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HUMAN RIGHTS COUNCIL

Third session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 30 November 2006, at 3 p.m.

President: Mr. DE ALBA (Mexico)

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

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

Methods of work (Informal document submitted by the Group of Asian States, entitled “Working methods of the Human Rights Council”, and draft proposal by the President, entitled “Implementation of General Assembly resolution 60/251: agenda, methods of work and rules of procedure of the Human Rights Council” (documents without symbols, distributed in the conference room in English only))

1. Ms. FRÖBERG (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, Iceland, Moldova and Ukraine, said that resolutions, decisions and President’s statements should not be repeated on a yearly basis. Such texts were traditionally divided into normative parts and operational parts. The normative part of texts did not need to be renegotiated every year; rather, the Human Rights Council should focus its attention on the operational part. The number of “informal informals” should not be limited, as that would be detrimental to the transparency of the Council’s work. Sponsors of draft texts should hold at least one open-ended informal consultation on their texts, and should inform other delegations well in advance of the time and venue of such consultations. The secretariat should use the Council’s Extranet pages to provide updated information on the drafts. Informal consultations and the use of the Extranet could obviate the need for the President to hold consultations, except in extraordinary circumstances. The decision to submit a draft text for consideration should in all circumstances be the exclusive responsibility of the text’s main sponsors.

2. Mr. O’BRIEN (Observer for Australia) said that the Council’s methods of work must be structured in such a way as to identify expected outcomes for each session and the means for achieving them. The programme of work should be made available as early as possible. While there should be firm deadlines for the submission of drafts and for action on them, the deadlines should provide enough time for delegations to obtain instructions and to pursue further negotiations, if required. To promote transparency, consultations should, as a rule, be open-ended.

3. Mr. CERDA (Argentina) said that the Council should reserve some time for a well-structured and well-organized general debate. Some delegations used discussion times normally reserved for specific matters to put forward views that would better be expressed in the context of a general debate. Stakeholders should also have sufficient time to make statements. The current limit of three minutes of speaking time was insufficient for the introduction of resolutions. Moreover, before action was taken on any draft resolution or decision, it was important to exhaust the list of speakers on the subject in question.

4. Mr. REYES RODRÍGUEZ (Cuba) urged the Council to support the proposal to establish an open-ended intergovernmental intersessional working group, which had been put forward by

the Group of African States and endorsed by the President. In order to establish an atmosphere of trust and predictability, the Council should codify its methods of work. In doing so, the Council should incorporate some of the positive elements of the rules that had been developed by the Commission on Human Rights. The informal document submitted by the Group of Asian States, entitled “Working methods of the Human Rights Council” was a useful input to the current discussion.

5. Mr. ABREU E LIMA FLORÊNCIO (Brazil) said that the Council should meet four times a year, since that would offer greater possibilities for the appropriate distribution of its work throughout the year. Initiatives should be put forward in accordance with the schedule of presentations by special rapporteurs. Interactive dialogues and the presentation of reports by the special procedures, the High Commissioner for Human Rights and the Secretary-General, could be divided into two sessions, for example the spring and autumn sessions, since that would make it possible to group issues into thematic clusters.

6. Mr. MANALO (Philippines) said that he wished to address a concern expressed at the previous meeting by the representative of Switzerland, who considered that the proposal put forward by the Group of Asian States on the President’s holding of open-ended consultations might adversely affect the right of delegations to hold informal consultations on resolutions and decisions. The open-ended consultations were intended to be informative: delegations would not negotiate texts but would simply be apprised of the status of negotiations. Open-ended consultations would be particularly useful for small delegations that were unable to attend all meetings dealing with the various drafts.

7. The PRESIDENT said that, while it was difficult to discuss methods of work in a formal meeting, it was important to hear the views of the various groups and countries in order to facilitate subsequent action by a working group. It was important to draw a distinction between the Council’s methods of work during its first year of existence and the methods of work that it might adopt thereafter. It was important to clarify the terminology used in the various Council documents, which might include a timetable, a programme of work, an order of the day, an agenda and a calendar. The Council must also decide whether to hold three or four sessions a year. In order to facilitate the work of the Council’s fourth session, he would present a programme of work at the end of the current session.

Agenda (Draft proposal by the President, entitled “Implementation of General Assembly resolution 60/251: agenda, methods of work and rules of procedure of the Human Rights Council” (document without a symbol, distributed in the conference room in English only))

8. Ms. REFILOE LEBOTSA (Observer for Lesotho) said that the Council’s agenda must strike a fair balance between civil and political rights, on the one hand, and economic, social and cultural rights, on the other. In particular, the agenda should address the elimination of widespread and extreme poverty and the promotion of good governance as prerequisites for the enjoyment of social and economic rights, including the right to development. It should also include the eradication of acts of impunity, and should address the problems of racism, racial intolerance and discrimination. The eradication of such phenomena was paramount to ensuring a safe, secure and inclusive environment for development.

9. Mr. JAZAÏRY (Algeria) said that the Council must avoid taking a decision that would pre-empt the substance of its work. While the proposal put forward by Finland on behalf of the European Union rightly advocated flexibility in dealing with the agenda, it also urged the Council to draw up a list of issues that would serve as a kind of backbone for future agendas. Such a step would not be productive at the current juncture, since the Council was still in its transitional phase. The Extranet was not easy to use for the retrieval of specific information on the agenda and of documentation, and it did not allow regional groups sufficient time to formulate joint positions and statements.
10. Ms. FRÖBERG (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, Iceland, Moldova and Ukraine, said that the Council should agree on a basic agenda in order to obviate the need for constant renegotiation. The basic agenda should include: (a) a report or update from the High Commissioner for Human Rights and interactive dialogue; (b) urgent situations (to be notified to the President preferably seven days before the session); (c) reports from the special procedures and interactive dialogue; (d) the promotion and protection of human rights; (e) recommendations from the universal periodic review and complaints mechanisms for decisions by the Council; (f) expert advice; and (g) adoption of the report of the session. The Council could agree on the preliminary annual programme of work proposed by the Bureau before the end of its March session.
11. Ms. FURMAN (Observer for Israel) said that Israel shared the Secretary-General's views on the need to ensure transparency, objectivity, professionalism and clarity in the Council's work. In order to avoid the politicization of the discredited Commission on Human Rights - whose biased agenda had included a fixed item on a single State - the Council should have an agenda that reflected human rights issues worldwide. Attempts by some delegations to include the Commission's agenda item 8 in the Council's agenda were cause for concern. The question of the agenda would test States' sincerity and will to bring about substantive reforms in the Council's work. In order to protect human rights throughout the world, the Council should consider including in its agenda items on indiscriminate suicide terrorism; human-guided bombs; the glorification of death in State media and publications; the use of cruel and sinister repression and rape by Government forces; the exclusion of women from participation in political life; and the denial of women's fundamental human rights and freedoms in many countries, including countries that were members of the Human Rights Council.
12. Mr. O'BRIEN (Observer for Australia) said that the European Union's proposals would provide an excellent basis for a discussion of the agenda, since the Council needed to avoid the tendency of the Commission on Human Rights to have an inflexible and unnecessarily long agenda. His delegation agreed that a balance needed to be struck between predictability and flexibility, and welcomed the European Union's proposal to include a broad item on the promotion and protection of human rights in order to allow new issues to be raised at each session.
13. Mr. MANALO (Philippines), referring to the European Union's proposals, said that too much flexibility might be detrimental to the predictability of the agenda. In that regard, he

requested an explanation of the proposed item on the promotion and protection of human rights, which implied that new issues could be raised at each session of the Council. A mechanism for approving the inclusion of new issues under that item might need to be introduced. He asked for an explanation of the implications of an item on recommendations from the universal periodic review.

14. Mr. ANSHAR (Indonesia) said that General Assembly resolution 60/251 provided a clear basis for organizing the Council's work. The issues that the Council should discuss, including the promotion and protection of all human rights, had been agreed upon. The agenda should be established for each annual cycle and take into account proposals made by the member States at the beginning of each cycle.

15. Mr. CERDA (Argentina) said that the Council's agenda should be clear and precise, as was the case with other United Nations bodies. Flexibility could be reflected satisfactorily in an item on other matters, while a balance should be struck between civil and political rights, on the one hand, and economic, social and cultural rights, on the other.

16. Mr. MAHAWAR (India) agreed with the representative of Finland that a balance should be struck between flexibility and predictability. Flexibility could be achieved principally through the proposed agenda item on urgent situations, which would include unforeseen emergencies. The item on the promotion and protection of human rights should be decided upon at the beginning of each cycle, with different issues discussed at each session, since that would ensure a predictable and structured agenda. The proposed items on the reports from the special procedures and expert advice would also be distributed throughout the year and synchronized with the specific theme to be discussed at each session under the item on the promotion and protection of human rights.

17. Mr. ALAEI (Observer for the Islamic Republic of Iran) said that it was important for the Council to be given regular opportunities to discuss any new issue that might affect the protection and promotion of human rights worldwide; and to monitor the work of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and all other United Nations human rights bodies and mechanisms.

18. Mr. CORMIER (Canada) said that the agenda should focus on implementing measures and fostering cooperation and dialogue. Every year, one session should be set aside for a high-level segment and another to finalize the annual report. He endorsed the proposal to consider items relating to reports from the special procedures and recommendations from the universal periodic review at different sessions throughout the year. The Council might also consider innovative agenda items, such as the holding of round tables on ways of protecting and promoting human rights in a given State. The President might also designate topics for regular Council seminars. The Council should be given the opportunity to respond promptly to emergencies, including gross and systematic violations of human rights, and to follow up its previous decisions.

19. The PRESIDENT said that the various proposals could be discussed further in the working group. The most important points to bear in mind were: the need for an orderly, balanced and evenly distributed agenda; the timely presentation of reports, including the

Council's annual report; the system-wide exercise in improving agendas and the possible impact of the Council's approach on other bodies; lessons learned from the General Assembly and the Commission on Human Rights; the need to strike a balance between flexibility and predictability; comprehensive, inclusive approach to specific issues; the need to ensure that all documents were available in all official languages; and the need to standardize terminology.

Special sessions and rules of procedure

20. Mr. CORMIER (Canada) said that the delegations of Australia, Japan, New Zealand, the United States of America and Canada had prepared the following proposed ground rules for special sessions of the Human Rights Council:

- “1. States initiating the convening of a special session should accompany their request with a specific description of the human rights violations that give rise to the request.
- “2. In determining the date for holding a special session, the urgency of the situation must be balanced against the need to allow for adequate preparation. To promote predictability, a benchmark time period, for example four working days, should be established between receipt of the request for a special session and its convening.
- “3. If the requesting (or other) States intend to present a draft resolution or decision before the special session, this text should be made available as soon as possible and not later than 48 hours (two working days) prior to the convening of the special session.
- “4. At least one open-ended consultation on the text of any draft resolution or decision should be held before the convening of the session to permit amendments to be considered prior to tabling in plenary session with a view to achieving consensus, if possible.
- “5. OHCHR should, where feasible, provide a background note regarding the situation that is the subject of the request for a special session, including information on any relevant United Nations organs and mechanisms already seized of the matter, and circulate this note prior to the convening of the session. Special session documentation should be made available to all States in a transparent manner.
- “6. The High Commissioner for Human Rights or her representative should address the situation at the beginning of the session.
- “7. If the President needs to consult on the conduct of a special session before and/or after its opening, this should be done in a manner that provides for equitable regional representation and involves all the key concerned parties to the issue at hand.

- “8. A special session should be results-oriented and geared to achieving practical outcomes, the implementation of which can be monitored and reported on at the next regular session of the Human Rights Council.
- “9. As a general principle, once a special session has been held on a given subject, no further special sessions should be convened on this same subject until a regular session of the Council has taken up the issue.”
21. Delegations from various regions had signed the request for a fourth special session of the Council. Such cross-regional support would help to ensure that the work of the Council was as inclusive as possible.
22. Mr. JAZAÏRY (Algeria) expressed his dissatisfaction that the proposed ground rules for special sessions had been presented in English only. Since special sessions - the aim of which was to react quickly to urgent situations - should not be burdened by red tape, he was dismayed at the number of ground rules. The Council’s swift decision to convene the special session on Darfur might have been prevented if it had been bound by so many rules. While the working group should discuss all possibilities, he believed that, in the case of special sessions, general guidelines would be preferable to inflexible rules.
23. Ms. FRÖBERG (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, Iceland, Moldova and Ukraine, expressed support for the proposed ground rules for special sessions, particularly the rule that draft resolutions and decisions should be made available at least two working days before a special session and the rule that at least one open-ended consultation should be held on a text before a special session was convened, in order to allow amendments to be considered.
24. Mr. REYES RODRÍGUEZ (Cuba) agreed with the proposals on working methods that had been presented by the Group of Asian States at the previous meeting. The prerequisites for a special session outlined in General Assembly resolution 60/251 had deliberately been kept to a minimum in order to allow for a prompt response to urgent situations. He objected to all of the proposed ground rules, since they would unduly hamper the special sessions. The proposal of ground rules betrayed a lack of faith in the Council. Those who had initially insisted on the holding of special sessions were attempting to appropriate the mechanism for their own ends.
25. Mr. O’BRIEN (Observer for Australia) said that it would be helpful to have ground rules on a minimum period between the request for a special session and its convening; the timely provision of draft documents; and open-ended consultations prior to the session. A balance should be struck between adequate preparation and flexibility.
26. Mr. MANALO (Philippines) said that, under General Assembly resolution 60/251, the Council should apply the rules of procedure established for the Main Committees of the General Assembly, unless the Assembly or the Council decided otherwise. The Council had introduced its own innovations and had adopted some rules of procedure from other bodies. The Council’s rules of procedure should be consolidated. He agreed that the proposed ground rules submitted by Canada might make it difficult to hold sessions at short notice.

27. Mr. CERDA (Argentina) supported the proposal to hold open-ended consultations prior to special sessions. However, the other ground rules proposed for special sessions would be unduly restrictive.

28. Mr. WÜRZNER (Netherlands) said that the proposed ground rules would ensure the transparency, predictability and efficiency of the special sessions. It was surprising that delegations that had previously called for cooperation and dialogue now opposed the proposals. In particular, open-ended consultations should be held prior to special sessions and also prior to regular sessions.

29. Mr. LOULICHKI (Morocco) said that, under General Assembly resolution 60/251, the only prerequisite for a special session was a request supported by one third of the Council's members. While it was reasonable to discuss the methods of work of special sessions, further prerequisites should not be imposed. In particular, disputes might arise as to whether the proposed requirement for "equitable regional representation" in consultations had been met. The proposed restriction on the number of special sessions on a given subject did not allow the Council to consider cases where there was a further deterioration in the human rights situation.

30. Mr. LARENAS SERRANO (Ecuador) said that too many ground rules for special sessions would make it difficult for the Council to respond rapidly to emergency situations.

31. Mr. CORMIER (Canada) said that the proposed ground rules would not constrain the special sessions, but rather bolster their effectiveness. It was right to call for a specific description of the human rights violations that gave rise to a request for a special session. It was also necessary to allow representatives time to prepare for a special session. Consultations prior to the session would ensure that representatives were aware of the issue at hand.

32. Mr. ABREU E LIMA FLORENCIO (Brazil) said that, before drafting its rules of procedure, the Council should await the conclusions of the review of mandates and establish the modalities of the universal periodic review mechanism. Meanwhile, the Council should abide by section 13 of the General Assembly's rules of procedure and General Assembly resolution 60/251. While he agreed that the rules of procedure should be discussed thoroughly, he did not consider it necessary to create a working group for that purpose.

33. Mr. JAZAÏRY (Algeria) agreed that there should be open-ended consultations on draft resolutions and decisions prior to sessions. That was already standard practice. He pointed out that some European Union member States that had called for such consultations had proposed a draft resolution on Darfur without first consulting the Group of African States or other developing countries.

The meeting rose at 5.05 p.m.