be a vital opportunity for the United Nations to begin setting the standards for its human rights work in the future. It was an opportunity not to be missed either by candidates or by the electorate, since it would set the tone and establish the ethos of the new body. It was also important for the Council to find a way quickly during its first sessions to deal with its substantive mandates, while at the same time establishing its working procedures. Its credibility would depend on its ability to take swift action on matters of substance. In particular, it would have to take urgent interim measures to ensure that there was no protection gap during the transitional period. That would require taking steps from the outset to enable it to assume and implement fully the mandates, mechanisms, functions and responsibilities inherited from the Commission. Such steps should relate, in particular, to mandates that the Commission and the Economic and Social Council would have had to renew in normal circumstances and to the replacement of mandate-holders whose mandate would have expired by the end of July 2006. It would also have to take steps regarding all the reports submitted to the Commission at its sixty-second session but which the latter had been unable to consider, especially those emanating from special procedures and intergovernmental working groups, in order to ensure that there was no disruption in standard-setting activities.

5. The disbandment of the Commission had also elicited much comment, but it was important to celebrate the Commission's accomplishments, notwithstanding its flaws, since the Council would clearly have to build on its achievements and strengths. First, the Commission had built the framework for international human rights protection and had continued to set standards on a wide range of human rights issues. In the immediate aftermath of the Second World War, the Commission had drafted the Universal Declaration of Human Rights, adopted by the General Assembly on 10 December 1948. It had then drafted the other two pillars of what had become known as the International Bill of Human Rights, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which were perhaps the most valuable contribution ever made by the United Nations to the well-being of the whole of humankind. People were perhaps unaware today that it was a revolutionary step at the time to assert that human rights constituted the foundation of freedom, justice and peace throughout the world. By recognizing the inherent dignity of the human person and by articulating what was necessary to realize and safeguard human dignity, the Commission had helped to redefine, quite fundamentally, the individual's position vis-à-vis the State. Taken on its own, the creation of the International Bill of Human Rights would go down in history as one of humankind's most vital gifts to itself. But the Commission had gone much further in formulating other core human rights treaties and norms. Standards pertaining to women, children and human rights defenders, the prohibition of genocide, racial discrimination and torture as well as the right to development, to mention just a few, were now part of the international framework of protected rights and liberties. And the Commission's work was ongoing: in 2005 it had adopted the Basic Principles and Guidelines on the Right to a Remedy

and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law and the Set of Principles for the protection and promotion of human rights through action to combat impunity.

6. Second, the Commission had established the system of special procedures, thereby becoming a protector of human rights in addition to being a promoter. Independent experts, special rapporteurs, special representatives of the Secretary-General, special representatives of the High Commissioner for Human Rights and working groups had come to represent, in many ways, the frontline human rights troops responsible for ensuring early warning and protection. Faced with a growing number of crises around the globe, the Commission had broadened its agenda in the years after its creation to include the full spectrum of civil, cultural, economic, political and social rights, including the right to development. Thematic mechanisms on the rights to health, to adequate housing and to education, among others, now complemented its earlier mandates relating to disappearances, extrajudicial executions and torture. The special procedures constituted a body of independent experts who ensured that the international community continued to focus on the most pressing human rights issues. The experts had given a voice to the often silenced victims of human rights abuses and had offered a basis for dialogue with Governments on the concrete measures to be taken to enhance the human rights protection of those within their charge.

7. A third area of solid achievement was the Commission's consideration of the human rights situation in specific countries. That subject had given rise to bitter debate, but it should be borne in mind that for years the Commission had demonstrated its relevance to the victims of human rights violations and its ability to marshal a global consensus on action to remedy their plight. The first situations it had dealt with were the apartheid regime in South Africa and the situation in the Middle East, while Chile had been the subject of the first-ever country mandate. Those early efforts to give a practical dimension to the Commission's work had been made in response to strong demands from recently decolonized countries in Africa and Asia. The Commission had also met, though perhaps not sufficiently frequently, in special session to consider emergency situations, for instance in East Timor, Kosovo, Palestine and Rwanda. It had continued to pursue such activities, including through the provision of assistance to Governments in the form of advisory services and technical cooperation in the field of human rights.

8. Fourth, the Commission had created the first human rights complaints mechanism in the United Nations system: the "1503 procedure", a confidential procedure that drew attention to widespread patterns of gross human rights violations in any country. Communications, of which an average of 20,000 were processed each year, could be submitted by individuals, groups or NGOs. The importance of the 1503 procedure was twofold: on the one hand, in the 1970s and 1980s it had been the only means available for victims to have their cases heard. On the other, it had triggered many of the Commission's fact-finding mechanisms, leading, in particular, to the establishment of the United Nations Working Group on Enforced or Involuntary Disappearances. Those who had witnessed the attendance of the Mothers of the Plaza de Mayo from Argentina at the 1980 session of the Commission could attest to the power of direct action by victims. The revised 1503 procedure remained the only procedure available to many victims of human rights violations.

9. Lastly, the Commission had served as a global forum for dialogue on human rights issues and had maintained a close relationship with civil society, allowing for discussion of human rights by senior government officials, victims of human rights abuses, and representatives of national human rights institutions, United Nations agencies and NGOs. Those discussions had helped to identify new human rights issues. National institutions and NGOs had provided the Commission with information through parallel events and oral and written statements about human rights situations in all regions of the world and had contributed through their expertise to the examination of thematic issues on the Commission's agenda. The robust presence of civil society was a credit to the Commission's unique openness and inclusiveness. Those achievements were not perfect, but they represented real strengths on which the Council could build with the unstinting assistance of the Office of the High Commissioner for Human Rights.

10. Mr. WISIBONO (Chairperson of the sixty-first session of the Commission), presenting an overview of the Commission's sixty-first session, said that it had attracted some 4,000 participants and given rise to over 930 public and private parallel events, including meetings between NGOs, Governments and human rights institutions. Some 2,000 NGOs had attended the proceedings. In general, the participants had displayed a heartening spirit of cooperation, seeking to find common ground and thereby contributing to constructive and fruitful deliberations, the adoption of 85 resolutions, mostly by consensus, 18 decisions and 4 Chairperson's statements, and the establishment of several new special procedure mandates. The Expanded Bureau had held 10 meetings, relying on the friendly relations among its members to address the difficult issues referred to it. The number of points of order had been substantially reduced and statements by delegations had been more constructive, even on controversial issues.

11. He had had the honour to represent the Commission on several occasions, in particular before the Third Committee of the General Assembly and the Commission on the Status of Women at its forty-ninth session in February 2005. He had been invited in December 2005 to address the International Conference on the Right to Basic Education organized jointly in Jakarta by the Indonesian Ministry of Education and the United Nations Educational, Scientific and Cultural Organization (UNESCO), an event clearly inspired by the resolution on the right to education adopted by the Commission on Human Rights. One of the Commission's Vice-Chairpersons had attended the meeting of the functional commissions of the Economic and Social Council in New York.

12. Participants in the sixty-first session had discussed United Nations reform, especially of the human rights mechanisms. Two informal consultative meetings had been held on the subject, in April and June 2005, and a summary of the consultations had been transmitted to the President of the General Assembly. Following further consultations in New York in October 2005, another informal meeting had been organized in November to exchange views on the modalities for the establishment of a Human Rights Council. The series of consultations had enabled the President and Vice-Presidents of the General Assembly to better understand the positions of the Geneva human rights community. The Commission had therefore made a constructive contribution to the discussion of reform of the international human rights forum and had thus played a role in the establishment of the Human Rights Council.

13. It was to be hoped that the international community would build on the Commission's positive achievements while avoiding certain pitfalls. The strengths of the Commission included existing international legal standards pertaining to human rights, the increasingly

influential international system for the promotion and protection of human rights, the system of independent special procedures, technical and advisory expertise, and the constructive engagement of human rights NGOs. The Commission had suffered, however, from a tendency to politicize issues, to practise selectivity and to apply double standards. If the Human Rights Council was to live up to the expectations it had generated, it would have to reaffirm the principles of universality, impartiality and non-selectivity, and embrace international cooperation and dialogue while undertaking periodic reviews of the human rights situation in all countries. As an elevated body, however, the Council might well take the flaws that had beset the Commission to new heights. The legitimate concerns of nations and peoples must therefore be constantly borne in mind in order to ensure that the new body had a tangible impact on respect for human rights at the global, regional and national levels. Given that human rights violations stemmed in many cases from stakeholders' lack of capacity or inadequate awareness of their obligations, the Human Rights Council should make capacity-building a priority. Such deficiencies existed not only in critical areas such as the administration of justice and national human rights protection systems but also in more basic areas such as human rights education. The Commission and the Office of the High Commissioner for Human Rights had already done substantial work in that area and States should be assisted in enhancing national capacity through a constructive process: the emphasis placed on the modalities of enhancing such capacity was a real promise in that regard.

14. Those key elements represented the collective vision of all nations and a new beginning for the human rights cause. It was essential to maintain and strengthen the existing momentum, even though it was already clear that the Human Rights Council would not have an easy task. However, by cultivating a spirit of cooperation and dialogue, it could make a real difference. Above all, it must be able to guarantee that its decisions were implemented on the ground and ensure the promotion and protection of all human rights, wherever and whenever they might be exercised.

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK (agenda item 2) (E/CN.4/2006/L.1)

15. The CHAIRPERSON said that the draft agenda of the sixty-second session had been prepared by the Expanded Bureau, in consultation with the regional groups, on the understanding that the purpose of paragraph 6 of General Assembly resolution 60/251 of 15 March 2006 was to transfer to the Human Rights Council all Commission mandates, mechanisms, functions and responsibilities that existed at the time of adoption of the resolution and that no action was therefore required by the Commission to secure their extension or transfer.

16. The agenda was adopted.

STATEMENTS FOCUSING ON THE ROLE OF THE COMMISSION ON HUMAN RIGHTS (agenda item 3)

17. Mr. LOULICHKI (Morocco), speaking on behalf of the Group of African States, said that the Commission on Human Rights was concluding its proceedings with the same vision as had prevailed at its first session, namely the advent of a world in which all human beings would enjoy human rights and fundamental freedoms equally and unreservedly. The African Group was fully committed to the promotion and protection of the human rights and fundamental

freedoms enshrined in numerous instruments on the basis of the principle that everyone was entitled to a national and international order in which the rights set forth in the Universal Declaration of Human Rights could be fully realized, that all human beings were born free and equal in dignity and rights, and that those rights were universal, indivisible and interrelated. Human rights issues were inextricably linked to issues of equality, justice, peace and development at the national and international levels. The African Group attached great importance to the right to development, which should enjoy the same status as other rights, since without development, people could neither enjoy rights nor assume responsibilities and duties.

18. Cultural diversity, specificities and different value systems were not only enriching attributes of societies but also tools for promoting tolerance, social harmony, mutual respect and understanding, as well as international peace, security and cooperation. It followed that any attempt to impose one value system on others would imply disregard for other cultures and civilizations, and any attempt wrongly to associate certain religions or communities with terrorism was unacceptable. Elimination of terrorism as a twenty-first century scourge called for more effective and concerted cooperation to address its root causes.

19. While the Commission on Human Rights had, in the African Group's view, played an important role in the promotion and protection of human rights and had major achievements to its credit, such as standard-setting, contributing to the demise of apartheid, promoting the right to development, and facilitating the participation of NGOs and national institutions in its work, its credibility had suffered from politicization, selectivity in addressing issues, the application of double standards, and its tendency to name and shame States instead of strengthening the promotion of civilized dialogue and cooperation. The African Group therefore welcomed the adoption of the United Nations General Assembly resolution establishing a Human Rights Council to replace the Commission, even though it failed to reflect all the Group's concerns. To fulfil its lofty mandate, the Council would have to redress the shortcomings of the Commission. Thus, it would have to give equal attention to all rights, including the right to development, and to the relationship between rights, duties and responsibilities; safeguard respect for culture, religion, diversity, specificities and different value systems; promote respect for the national sovereignty and equality of States and for their territorial integrity, as well as for the principle of non-interference in States' internal affairs and the right of peoples under foreign occupation to self-determination; and stress dialogue, cooperation, technical assistance, education and capacity-building instead of naming and shaming States, thereby avoiding politicization, selectivity and double standards. Lastly, as a subsidiary body of the United Nations General Assembly, it would have to submit all its recommendations, resolutions and reports to the parent body. Moreover, to be effective, it would have to address some issues relating to the work of the Office of the High Commissioner for Human Rights such as equitable geographical distribution in the recruitment of its staff, provision for intergovernmental oversight of its budget, and ensuring non-interference in its programme of activities by donor countries.

20. The success or failure of the Human Rights Council would depend on the political will of all Member States and on their degree of commitment to establishing an effective and innovative body dedicated to strengthening human rights and fundamental freedoms throughout the world. It was in that spirit that the African Group undertook to work closely with other regional groups to make the new Council a better forum for dialogue aimed at the promotion and protection of human rights.

21. Mr. ATTAR (Saudi Arabia), speaking on behalf of the Group of Asian States, said that the Asian region represented a large section of humanity, not only in terms of the number of peoples and nations but also in terms of cultural diversity. Firmly committed to the principles of equality, freedom and justice, the countries of Asia had always viewed universality, impartiality and non-selectivity as essential elements of the international human rights protection system and stressed the role of cooperation, dialogue, education, technical assistance and capacity-building in the realization of all human rights. That system was today at a critical juncture in its history, as the establishment of the Human Rights Council marked the end of the Commission's 60-year existence.

22. The Asian countries recognized the Commission's many achievements, especially in the area of standard-setting, with, first and foremost, the drafting of the Universal Declaration of Human Rights adopted by the General Assembly in 1948 and subsequently various other international human rights instruments. The impact of its action in support of human rights and fundamental freedoms had been considerable. For instance, the Commission had consistently affirmed the right of peoples to self-determination, especially that of the Palestinian people whom the Asian Group supported in their aspiration to establish a sovereign and independent State. The Group reiterated its support for all peoples under foreign occupation and reaffirmed the obligation to respect international humanitarian law in all occupied territories in any part of the world.

23. The Commission had also spearheaded the international struggle which had led to the abolition of apartheid, and its action against racism, racial discrimination, religious intolerance and xenophobia had resulted in the adoption of the Durban Declaration and Plan of Action in 2001. It had steadfastly promoted the civil and political rights of all peoples and had advanced the cause of women, children, migrants and migrant workers, minorities and persons with disabilities. The Asian countries also welcomed its efforts to secure the realization of economic, social and cultural rights, including the right to development, through international cooperation. They appreciated, in addition, the work accomplished by the Sub-Commission on the Promotion and Protection of Human Rights as a "think tank", synthesizing the views of experts, Governments and civil society on various human rights themes. Lastly, the Asian countries acknowledged the great value of the extensive network of special mechanisms established by the Commission to deal with specific human rights issues, but took the view that the system should be reformed to ensure that mandate-holders maintained the highest standards of impartiality, objectivity and independence in the performance of their duties.

24. Despite its numerous achievements, the Commission had been adversely affected in its work not only by structural shortcomings but also and above all by politicization, selectivity and double standards. It had failed to attach the same importance to economic, social and cultural rights as to civil and political rights, had been unwilling or hesitant to address the real causes of malaise in the system, and had therefore found it increasingly difficult to fulfil its mandate effectively. The Asian Group believed it was important to transfer all the Commission's activities to the new Council in accordance with paragraph 6 of General Assembly resolution A/60/251, without being selective or making exceptions. Universality, impartiality, objectivity, non-selectivity, dialogue and international cooperation should be the guiding principles of the Council, which ought to focus on capacity-building, technical assistance and dialogue. A constructive approach should be adopted to the promotion and protection of human rights and efforts should be made to avoid country-specific actions and

resolutions, which could be counterproductive and lead to political confrontation. The universal periodic review should be conducted through a transparent and impartial procedure that took into consideration the fact that countries were at different levels of development. The Asian Group, which had always advocated a comprehensive reform of the various components of the international human rights machinery through a consensus-based process, hoped that when the Human Rights Council reviewed the Commission's system of special procedures in order to create its own system, it would seek to identify practical steps for enhancing them and strengthening their effectiveness. Lastly, the Asian Group trusted that the ongoing restructuring of the Office of the High Commissioner for Human Rights would address the problem of underrepresentation of Asian countries in the Office.

25. In view of the importance of respecting all religions and cultures, the Asian Group underlined that freedom of expression entailed responsibilities and should not be used to incite hatred or to insult people's deeply held beliefs. All relevant United Nations bodies, including the Human Rights Council, should help to promote tolerance, respect for and freedom of religion and belief, and dialogue and understanding among civilizations, cultures and religions. States, regional organizations, NGOs, religious bodies and the media all had an important role to play in that regard. The Asian Group would, for its part, continue to promote and protect human rights and was determined to participate constructively in the work of the Human Rights Council.

26. Mr. AMIRBAYOV (Azerbaijan), speaking on behalf of the Group of Eastern European States, said that since its creation by the Economic and Social Council in 1945 and its first session in 1947, the Commission on Human Rights had been a major forum for the promotion and protection of human rights and fundamental freedoms throughout the world. The International Bill of Human Rights, composed of the Universal Declaration of Human Rights, the first standard-setting instrument drafted by the Commission, and the two International Human Rights Covenants adopted in 1966, was one of its greatest achievements. The Commission had subsequently drafted and adopted many other human rights instruments, continuously contributing to the codification and progressive development of international human rights law. He therefore welcomed the fact that all its mandates, mechanisms, functions and responsibilities, including its standard-setting activities in open-ended working groups, were being transferred to the Human Rights Council.

27. In the area of human rights monitoring, one of the Commission's most innovative and tangible achievements had been the establishment of the system of special procedures, which had enabled it to draw attention to specific situations and achieve remarkable results, for example in the fight against apartheid or enforced disappearances. Moreover, since 1970 the Commission had been authorized, under the procedure established by Economic and Social Council resolution 1503 (LXVIII), to examine and react to communications submitted by individuals or groups regarding gross violations of human rights.

28. The Commission had furthermore managed to keep human rights issues on the international agenda and with the assistance of its think-tank, the Sub-Commission on the Promotion and Protection of Human Rights, had regularly undertaken studies focusing on particular issues in order to identify the kind of action that was needed, for example, to eliminate all forms of discrimination or to protect the rights of persons belonging to national or ethnic, religious and linguistic minorities. Another positive achievement of the Commission had been its unique interaction with civil society. The participation of a steadily growing

number of NGOs and national human rights institutions in its work highlighted the aspirations of millions of people all over the world to achieve effective international cooperation for the promotion and protection of human rights and fundamental freedoms. That experience, which had become one of the Commission's major assets, deserved to be continued in the new Council. The functioning of the United Nations human rights machinery had improved with the creation of the post of United Nations High Commissioner for Human Rights and the Office of the High Commissioner. It was essential for the Office to maintain its support for the work of the future Council and to provide advisory services and technical cooperation in the field of human rights to Governments.

29. While the establishment of the Human Rights Council was an important step in the process of reforming the United Nations, it should not impede ongoing efforts to improve the functioning and increase the effectiveness of the whole range of human rights machinery. The Eastern European Group of States took note in that connection of the High Commissioner's concept paper on further strengthening of the work of the treaty bodies. The need for reform of the machinery was underscored by the fact that the Commission, notwithstanding its achievements, had been far from flawless in discharging its mandate. Human rights should be a factor that brought nations and peoples closer together and improved the overall climate of international relations. It was therefore to be hoped that the new Council would respect the principles of universality, objectivity and non-selectivity in the consideration of human rights issues, seek to prevent the application of double standards, avoid politicization and attach the same importance to all human rights. The objective was not to dismantle the multilateral system but to reform it with a view to enhancing the promotion and protection of human rights. Moreover, the decision to abolish the Commission on Human Rights and create the Human Rights Council should not leave a "protection gap". The institutional reorganization should not affect the functioning of the human rights mechanisms and procedures. Furthermore, to ensure the effective implementation of human rights norms, the Council should take into account and help to promote the linkage between the primary United Nations goals of security, development and human rights. Although that certainly represented a challenge, it was also an opportunity to move forward from the Commission.

30. The international community now had an impressive normative framework for the protection of human rights and must step up its efforts to implement those norms. A credible and efficient Human Rights Council could assist the United Nations in fulfilling the task. Human rights knew no boundaries; everyone should understand that and make a genuine effort to ensure that the new Council served its purpose of addressing human rights violations with the requisite efficiency and effectiveness.

31. Mr. HUGUENEY (Brazil), speaking on behalf of the Group of Latin American and Caribbean States (GRULAC), expressed deep regret that the Commission on Human Rights had decided against discussing important issues that had been on its agenda for more than 20 years at the current session, solely on the ground that its mandate was to be transferred to the Human Rights Council. GRULAC wished to place on record that it did not support draft resolution E/CN.4/2006/L.2. However, acting in the constructive spirit it had always shown in the Commission, it would not oppose its adoption without a vote, on the understanding that the Council would address substantive issues as from its first session.

32. The Commission on Human Rights had been founded in order to prevent a recurrence of the horrors of the Second World War, and in the course of 60 years had become a leading forum for the discussion of wide-ranging human rights issues. GRULAC reaffirmed its commitment to the Vienna Declaration and Programme of Action, which had underscored the universality, indivisibility and interdependence of all human rights and the need to treat them equally. The Commission had equipped itself with essential tools and mechanisms for the promotion and protection of human rights, such as the system of special procedures, many of which were the product of a GRULAC country initiative, and the working groups mandated with international standard-setting. It had also established the Sub-Commission on the Promotion and Protection of Human Rights, given greater weight to victims' concerns, for instance by allowing them to file individual complaints, and supported the work of human rights defenders. The Commission had played a vital role in the States of his Group, where in many cases its action had helped to restore democracy and the rule of law by giving people the means to fight against human rights violations. In return, Latin America and the Caribbean had worked hard to promote human rights, above all through the part they had played in drafting various legal instruments and creating thematic mandates dealing, in particular, with the right to food and the right to the truth, but also through the two High Commissioners for Human Rights from the region.

33. The Human Rights Council marked the beginning of a new stage in the process of strengthening the promotion and protection of human rights, which required careful preparation. GRULAC therefore called on all delegations and on NGOs, which played an important role in the human rights protection system, to set to work seriously, as soon as the Commission session came to a close, on preparing the first session of the Council to be held in June. As the draft International Convention for the Protection of All Persons from Enforced Disappearance and the draft Declaration on the Rights of Indigenous Peoples were ready, the Group would have liked those instruments to have been adopted at the sixty-second session of the Commission so as to send out a positive signal and ensure a fitting closure to its proceedings. It trusted that they would be adopted at the first session of the Human Rights Council. GRULAC hoped that the Council would build on the Commission's achievements and that the credibility problems would be settled once and for all. It reaffirmed the importance of universality, impartiality and objectivity, and rejected selectivity, double standards and politicization in the area of human rights. It also extolled the virtues of dialogue and cooperation and placed great hopes in the universal periodic review. GRULAC further considered that the Council should focus on advancing the process of drafting new essential international standard-setting instruments such as the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and hoped that it would recognize the importance of the International Research and Training Institute for the Advancement of Women and look into the possibility of transferring the Committee on the Elimination of Discrimination against Women to Geneva. Lastly, it hoped that the strengthening of the Office of the High Commissioner would result in more effective advisory services and technical cooperation for States, a more balanced geographical distribution of its staff and stronger support for special procedures mandate-holders.

34. Mr. de JONG (Netherlands), speaking on behalf of the Group of Western European and Other States, said that during its 60 years of existence, the Commission on Human Rights had become the hub of the United Nations human rights machinery, far exceeding the scope of the initial mandate assigned to it in 1946 and making unquestionable advances in its main fields of competence. The first area was that of standard-setting, starting with the Universal Declaration

of Human Rights and moving on to the two Covenants and various other conventions and declarations - some of which were still being drafted. In its second field of competence, that of addressing human rights violations, it had drawn the world's attention to human rights abuses, eliciting a response from all parties concerned, and developed an independent and effective system of special procedures to examine them. In performing its third function, that of implementing and securing respect for human rights, the Commission had regularly called upon the Office of the High Commissioner to provide assistance to States which were in need of its services. His Group welcomed the Office's new country engagement strategy and supported the effective mainstreaming of human rights into all activities of the United Nations system. The Commission's fourth function consisted in clarifying conceptual issues, notably those of transitional justice, the status of internally displaced persons, impunity and respect for human rights in the fight against terrorism. The Commission had discharged its fifth and last function, that of serving as a public platform for debate, particularly well, since not only Member States and observers but also NGOs, national human rights institutions and independent experts had taken part in its work, making the Commission a unique United Nations body that had given victims a voice. Although it was a mere functional commission of the Economic and Social Council, the Commission had attracted the attention of public opinion, Governments and the media through its decisions and deliberations, thereby gaining considerable authority.

35. The establishment of the Human Rights Council demonstrated the commitment of the international community to enhancement of the protection of human rights. Its members should scrupulously respect human rights standards, and the Group of Western European and Other States pledged that it would not vote for a candidate that failed to live up to those standards. It welcomed the empowerment of the General Assembly to suspend a State's membership of the Council if it was guilty of gross and systematic violations of human rights. His Group's members, who had consistently supported the reform process since it had been launched in 1997 by the Secretary-General, and had worked steadfastly to promote human rights in full knowledge of their responsibilities, hoped that the Commission's achievements would be preserved and strengthened, especially the system of special procedures and the active participation of NGOs and national human rights institutions in the proceedings.

36. The Group of Western European and Other States expected the Human Rights Council to begin taking substantive decisions at its first session scheduled for June 2006, in particular adopting interim measures, considering the reports of all working groups and taking action on any texts that were ready for adoption. It should also develop working methods and procedures that would enable it to discharge its mandate effectively and to ensure that civil society was fully involved in its proceedings. The process of doing so should be open, transparent, fair and inclusive. Cooperation and dialogue would be essential if the Human Rights Council was to fulfil its responsibility to promote respect for all human rights and fundamental freedoms and make a vital contribution to the work of the United Nations, now that human rights were rightly recognized as one of the main pillars of its mandate.

37. Mr. SIDOTI (International Service for Human Rights), speaking on behalf of 265 NGOs, said that during the 60 years of existence of the Commission on Human Rights, NGOs had played, in the words of the General Assembly, "an important role at the national, regional and international levels, in the promotion and protection of human rights". Unfortunately, the arrangement made for involving them in the final session of the Commission, namely through a

single statement, failed to reflect either that important role or their diversity, which was comparable to the variety and multiplicity of human experience. They had brought to the Commission the voice of the voiceless and of victims of violations throughout the world; yet they noted with disappointment and a sense of loss that they were missing from the final session of the Commission. The NGOs had therefore decided not to assess the work of the Commission in a single statement, considering it an inappropriate way to proceed, and they urged States to acknowledge that fact.

38. The NGOs looked forward to the establishment of the Human Rights Council. They reminded all States that the General Assembly had committed the future Council to “ensuring the most effective contribution” of NGOs to its work “based on arrangements ... and practices observed by the Commission”.

PROCEDURAL RESOLUTION ON THE CLOSURE OF THE WORK OF THE COMMISSION (agenda item 4) (E/CN.4/2006/L.2)

39. The CHAIRPERSON said that draft resolution E/CN.4/2006/L.2 entitled “Closure of the work of the Commission” had been extensively discussed in the Expanded Bureau and in consultations with the regional groups, and an agreement had been reached on its adoption without a vote.

40. Draft resolution E/CN.4/2006/L.2 was adopted.

ADOPTION OF THE REPORT OF THE SIXTY-SECOND SESSION OF THE COMMISSION; CHAIRPERSON’S CLOSING STATEMENT; CLOSURE OF THE SESSION OF THE COMMISSION (agenda item 5)

Adoption of the report of the sixty-second session of the Commission (E/CN.4/2006/L.10)

41. Mr. SOEMARNO (Rapporteur of the Commission), introducing the draft report of the Commission on its sixty-second session, said that, in view of the circumstances, namely the establishment of the Human Rights Council and the abolition of the Commission, the report reflected the short and procedural nature of the session’s work, as requested by the Economic and Social Council in its resolution 2006/2 of 22 March 2006. The draft report was published as document E/CN.4/2006/L.10 and was composed of five chapters dealing with the organization and conduct of the proceedings and three annexes. He invited delegations to submit their comments to him through the secretariat of the Commission by Monday, 10 April 2006, so that he could finalize the report.

42. After emphasizing the prominent role that the Commission on Human Rights had played in disseminating, promoting and protecting human rights throughout the world for 60 years, he concluded by congratulating the Chairperson on his professionalism and efficiency and thanking the Bureau and all members of the secretariat who had assisted him in his work.

43. The CHAIRPERSON said he took it that the Commission wished to adopt the draft report ad referendum, on the understanding that the Rapporteur would finalize it at a later stage with the assistance of the secretariat.

44. It was so decided.

Chairperson's closing statement and closure of the session of the Commission

45. The CHAIRPERSON first invited all present to observe a minute's silence in memory of all those - victims of human rights violations or human rights defenders - who had lost their lives during the 60 years of the Commission's existence.

46. A minute's silence was observed in memory of victims of human rights violations.

47. The CHAIRPERSON said that the Commission on Human Rights had been established in 1946 in the aftermath of the war at a time when the memory of genocide was still fresh and colonialism still prevented peoples from exercising their right to self-determination, but also at a time when peoples and individuals were expressing their democratic aspiration for recognition of their right to justice and freedom and their yearning to attain standards of living and welfare consistent with human dignity. Against that background, the Commission's first initiative in 1947 had been to seek a universal consensus on a list of inalienable rights inherent in all human beings that every State was bound both to respect and to guarantee. The outcome had been the adoption of the Universal Declaration of Human Rights which, with the evolution of customary law, had become a legal instrument binding on all States. Together with the two International Covenants on Human Rights, also drafted in the Commission, it was one of that body's most important legacies to humankind. The Commission's standard-setting work had continued unabated, with the International Bill of Human Rights being followed by many other binding instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture, and non-binding instruments such as the Declaration on Human Rights Defenders and the Declaration on the Right to Development, which the Commission had done much to promote and which laid the basis of the right to have rights, reflecting the indivisibility of all human rights. As a further legacy of its 60 years' work, the Commission was bequeathing to the Human Rights Council two instruments of key importance to victims: the draft International Convention for the Protection of All Persons from Enforced Disappearance and the draft Declaration on the Rights of Indigenous Peoples. It was to be hoped that the first set of substantive decisions taken by the Council at its first session would include the adoption of those instruments.

48. The safeguarding of human rights could not, however, be confined to standard-setting. It was equally important to ensure that the obligation to guarantee rights was respected, to condemn violations with a view to punishing the perpetrators and compensating the victims, and to combat impunity. It was therefore essential to protect persons whose rights had been violated, to involve human rights defenders, NGOs and national human rights institutions in the Commission's proceedings, and to create new action-oriented and monitoring mechanisms to address specific cases of massive or systematic violations, such as enforced disappearances, torture, summary executions, arbitrary detention and genocide. The Commission had established a large number of special procedures in response to situations in Latin America, his own continent, where dictatorships and internal conflicts had left a trail of disappearances, torture and arbitrary executions in their wake. Through its commitment and determination, it had supported the fight of the peoples of the region to restore democracy, the rule of law, and a regime based on freedom and opposed to impunity. In its role as protector, the Commission had also supported the struggle of the South African people against apartheid, helping to eliminate a great evil. Its action to establish and implement the principle of self-determination as an

inalienable right of peoples had proved equally successful and had rapidly led to the adoption by the General Assembly of resolution 1514 (XV). Lastly, it had developed a whole system of technical cooperation aimed at building States' endogenous institutional capacity to prevent or punish human rights violations.

49. Those unquestionable achievements of the Commission had, of course, been overshadowed by shortcomings, weaknesses and problems that undermined its credibility and legitimacy, especially the public procedure of adopting country-specific resolutions, which had led to intense politicization and selectivity, severely restricting its capacity to act as required by human rights considerations rather than political interests. That state of affairs had motivated the reform which had led to the establishment of the Human Rights Council and the disbandment of the Commission. The Commission's historic record was, on the whole, positive from the standpoint of both victims and international human rights law, but it was to be hoped, in the light of its shortcomings and mistakes, that the Council would prove more effective and legitimate, that it would focus on serving the interests of victims and potential victims of human rights violations, and that it would provide truly universal protection. It already had the necessary tools and the substantial intrinsic merit of having secured support for its establishment from the vast majority of those who had expressed their will. That majority had created an area of fundamental concord around the shared basic values of human dignity and freedom. It was a symbolic expression of the power of dialogue and mutual respect among cultures and civilizations.

50. The fact that the Commission had adopted the decisions of its sixty-second session without a vote was also a constructive symbol. The resolution and the final report had the great merit of specifying that the transfer of the Commission's functions, mechanisms, mandates and responsibilities included consideration of all pending questions on the Commission's agenda by the Council at its first session, which was scheduled to open on 19 June 2006. They thus ensured that a protection gap was avoided and provided the Council with its most important agenda items. It was also essential that the Council should be assisted in fulfilling its mandate not only by States but also by NGOs.

51. In conclusion, after quoting Sergio Vieira de Mello, he thanked the High Commissioner for Human Rights and the entire secretariat for their capable support and the NGOs for their incessant efforts in the cause of human rights, and declared the sixty-second session of the Commission closed.

The meeting rose at 5.30 p.m.