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HUMAN RIGHTS COUNCIL

Second session

SUMMARY RECORD OF THE 25th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 3 October 2006, at 10 a.m.

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| <u>President:</u> | Mr. DE ALBA | (Mexico) |
| later: | Mr. LOULICHKI (Vice-President) | (Morocco) |
| later: | Mr. DE ALBA (President) | (Mexico) |

CONTENTS

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF
15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL" (continued)

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK (continued)

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The meeting was called to order at 10.15 a.m.

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF
15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL” (agenda item 2)
(continued)

Progress reports of the Working Group on the implementation of paragraph 6 of
General Assembly resolution 60/251

1. The PRESIDENT recalled that in its decision 2006/104 the Council had decided to establish an open-ended intergovernmental working group to formulate concrete recommendations on the issue of reviewing and, where necessary, improving and rationalizing all mandates, mechanisms, functions and responsibilities in order to maintain a system of special procedures, expert advice and a complaint procedure, in conformity with General Assembly resolution 60/251. He then invited the facilitators of the various aspects of the Working Group’s deliberations to report on the progress achieved by the Working Group since the first session.
2. Mr. HUSÁK (Czech Republic), speaking as the facilitator of consultations on the review of mandates, said that the Working Group had held three rounds of informal consultations, on 21 July, 7 September and 15 September 2006 respectively. During the first round, delegations had reflected on experiences relating to the work of the special procedures, which they had agreed were an essential instrument for promoting and protecting human rights. Recommendations made addressed the need to improve the submission of information, the provision of invitations to visit and the acceptance of requests, and implementation and follow-up of recommendations made by the special procedures. There was scope for further improvements with regard to the nomination and appointment of mandate-holders, coordination among them, working methods and the prevention of politicization of the work of special procedures. Special procedures mandate-holders, non-governmental organizations (NGOs) and national human rights institutions were encouraged to take part in the review process.
3. During the second round of consultations, the Working Group had stressed the universality of human rights, pointing out the need for a balance between civil and political rights and economic, social and cultural rights, for increased financing and support to the special procedures from the Office of the United Nations High Commissioner for Human Rights (OHCHR) and for greater synergy between the special procedures and the Council, which could entail the standardization of the procedures’ working methods.
4. The third round of consultations had resulted in the compilation of a list of topics to be considered during Working Group meetings: nominations and appointments of special procedures mandate-holders; coherence between the special procedures; interaction among the mandates and between the mandates and other human rights mechanisms; priority areas of mandates; the relationship of the special procedures with the Council; cooperation by Governments; organizational and logistical issues; general criteria for the review, rationalization and harmonization of mandates; and recommendations to streamline working methods of

individual mandates. The Working Group would meet to consider all those questions from 16 to 20 October and from 13 to 17 November 2006. It was important that the Working Group on the review of mandates should work closely with the Working Group on the universal periodic review mechanism in developing the modalities of that mechanism in order to enhance the effectiveness of the special procedures.

5. Mr. BURAYZAT (Jordan), speaking as the facilitator of consultations on the future expert advisory body, said that the outcome of the consultations had been presented recently at an informal Council meeting in an informal document entitled “Expert advisory body of the Human Rights Council”. He looked forward to receiving feedback on that paper, which set out various options regarding such aspects of the future body as terms of membership, geographical representation of members, scope of work of the Working Group on the review of mandates with respect to particular themes or country situations, relationship of the new advisory body to the Council and the qualification and status of experts. An understanding was being reached within the Working Group on the review of mandates as to the procedures to be selected, the role of the High Commissioner and the relationship of the advisory body to the Council. However, certain core issues, including the nomenclature, status, mandate and size of the expert advisory body, required further consultation. It was to be hoped that a consensus on those matters could be reached swiftly.

6. Mr. GODET (Switzerland), speaking as the facilitator of consultations on the complaint procedure, said that the consultations had focused on recommendations for the review, and if necessary, improvement and streamlining of the 1503 procedure by June 2007. Open-ended consultations had been held on 8 and 15 September 2006, and he had also organized an informal seminar for a limited number of members, which had been held on 13 September 2006. It had become clear from the consultations that the 1503 procedure, despite its shortcomings, would constitute a useful basis for the work of the Working Group, given that it concerned all States and covered all human rights.

7. The various criteria for determining the admissibility of communications would have to be reviewed. Although the criterion of a minimum threshold of violations appeared to be accepted across the board, there were diverging views on the exhaustion of domestic remedies. Some States maintained that that criterion was irrelevant in dealing with flagrant, systematic human rights violations that often reflected the non-existence of the rule of law, whereas others advocated the strict application of that criterion.

8. Another question to be resolved was the confidentiality of the complaint procedure. At issue was whether confidentiality should be maintained throughout the procedure to ensure States’ cooperation, or whether certain human rights situations should be made public if the States concerned refuse to cooperate. On the question of transparency, it had been suggested that the authors of complaints should be kept informed of the status of their complaint, which was not the case at present, or even consulted during the procedure. There had been no major objections to the successive review of complaints by a group of experts followed by a group of State representatives; however, the procedure was already too lengthy. Several delegations had highlighted the need for a holistic approach to the 1503 procedure, fearing overlaps with other mechanisms, such as the special procedures or the treaty bodies. In his view, overlaps were preferable to gaps in the protection of human rights.

9. The powers of the future complaint mechanism had yet to be determined. The Council would have to decide whether the four existing mechanisms should be maintained in part or in full. Lastly, the relationship of the complaint procedure to the universal periodic review mechanism should be explored by the Working Group on the review of mandates. A document prepared in cooperation with OHCHR describing the various options relating to the complaint procedure would soon be distributed to the delegations.

10. Mr. KEISALO (Finland), speaking on behalf of the European Union; the acceding countries Bulgaria and Romania; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Moldova and Ukraine, said that the European Union would continue to play an active role in the review process. However, it was important to avoid prejudging the outcome of that process at an early stage.

11. Transparency, predictability, inclusiveness and the participation of all stakeholders, including NGOs, national human rights institutions and representatives of the Coordination Committee of the Special Procedures Mandate-Holders, should remain the guiding principles of the review process. It was necessary to identify ways of further strengthening and enhancing the special procedures system, in particular its capacity to protect victims of human rights violations and ensure ongoing interaction between the special procedures and the Council and the entire United Nations system.

12. A strong system encompassing thematic and country mandates was essential if the Council was to implement its own mandate effectively, bring its debates closer to reality and alert the international community to human rights violations. Increased cooperation from States was therefore vital if the special procedures were to be granted full, free and timely access to all countries. It was also necessary to improve the implementation of recommendations by the special procedures.

13. It was heartening to note that the Coordination Committee's efforts to enhance and improve its working methods were characterized by openness and transparency; however, the European Union regarded those efforts as being separate from the review process, which should be conducted mainly by the special procedures and the High Commissioner. The European Union was eager to contribute to the Coordination Committee's efforts and was pleased to note that the draft Manual of the United Nations Human Rights Special Procedures had been posted on the Internet. Given that independence, integrity and objectivity were essential to ensure the credibility and effectiveness of the special procedures, they should be able to conduct their activities free from interference.

14. The Council should seek new ways to draw on expert advice. A roster of qualified and independent experts could be used on an ad hoc basis. The expert advice system should seek the broadest possible participation from NGOs and national human rights institutions and should interact regularly with the Council, which should utilize contributions from the expert advisory body in a timely manner. There was a need to prioritize areas in which expert advice was sought in order to maintain costs at a reasonable level and avoid any duplication of efforts.

15. Lastly, there was a clear need for a complaint mechanism within the Council that could address and respond expeditiously to gross and systematic human rights violations in all parts of the world and contribute to their prevention.

16. Mr. KHAN (Pakistan), speaking on behalf of the Organization of the Islamic Conference, said that the Working Group on the review of mandates and the Working Group on the universal periodic review mechanism should work at the same pace. In view of the fact that the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 had been extended under Commission on Human Rights Resolution 1993/2 until the end of the Israeli occupation, all thematic special procedures should focus on the human rights situation in Palestine and other occupied Arab territories. OHCHR should allocate resources to the special procedures in a transparent and balanced manner, and measures should be taken to improve the transparency and professionalism of the work of the Office's Special Procedures Branch. Staff of that unit should be appointed on a long-term basis and be representative of all geographical regions, cultures, civilizations and legal systems.

17. Thematic rapporteurs should focus exclusively on thematic work and should not report on specific country situations. The Sub-Commission on the Promotion and Protection of Human Rights should be succeeded by an expert body that could make use of the cognitive and interpretive tools developed by the Sub-Commission to support the new human rights regime under the Council. The future expert body should be a think tank or advisory body comprised of independent experts, possibly functioning as a subsidiary body of the Council. Composition of the new expert body should reflect the representation of regional groups in the Council, with a membership of experts nominated by States and elected by the Council. It should advise the Council on the whole range of human rights issues and provide input to the Council in the form of studies, reports and recommendations on topics requested by the Council. The new body should not be a legislative body, but rather an expert body focusing on the reform of its working methods, including research and analysis.

18. Since confidentiality was a key feature of the 1503 procedure, information regarding specific country situations should be made public only if the State in question was unwilling to cooperate. The existing criteria for the admissibility of complaints relating to human rights violations should be strictly applied by the OHCHR secretariat throughout the complaint procedure, and the modalities of the Working Groups on Communications and Situations should be retained. However, a country being reviewed under the complaint procedure should not also be considered under the public procedure of the Council. Efforts involving capacity-building and technical assistance should be made to address the needs of developing countries whose cases were being reviewed under the complaint procedure.

19. Mr. CHUMAREV (Russian Federation) said that the special procedures system required substantial reform on the basis of a review of the merits and disadvantages of individual mechanisms and of their working methods and interaction. That review should be based in turn on the principles of the supremacy of law, objectivity and impartiality, and should take a systematic and cooperative approach. The balance and "servicing" of all the special procedures must be improved. His delegation did not expect any substantial changes in the mandates of the thematic procedures, but positive advances could be achieved by improving coordination among

the individual procedures and through close cooperation with the States concerned. The regular budget resources allocated to the special procedures must be used rationally, and the Council must ensure its financial independence in order to avoid wasting resources and to be able to respond effectively to crises.

20. The excessively broad interpretation of mandates was unacceptable, as was the abuse of mandates by experts. Quite apart from the need for depoliticization, for the elimination of double standards and for rationalization, measures were required, perhaps in the shape of a code of conduct, to establish the rules for dialogue with States, requests for and exchanges of information, and the rotation of experts. The scope for creating new mechanisms was fairly limited. Indeed, for the time being the Council should impose a moratorium on the creation of any new thematic procedures, except perhaps in the underdeveloped areas of cooperation, and duplication of work must certainly be avoided. The Council should base any changes on the positive features of the existing arrangements for the nomination of candidates. Consideration should be given in the longer term to procedures for the removal of experts who violated their mandates or used them for political ends and for the rotation of special procedures among the regional groups.

21. There was much room for criticism of the country-specific procedures, which had in fact become the main channel through which the human rights machinery was politicized. Such relics were incompatible with the cooperative bases of the Council's work, and the Council must be allowed to divest itself of its negative heritage.

22. Mr. FERNANDEZ PALACIOS (Cuba) said that although many of the proposals that had been put forward were worthwhile, it must be recalled that the fundamental aim of the current exercise was to conduct a case-by-case review of the special procedures with a view to rationalizing them and eliminating the politicization, selectivity and double standards that had permeated the Commission on Human Rights under the influence of the country-specific rapporteurs and other procedures. Vigorous efforts should be made to prevent those negative trends from resurfacing in the Council. His Government had accepted an automatic one-year extension of all mandates, subject to review, but its patience was not boundless: its sole aim was to rid the Council of the aforementioned ills.

23. Mr. CERDA (Argentina) said that the review of mandates offered a fine opportunity for strengthening the human rights system: the exercise should be viewed in the context of broader reform and not just as a means of merging or terminating mandates. The final assessment would also have to identify gaps requiring the creation of new procedures. The Working Group should involve mandate-holders in its work, and OHCHR might play a more active part - for example, by producing a comparative table of the existing mandates.

24. The new advisory body should have a crucial role to play in the 1503 procedure and the universal periodic review mechanism. It should be composed of highly qualified independent experts elected by the General Assembly from among candidates nominated by States, the Secretary-General and the High Commissioner. The 1503 procedure should not be abolished but improved, and it should transmit to the Council cases of serious and systematic violations of human rights. Confidentiality should be maintained only insofar as it facilitated the cooperation of States. Complainants should be kept informed of the status of their communications and should not have to exhaust all domestic remedies.

25. Mr. LABARDINI (Mexico) recalled that his delegation had already stressed the importance of implementing paragraphs 5 (f) and 9 of General Assembly resolution 60/251 before carrying out the review. A systematic and complementary approach should be a fundamental element of the review, together with a focus on victims and on enhancing the protection of human rights. Such an approach would have to take into account the Council's functions, especially its leadership role, and provide for a division of labour among the constituent bodies of the United Nations human rights system. Since any decision taken by the Council must be based on its decisions 2006/102 and 2006/105, it would be inappropriate for it to agree at the present session to any changes in existing mandates.
26. The new complaints procedure should be focused on victims, and the Working Group must overcome the limitations of the 1503 procedure with a view to facilitating proper responses to individual complaints. It should also monitor the general trends revealed by communications, the universal periodic reviews and the procedure adopted for addressing violations. Whatever changes were made, the special procedures must retain the arrangements for dealing with urgent appeals and communications.
27. The work done by the Sub-Commission and OHCHR in the investigation of human rights violations had been of enormous importance for the application of international standards, and there was great potential for improving countries' technical knowledge and working methods in that area. The expert advice called for in General Assembly resolution 60/251 should be based on the acknowledged expertise of the members of the new body and on its enhanced independence, and should be designed to meet the Council's needs. It would be useful for the Working Group to specify the role to be played by such advice in the universal periodic reviews and the complaints procedure.
28. Mr. ATTAR (Saudi Arabia), speaking on behalf of the Group of Asian States, said that the Working Group on the review of mandates must proceed more quickly and adhere to a fixed schedule of meetings, keeping pace with the Working Group on the universal periodic review mechanism. The two Groups should work together to eliminate overlapping and rationalize the human rights machinery. The contributions of the Asian States to that effort were reflected in Commission on Human Rights resolution 2005/113.
29. The special procedures must adhere to the highest standards of independence, impartiality, objectivity and expertise. The review should establish a clear relationship between the special procedures and the Council in order to avoid the overlapping of their mandates with those of the treaty bodies, and mandates should be created only by decision of the Council. The thematic mandates should reflect a balance between civil and political rights and economic, social and cultural rights, and OHCHR should furnish resources to all mandate-holders transparently and impartially. The nomination of experts should take into account the notion of equitable geographical distribution, and the Working Group might consider reducing the number of mandates in order to enhance the system's effectiveness. It should be noted in that connection that the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 had been established until such time as the occupation ended.

30. The Council should produce a manual containing, inter alia, a common code of conduct, uniform guidelines on working methods and strict criteria regarding the admissibility of allegations. The review of the special procedures system should seek to eliminate politicization and enhance the Council's credibility by taking a non-adversarial approach.

31. The resolution 1503 procedure must remain confidential, and the existing admissibility criteria must be strictly observed by the OHCHR secretariat and the relevant working groups. Greater attention should be paid to the capacity-building and technical assistance needs of developing countries whose cases were under consideration.

32. The excellent work of the Sub-Commission should be continued by an expert advisory body that should provide the Council, at its request, with thematic studies and recommendations. The structure and modalities of such a body were still under discussion among the Asian States.

33. Mr. SINGH (India) said that the Council must seize the unique opportunity to revise the mandates, mechanisms, functions and responsibilities of the former Commission. In particular, it must improve the working methods of the special procedures by revising the appointments arrangements and producing a code of conduct and guidelines. A start must also be made on rationalizing the proliferation of mandates. The Working Group should review the merits of each mandate with a view to its retention, merger or termination and should identify gaps, bearing in mind the need to strike a balance between civil and political rights and economic, social and cultural rights and to avoid politicization and selectivity.

34. The role of the future expert advisory body would have to be determined in the context of the Council's overall requirements, including the universal periodic review mechanism and the complaints procedure. Where complaints were concerned, the Council should focus on gross and reliably attested violations; it should establish a single streamlined procedure that would also consider complaints received under other mechanisms. The existing criteria for admissibility, in particular the requirement of exhaustion of domestic remedies, must be strictly applied. Efforts must be made to identify ways of addressing situations that involved capacity-building and technical assistance in order to make a real difference on the ground instead of merely pointing fingers. There might be merit in increasing the participation of national human rights institutions in the consideration of cases and implementation of recommendations.

35. Mr. RAHMAN (Bangladesh) said that all three mechanisms under consideration should be retained as integral parts of the Council's work, but they must be adapted to the new realities. There must be improved coordination among stakeholders, collegiality among mandate-holders and harmonization of working methods.

36. Special procedures mandate-holders must display the highest standards of professionalism, and the review of mandates should address the appointments arrangements, working methods and operational framework. The existing appointments arrangements did indeed require revision: the criteria should be professional expertise, integrity, independence and impartiality. Candidates should be nominated by States and elected by the Council on the basis of equitable geographical representation. An operating manual should be produced which set out a code of conduct, admissibility criteria, working methods and guidelines. The special procedures should deliver concise reports based on reliable information, and the Council should

consider all of them and engage in dialogue with their authors. The rationalization of mandates should seek to strike a balance between the two main groups of rights and avoid duplication.

37. The 1503 procedure must remain confidential, and the purposes of individual communications must be consistent with the Charter and the applicable human rights instruments. Admissibility criteria should include verification of facts, exhaustion of domestic remedies and reliable indications of gross violations of human rights.

38. The Sub-Commission on the Promotion and Protection of Human Rights should be transformed into an expert advisory body for the production of thematic studies requested by the Council. The number of members should remain unchanged, and they should be elected according to the existing procedure on the basis of equitable geographical representation. The advisory body must not duplicate the work of the Council.

39. Ms. SETYAWATI FIRMAN (Indonesia) said that Indonesia's views on the mandates issue as set out in the informal paper submitted to the Council at its first session remained unchanged. Her delegation was therefore concerned that the Working Group on the review of mandates was lagging behind the Working Group on the universal periodic review mechanism, for the two exercises should proceed in tandem. It was in fact imperative for the Council to advance more speedily with the review process: it should take a decision to formalize the work of the Working Group on mandates. The draft operating manual for special procedures should be examined by the Working Group; it must include a unified code of conduct, admissibility criteria and guidelines on reports and country visits.

40. The 1503 procedure should be strengthened; the stage-by-stage consideration of cases and the principle of confidentiality should be retained, as should the experts' assessments, the intergovernmental stages and the admissibility criteria. The best way to improve the procedure was in fact to improve the resolution itself, which was no longer relevant, since the Council did not function as a subsidiary body of the Economic and Social Council.

41. The new expert body to succeed the Sub-Commission must not duplicate the work of the various human rights mandate-holders.

42. Mr. MEYER (Canada) said that there was a clear need to accelerate the review work: the Council must seize the opportunity for innovation and explore the potential for streamlining, rationalization and synergy. Experts and rapporteurs should be individuals of assured independence and competence, and there was merit in the High Commissioner's idea of establishing a pool of pre-qualified experts to be drawn upon to fill vacancies. The constant aim must be to strengthen the special procedures in order to promote and protect human rights in practical and realistic terms. That would require the cooperation of States and the elimination of their insecurity or whatever else it was that prevented them from opening themselves to scrutiny and honest dialogue. Increased interaction with the Council should be a major goal of the reform of the special procedures.

43. There was also merit in the idea that the new expert advisory body should consist of a small core of experts, perhaps augmented from a roster as required. The revised 1503 procedure should be comprehensive and combine confidentiality with timeliness of action and transparency

of results. The Council should play a bigger role in the consideration of complaints from individuals. The proceedings of the Working Group should be informed by the overarching objective of improving States' fulfilment of their human rights obligations.

44. Mr. SHA Zukang (China), speaking on behalf of the Group of Like-Minded Countries, said that the special procedures were a valuable legacy of the Commission, but they were far from perfect. Their most serious flaw was the selectivity apparent in the proliferation of country-specific mandates that were the main cause of politicization. There were several grounds for the position that all such mandates should be abolished. Firstly, most of them had been created by resolutions adopted after bitter negotiations and divisive votes, and some had been summarily rejected by the countries concerned. They were the result of politicization, double standards and selectivity and were inconsistent with the principles of cooperation and dialogue. Secondly, the universal periodic review mechanism was intended to ensure universal coverage and equal treatment for all States, and it should not operate in tandem with an alternative and confrontational mechanism. Thirdly, a revised but still confidential 1503 procedure would adequately address gross and systematic violations of human rights. Moreover, the recent convening of two special sessions of the Council had demonstrated the utility of the additional meeting time and flexibility conferred by General Assembly resolution 60/251 in addressing gross violations and emergencies.

45. The continuation of country-specific mandates would be a reminder of why the Commission had become discredited, and the Council would lose its credibility if it repeated the Commission's mistakes. However, the Group of Like-Minded Countries strongly supported the Council's decision that the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 did not constitute a country-specific mandate, for the Group believed that foreign occupation represented the worst form of human rights violation.

46. Mr. CHOI Hyuck (Republic of Korea) said that the special procedures mechanism had played a key role in promoting and protecting human rights within the United Nations human rights system and should be strengthened further. When reviewing the special procedures, it was important to maintain both the thematic and country-specific mandates, as well as to require independence, impartiality and expertise from the mandate-holders. Standard operating procedures should guide the special procedures but not undermine their autonomy, helping to systematize operations and improve cooperation with the States concerned. The review of the special procedures' working methods should be undertaken in close consultation with the mandate-holders themselves. His Government welcomed the draft Manual of the United Nations Human Rights Special Procedures and was currently examining it. The Council should establish an operative mechanism to discuss the reports of special procedures mandate-holders in an interactive manner and follow up on their conclusions and recommendations. The review of each mandate should proceed in an open-ended, transparent and inclusive manner, which could result in the termination or the merger of existing mandates.

47. The Council should continue to benefit from the expertise and guidance of an expert advisory body. His Government believed that the new mechanism should be more efficient and place greater emphasis on the expertise of its members. The 1503 procedure had been an essential component of the United Nations human rights system and should be improved in order

to guarantee impartiality throughout the process. The issue of confidentiality required careful consideration if the Council wished to protect human rights and provide remedies to victims of violations as effectively as possible.

48. Mr. LARENAS SERRANO (Ecuador) said that the system of special procedures, expert advice and the complaint procedure were essential components of the Human Rights Council. The value of the 1503 procedure lay in its support for investigations into human rights violations but also in the responsibility entrusted to it by the Council and individual complainants. The future complaint procedure could be used to supplement the general analysis provided by the universal periodic review and should be universal, objective and confidential, while ensuring the reliability of the information it received. It would not be advisable, however, to rely solely on the exhaustion of domestic remedies as a criterion for the admissibility of complaints, given the fact that frequent complaints of human rights violations in a particular country might testify to irregularities in the rule of law in that country. It was important to give careful consideration to that sensitive issue, as well as to other aspects of the individual complaint procedure.

49. Ms. KOHLI (Switzerland) said that coordination between the special procedures mandate-holders should be improved in order to avoid duplications, fill gaps and cover as wide a range of human rights as possible. In that regard, her delegation endorsed the idea of establishing clusters for the thematic special procedures that were based on various human rights instruments. A careful analysis of the future mandate of country-specific special procedures should be conducted in order to reconcile divergent views concerning their maintenance or elimination and to determine the specific role to be played by the special procedures, whether thematic or country-specific, in the various phases of the universal periodic review.

50. Switzerland supported the idea of transforming the Sub-Commission on the Promotion and Protection of Human Rights into an advisory board composed of independent experts that would lay the practical and legal foundations for the development of international human rights law and propose draft instruments aimed at building States' capacity to ensure respect for human rights.

51. Mr. JAZAÏRY (Algeria), speaking on behalf of the Group of African States, said that all special procedures mandates needed to be rationalized in order to eliminate duplication of efforts. In so doing, it was important to maintain a proper balance between economic, social and cultural rights and civil and political rights. In discharging their mandates, all special procedures mandate-holders should demonstrate professionalism, impartiality and independence from governmental and non-governmental influence at all times. They should be elected by the Council on the basis of equitable geographical distribution, subject to rotation within that distribution, from a list of candidates proposed by the regional groups. The reports and recommendations of the special procedures mandate-holders should be submitted to the Council. All communications to States containing allegations of human rights violations should be addressed exclusively to the permanent mission to the United Nations Office at Geneva of the State concerned, even if the matter concerned an urgent appeal. Adequate criteria should be established to determine what constituted an urgent appeal. With regard to the relations of the special procedures mandate-holders with the media, priority should be given to dialogue with the State concerned and with the Council, which should then decide whether or not to contact the media.

52. The expert advisory body that would replace the Sub-Commission on the Promotion and Protection of Human Rights should be a subsidiary body of the Human Rights Council and should focus exclusively on the promotion of human rights, leaving their protection to the Council itself. The expert advisory body should not be involved in the universal periodic review or deal with any country-specific situation; rather, it should function as a peer-review mechanism. The expert advisory body should be composed of at least 26 independent members with extensive human rights experience, to be nominated by Member States on the basis of equitable geographical distribution and elected by the Human Rights Council for a maximum of two terms.

53. It was important to maintain the confidential nature of the individual complaint procedure. The African States would finalize their position on the criteria of admissibility under the complaint procedure at the next meeting of the Working Group on the review of mandates.

54. Ms. MAHILUM WEST (Philippines) said that the review process should be conducted in a cooperative manner, seeking to identify the structural and procedural weaknesses of the former Commission on Human Rights and to address them effectively, while adopting a holistic perspective of the entire United Nations human rights machinery. During the review, restraint should be exercised in the creation or modification of mandates so as not to prejudge the review process. The purpose of the special procedures was to help countries fulfil their human rights obligations; country visits and reports of special procedures mandate-holders should therefore aim to improve national human rights protection systems in a professional, non-selective and helpful manner, giving States objective, practical and credible expert advice. Accordingly, the highest professional standards and objectivity of mandate-holders must be ensured.

55. The Working Group on the review of mandates should consider the draft Manual of the United Nations Human Rights Special Procedures with a view to finalizing a comprehensive code of conduct for special procedures, including guidelines for country visits, reporting, media interaction and admissibility criteria for complaints. The special procedures mandates should reflect a balance between civil and political rights and economic, social and cultural rights. The nomenclature of the special procedures should be harmonized and mandates organized in thematic clusters. Areas of overlap in the work of the special procedures, expert advisory body, complaint mechanism and treaty bodies should be identified and eliminated in the future.

56. Although her delegation appreciated the vision and recommendations of the Sub-Commission on the Promotion and Protection of Human Rights regarding the future system of expert advice, the draft decisions contained in its final report should serve as inputs for, and not prejudge, the review process, since the nature and form of expert advice that would exist under the Human Rights Council had yet to be defined. The future expert advisory body should focus on thematic issues and undertake only those studies or activities requested of it by the Council.

57. Her delegation saw merit in maintaining the confidentiality of the complaint procedure, which should address only allegations of gross and systematic violations of human rights. A mechanism to encourage the cooperation of States through dialogue should be established.

58. Mr. MUSA (Malaysia) agreed that the work of the Working Group on the review of mandates and that of the Working Group on the universal periodic review mechanism should

follow the same pace so that the two Working Groups could reach their outcomes at the same time and their recommendations to the Council would be consistent. In its review of the system of special procedures, the Council should establish mandates or procedures by consensus in order to ensure solid support for the work of the mandate-holder concerned. There was also a need for clear guidelines on the rationale and criteria for establishing new mandates, and the necessary resources should be allocated in a transparent fashion.

59. The Council should elect special procedures mandate-holders from a list of candidates nominated by States in order to guarantee transparency and ensure consensus. Such a method would not affect the mandate-holders' independence. Mandate-holders should be elected on the basis of equitable geographic distribution for no more than two consecutive terms of three years each; they should be eligible for re-election only after a period of three years had elapsed. The Council should adopt clear terms of reference for each mandate-holder along with a common code of conduct for all of them, and should regularly evaluate their performance. There should be no overlapping of mandates or duplication of efforts among mandate-holders, nor between them and other United Nations human rights mechanisms. He urged that a case-by-case review of the special procedures should be carried out as soon as possible.

60. Mr. FLORÊNCIO (Brazil) said that the Working Group on the review of mandates and the Working Group on the universal periodic review mechanism should coordinate their efforts. It was important to carry out a review of the special procedures in order to identify areas of duplication, as the number of such areas had increased significantly in recent years. The review process should be viewed as part of a larger process in which each mandate-holder was directly or indirectly related to the others. The special procedures should interact with other United Nations human rights mechanisms, including the universal periodic review. The review process should take into account the essential characteristics of the special procedures system, which was the independence and expertise offered by the mandate-holders. There should also be a close relationship between the future expert advisory body and the experts responsible for conducting the universal periodic review.

61. Ms. BERAUN (Peru) said that Latin Americans had had first-hand experience with several of the special procedures established under the Commission on Human Rights, which had had a positive influence on the process of democratization in the region. Peruvians in particular had seen the impact made by the visit of the Working Group on Enforced or Involuntary Disappearances in the 1980s and that of the Working Group on Arbitrary Detention, both of which came during difficult moments in Peru's political history. The special procedures were among the most outstanding successes of the current system of human rights promotion and protection.

62. The review process should culminate in the establishment of a system of special procedures that was based on independence and freedom from governmental interference. It was therefore important to strengthen that system by providing it with the necessary financial and technical resources and reinforcing the early warning mechanism. The complaint procedure should be improved in order to protect victims through the existing 1503 procedure and through the individual communications submitted to the special procedures mandate-holders. In rationalizing the system of special procedures, the Council should avoid reducing the coverage

and effectiveness of the protection provided to victims of human rights violations. While it was important to draft a manual of conduct and establish clear mechanisms for cooperation between mandates, it was even more important to involve the special procedures in efforts to develop the universal periodic review mechanism.

63. Although it was the Council's prerogative to create mandates, the President should appoint mandate-holders with technical assistance from OHCHR. Mandate-holders should be elected on the basis of their independence and professional expertise, ensuring equitable geographical and gender representation, and rigorously applying the criteria of objectivity, transparency, autonomy and freedom of conscience.

64. Mr. CHERIF (Tunisia) said it should be borne in mind that the Council functioned as a forum for dialogue and cooperation on all human rights issues, which required it to promote the principles of universality, impartiality and non-selectivity. An expert advisory body should be maintained to serve as a think tank and to make suggestions to the Council. The experts who composed such a body should be elected on the basis of equitable geographical representation. Their role was to promote human rights on the basis of objective, reliable, non-selective information. In that context, his delegation attached great importance to maintaining the thematic mandates and to the notion of according equal importance to civil and political rights and to economic, social and cultural rights.

65. He recalled that the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 had been extended until the end of that occupation; his delegation welcomed the role played by OHCHR in that area and, in particular, the ways in which the Office assisted the work of the special procedures. However, the Office should take steps to ensure greater transparency in all its activities.

66. Mr. SATJIPANON (Observer for Thailand) said that in reviewing and rationalizing all human rights special procedures mandates, equal importance should be accorded to civil and political rights and to economic, social and cultural rights. All mandate-holders should be elected directly by the Human Rights Council on the basis of nominations by States or regional groups and taking the notion of equitable geographical distribution into account.

67. His delegation welcomed the draft Manual of the United Nations Human Rights Special Procedures, but noted that many issues, including relations with non-State actors, guidelines for country visits, coordination among mandate-holders and cooperation with relevant partners required further examination. In addition, guidelines on working methods, interaction with the media and terms of office still needed to be clearly elaborated.

68. An advisory body of independent experts was an indispensable component of the Council. Its membership should not be extended beyond that of the Sub-Commission on the Promotion and Protection of Human Rights and should continue to reflect the geographical representation of regional groups within the Council. His delegation endorsed the notion that the complaint procedure should consider only patterns of gross and systematic human rights violations in individual countries and should aim to provide effective protection of human rights on the ground. Consequently, it should focus on capacity-building and the provision of technical assistance at the request of States. A clear set of criteria for admissibility of complaints should be established and the confidential nature of the complaints procedure should be maintained.

69. Mr. KHANI (Observer for the Islamic Republic of Iran) said that one of the primary reasons for the need to enhance the credibility of the special procedures system had been that States had previously played no role in the selection of mandate-holders. The Council should be the body that elected mandate-holders, taking into consideration geographical distribution, differing legal systems and cultural and religious values, and giving equal weight to civil and political rights and to economic, social and cultural rights. The scope of the mandates must be determined by the Council, and the system should ensure accountability, with regular review of both mandates and mandate-holders. Any manual or code of conduct should be subject to approval by the Council.

70. The Working Group on the review of mandates and mechanisms should streamline overlapping mandates and consider removing country mandates from the system of special procedures, as such mandates had been the main source of politicization and confrontation in the Commission.

71. The election process for the expert body and that body's methods of work should be improved, with more seats allocated to Asian States. The expert body's work should be thematic and should not address country-specific issues. Confidentiality and a set of criteria for the admissibility of complaints were positive features of the 1503 procedure that should be retained and strictly observed. However, the Working Group should acknowledge and remedy the shortcomings of the 1503 procedure. All domestic remedies must be exhausted before a matter could be referred to the Council, and referral should be based on a clear set of criteria indicating a pattern of systematic and grave violations of human rights.

72. Ms. AJAMAY (Observer for Norway) said that the system of special procedures was an important part not only of the United Nations human rights system but also of the very concept of human rights. The updated reports of the special procedures mandate-holders and the interactive dialogues with the mandate-holders at the current session of the Council had been very useful. The draft outline produced by the facilitator on special procedures was also quite helpful.

73. She welcomed all initiatives aimed at strengthening and empowering the special procedures, their mandates and activities. The review process must preserve one key feature of the existing system of procedures: to be effective, it was crucial that the special procedures mandate-holders should remain independent, impartial and autonomous. The mandate-holders themselves were best placed to look critically and constructively at their own working methods. Their input was needed, which was why they should participate in the work of the Working Group on the review of mandates. Civil society, NGOs and human rights defenders also worked closely with the mandate-holders and actively supported them, and their voices, too, needed to be heard in any discussion of ways to make the special procedures more effective.

74. Mr. Loulichki (Morocco), Vice-President, took the Chair.

75. Ms. GAN (Observer for Singapore) welcomed the fact that the schedule of meetings of the Working Group on the review of mandates of the Working Group on the universal periodic review mechanism would allow the former to catch up with the latter, as both processes must proceed in parallel.

76. The Coordination Committee of the Special Procedures Mandate-Holders had circulated a draft manual for mandate-holders. She wondered whether it was advisable for the Coordination Committee to work in isolation from the Working Group on the review of mandates. The content of any manual or code of conduct should be subject to the approval of the Council, as it was the Council that created the mandates. She hoped that the Coordination Committee was not attempting to pre-empt the mandated review.

77. While some had argued that the need to preserve the mandate-holders' independence precluded any possibility of State involvement in their selection, States had always been involved in the selection of members of the treaty bodies, who apparently enjoyed the necessary independence. There was no guarantee that previous practice, whereby the mandate-holders had been chosen by the President of the Commission on Human Rights, the Secretary-General or the High Commissioner for Human Rights, had produced mandate-holders with any more independence. On the other hand, the election of mandate-holders could do a great deal to increase their credibility and legitimacy.

78. There was an emerging consensus that mandates needed to be streamlined to enhance the effectiveness of the special procedures, and some had called for the outright elimination of country-specific mandates. Perhaps that function could be worked into an improved complaints mechanism and a new system of universal periodic review. That could be one way to avoid any perception of the Council as a selective and politicized body.

79. Mr. MARTABIT (Observer for Chile) said that it was crucial to establish a schedule of meetings that took into consideration all five of the Council's working groups. The special procedures were the heritage not only of Member States but also of the human rights community all over the world. Many peoples were indebted to that system for past protection, and many more would stand to lose if the Council failed to strengthen it. Initiatives intended to prejudice the outcome of the Working Group on the review of mandates should be avoided. That Working Group must have the time it needed to achieve consensus through a transparent, informed and constructive debate.

80. Ms. GNECCO (Observer for Colombia) said that in order to ensure coherence the review of mandates must go hand in hand with the establishment of the universal periodic review mechanism. The interactive dialogue held earlier in the session had been of the utmost interest, as it had demonstrated how each expert had interpreted, assumed and developed his or her mandate. The work of the mandate-holders would be more credible and effective if they concentrated on the subjects assigned to them and on suggesting courses of action. The procedure for selecting rapporteurs should be revised so that it included broader participation and was more transparent. The Council should adopt a single operating manual and code of conduct for all mechanisms. While the experts must be independent, that did not necessarily mean that they should be exempt from regular reviews of their performance or withdrawal of their mandates if they did not duly respect the need for impartiality, objectivity and transparency. Synergy and effective coordination between the various mechanisms would make it possible to save human and financial resources and avoid overlapping. It was also important for the special procedures mandate-holders to respect the legitimacy and mandates of the treaty bodies.

81. Mr. ABU-KOASH (Observer for Palestine) thanked all delegations that had expressed support for extending the mandate of the Special Rapporteur on the situation of human rights in

the Palestinian territories occupied by Israel since 1967 until the end of the Israeli occupation. That mandate must not be considered as falling to a country rapporteur, but rather as a mandate related to an occupation, which, as the representative of China had stated, constituted the worst form of human rights violation.

82. Ms. GARRIDO (International Coordinating Committee of National Human Rights Institutions (ICC)) said that national human rights institutions believed that they had a specific contribution to make to the special procedures and expert advice systems, complaints procedures and the universal periodic review mechanism. The Council should make use of the information submitted by the national institutions, allow them to submit recommendations relating to the promotion and protection of human rights, to comment on any reviews of the Council's procedures or effectiveness and to establish a specific mechanism in which they could raise issues of special concern before the Council. Her organization highly supported the work of the Working Group on the universal periodic review mechanism, which had been established by Council decision 2006/104. She noted in that connection that paragraph 3 of that decision called for the participation of all stakeholders.

83. Mr. PRASAD (Action Canada for Population and Development (ACPD)), speaking also on behalf of Creating Resources for Empowerment in Action (CREA), Egyptian Initiative for Personal Rights (EIPR), Positive Women's Network, Mulabi-Grupo de Trabajo Latinoamericano en Derechos Sexuales, Polish Federation for Women and Family Planning, International Centre for Reproductive Health and Sexual Rights (INCRESE) and Women's Initiatives for Gender Justice (WIGJ), said that the Working Group on the review of mandates should consider the establishment of a special procedures mandate on emerging issues in order to deal with human rights questions that did not fall within or were peripheral to an existing mandate. The new special procedure would work independently and objectively as a working group of independent human rights experts having experience in diverse areas of human rights. Sexual rights should be among the first issues to be considered by such a new special procedure, as many of the issues related to those rights were not covered by the existing system of special procedures, and it was important to close such gaps.

84. Mr. SAMA (Amnesty International), speaking also on behalf of the World Organization Against Torture (OMCT), the International Federation for Human Rights Leagues (FIDH), the Association for the Prevention of Torture (APT), Human Rights Watch, International Service for Human Rights and the Lutheran World Federation, said that the interactive dialogues with the special procedures mandate-holders had demonstrated their worth and shown the value of cooperation. He welcomed the fact that the special procedures follow-up reports had identified a number of positive responses to requests for visits that had been outstanding for several years. In addition, many Governments had engaged in the interactive dialogues as concerned States, while others had taken steps to implement the recommendations of special procedures mandate-holders. Yet the fact that some States had not extended invitations to visit created a double standard whereby those States most open to the special procedures mechanisms received the greatest scrutiny, while those that did not welcome visits evaded criticism.

85. The reports on communications, which covered the cases of hundreds of individuals, indicated a need for a system that would respond rapidly to credible reports of current, imminent or recent human rights violations. The Council must demand full cooperation with the special procedures from its members. It must not take any decisions that might prejudice the activities of the Working Group on the review of mandates.

86. Mr. MERAT (International Association of Democratic Lawyers) noted that article 9 of the Japanese Constitution included an exemplary provision whereby the Japanese people renounced war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes. That article should be upheld and its spirit should prevail in the interest of peace all over the world.

87. Ms. BENDRIHEM (UN Watch) said that UN Watch hoped that the working group process would bring about much needed improvements in the special procedures, expert advice and complaints systems. The Sub-Commission on the Promotion and Protection of Human Rights had called for its own continuation at the same size or larger, and essentially with the same mandate. It should be noted that in 1988, when Saddam Hussein's Government had committed crimes against humanity against thousands of Kurds, a member of the Sub-Commission had tried in vain to hold that regime accountable by introducing a draft resolution calling on it immediately to halt the use of prohibited chemical weapons. Sadly, the majority had voted to take no action. Still sadder, the woman who had sponsored the no-action motion still sat on the Sub-Commission and currently chaired its Working Group on Communications. Another member who had voted for the no-action motion now held the office of Vice-Chairman of the Sub-Commission.

88. More recently, the Sub-Commission had violated its own rules by adopting a country-specific resolution at its latest session, despite the fact that the Commission had specifically instructed it not to take such action. The Council must review the Sub-Commission's record when it considered the usefulness of that body.

89. Ms. PONCINI (International Federation of University Women), speaking also on behalf of Pan-Pacific and South-East Asia Women's Association International (PPSEAWA), Women's International Zionist Organization (WIZO), Women's World Summit Foundation (WWSF), International Council of Women (ICW), Women's International League for Peace and Freedom (WILPF), Zonta International, Worldwide Organization for Women (WOW), Women's Federation for World Peace International (WFWPI), African Commission on Health Promotion and Human Rights, International Alliance of Women (IAW), Solar Cookers International, International Federation of Business and Professional Women (BPW), International Women's Rights Action Watch (IWRAP), World Movement of Mothers (WMM), World Union of Catholic Women's Organization and the Inter-African Committee (IAC), said that the implementation of existing international legal instruments was being undermined by hidden and overt forms of violence and discrimination against women that had their origins in factors such as patriarchal cultures, customs and religious extremism. Social, economic and cultural forces often determined behaviour more than legal regulations did. Women's very right to life was often violated when they challenged either political systems or gender-based standards of

behaviour. All special procedures mandates must therefore include a gender perspective and must test for gender bias. They should include gender-specific awareness-raising, sensitivity, impact-assessment benchmarks and time-bound evaluation measures. The failure to redress gender inequality was due in large part to an absence of gender- and age-disaggregated data that would identify unequal treatment or the lack of empowerment opportunities.

90. Mr. de Alba (Mexico), President, resumed the Chair.

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK (agenda item 1)
(continued)

91. The PRESIDENT said that the delegations of Canada and Ecuador had requested that a number of proposals that they had previously submitted for inclusion in an omnibus text should be considered separately, as the idea of an omnibus text had been discarded. He had informed those delegations that the Council would have to agree to such action. Accordingly, if he heard no objection he would take it that the Council was in agreement that the draft decisions submitted by Ecuador and Canada could be considered as separate texts rather than as part of an omnibus text.

92. It was so decided.

The meeting rose at 1.05 p.m.