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**REPORT TO THE GENERAL ASSEMBLY ON THE FIFTH SESSION
OF THE HUMAN RIGHTS COUNCIL**

Vice-President and Rapporteur: Mr. Musa Burayzat (Jordan)

Draft report of the Council*

* Document A/HRC/5/L.10 contains the chapters of the report relating to the organization of the session and the items on the agenda.

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I. Resolutions and decisions adopted by the Human Rights Council at its fifth session

A. Resolutions

5/1. Institution-building of the United Nations Human Rights Council

The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the United Nations General Assembly in resolution 60/251 of 15 March 2006,

Having considered the draft text on institution-building submitted by the President of the Council,

1. *Adopts* the draft text entitled “United Nations Human Rights Council: Institution-Building”, as contained in the annex to the present resolution, including its appendix(es),
2. *Decides* to submit the following draft resolution to the General Assembly for its adoption as a matter of priority in order to facilitate the timely implementation of the text contained thereafter:

The General Assembly,

Taking note of Human Rights Council resolution 5/1 of 18 June 2007,

1. *Welcomes* the text entitled “United Nations Human Rights Council: Institution-Building”, as contained in the annex to the present resolution, including its appendix(es).

Annex

UNITED NATIONS HUMAN RIGHTS COUNCIL: INSTITUTION-BUILDING

I. UNIVERSAL PERIODIC REVIEW MECHANISM

A. Basis of the review

1. The review shall be based on the following instruments:
 - (a) The Charter of the United Nations;
 - (b) The Universal Declaration of Human Rights;
 - (c) Human rights instruments to which a State is party.
2. Voluntary pledges and commitments made by States, including those undertaken when presenting their candidatures for election to the Human Rights Council (hereinafter “the Council”) shall also be taken into consideration.
3. In addition to the above and given the complementary and mutually interrelated nature of international human rights law and international humanitarian law, the review shall take into account applicable international humanitarian law.

B. Principles and objectives

1. Principles

4. The Universal Periodic Review (UPR) should:
 - (a) Promote the universality, interdependence, indivisibility and interrelatedness of all human rights;
 - (b) Be a cooperative mechanism based on objective and reliable information and on interactive dialogue;

- (c) Ensure universal coverage and equal treatment of all States;
- (d) Be an intergovernmental process, United Nations Member-driven and action-oriented;
- (e) Fully involve the country under review;
- (f) Complement and not duplicate other human rights mechanisms, thus representing an added value;
- (g) Be conducted in an objective, transparent, non-selective, constructive, non-confrontational and non-politicized manner;
- (h) Not be overly burdensome to the concerned State or to the agenda of the Council;
- (i) Not be overly long; it should be realistic and not absorb a disproportionate amount of time, human and financial resources;
- (j) Not diminish the Council's capacity to respond to urgent human rights situations;
- (k) Fully integrate a gender perspective;
- (l) Without prejudice to the obligations contained in the elements provided for in the basis of review, take into account the level of development and specificities of countries;
- (m) Ensure the participation of all relevant stakeholders, including non-governmental organizations and national human rights institutions (NHRIs), in accordance with General Assembly resolution 60/251 of 15 March 2006 and Economic and Social Council resolution 1996/31 of 25 July 1996, as well as any decisions that the Council may take in this regard.

2. Objectives

5. The objectives of the review are:

- (a) The improvement of the human rights situation on the ground;

- (b) The fulfilment of the State's human rights obligations and commitments and assessment of positive developments and challenges faced by the State;
- (c) The enhancement of the State's capacity and of technical assistance, in consultation with, and with the consent of, the State concerned;
- (d) The sharing of best practice among States and other stakeholders;
- (e) Support for cooperation in the promotion and protection of human rights;
- (f) The encouragement of full cooperation and engagement with the Council, other human rights bodies and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

C. Periodicity and order of the review

6. The review begins after the adoption of the UPR mechanism by the Council.
7. The order of review should reflect the principles of universality and equal treatment. It should be established as soon as possible in order to allow States to prepare adequately.
8. All member States of the Council shall be reviewed during their term of membership. The initial members of the Council, especially those elected for one or two-year terms, shall be reviewed first. A mix of member and observer States of the Council shall be reviewed; and equitable geographic distribution shall be respected in the selection of countries for review.
9. The first member and observer States to be reviewed shall be chosen by the drawing of lots from each Regional Group in such a way as to ensure full respect for equitable geographic distribution. Alphabetical order shall then be applied beginning with those countries thus selected, unless other countries volunteer to be reviewed.
10. The period between review cycles shall be reasonable so as to take into account the capacity of States to prepare for the next cycle and that of other stakeholders to respond to the requests arising from the review.

11. The periodicity of the review for the first cycle shall be of four years. This shall imply the consideration of 48 States per year during three sessions of the working group of two weeks each.¹

D. Process and modalities of the review

1. Documentation

12. The review shall be based on:

(a) Information prepared by the State concerned, which can take the form of a national report, on the basis of general guidelines to be adopted by the Council at its sixth session (first session of the second cycle), and any other information considered relevant by the State concerned, which could be presented either orally or in writing, provided that the written presentation summarizing the information does not exceed 20 pages, to guarantee equal treatment to all States and not to overburden the mechanism. States are encouraged to prepare the information through a broad consultation process at the national level with all relevant stakeholders;

(b) Additionally a compilation prepared by OHCHR of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents, which shall not exceed 10 pages.

13. The Council shall also take into consideration additional credible and reliable information provided by other relevant stakeholders to UPR. OHCHR will prepare a summary of such information which shall not exceed 10 pages.

¹ UPR is an evolving process; the Council, after the conclusion of the first review cycle, may review the modalities and the periodicity of this mechanism, based on best practices and lessons learned.

14. The documents prepared by OHCHR shall be elaborated following the structure of the general guidelines adopted by the Council regarding the information prepared by the State concerned.

15. Both the State's written presentation and the summaries prepared by OHCHR shall be ready six weeks prior to the review by the working group to ensure the distribution of documents simultaneously in the six official languages of the United Nations, in accordance with General Assembly resolution 53/208 of 14 January 1999.

2. Modalities

16. The modalities of the review shall be as follows:

(a) The review shall be conducted in one working group, chaired by the President of the Council and composed of the 47 member States of the Council. Each member State will decide on the composition of its delegation;²

(b) Observer States may participate in the review, including in the interactive dialogue;

(c) Other relevant stakeholders may attend the review in the Working Group;

(d) A group of three rapporteurs, selected by the drawing of lots among the members of the Council and from different Regional Groups (*troika*) shall be established to facilitate each review, including the preparation of the report of the working group. OHCHR shall provide the necessary assistance and expertise to the rapporteurs.

17. The concerned country may request that one of the three rapporteurs be from its own Regional Group and may also request the substitution of a rapporteur on only one occasion.

18. A rapporteur may ask to be excused from participation in a specific review process.

² A UPR Voluntary Trust Fund should be established to facilitate the participation of developing countries, particularly the Least Developed Countries, in the UPR mechanism.

19. Interactive dialogue between the country under review and the Council will take place in the working group. The rapporteurs may collate issues or questions to be transmitted to the State under review to facilitate its preparation and focus the interactive dialogue, while guaranteeing fairness and transparency.
20. The duration of the review will be three hours for each country in the working group. Additional time of up to one hour will be allocated for the consideration of the outcome by the plenary of the Council.
21. Half an hour will be allocated for the adoption of the report of each country under review in the working group. A reasonable time frame should be allocated between the review and the adoption of the report of each State in the working group.
22. The final outcome will be adopted by the plenary of the Council.

E. Outcome of the review

1. Format of the outcome

23. The outcome of the review shall be a report containing a summary of the proceedings of the review process; conclusions and/or recommendations, as well as the voluntary commitments of the State concerned.

2. Content of the outcome

24. UPR is a cooperative mechanism. Its outcome may include:

- (a) An objective and transparent assessment of the human rights situation in the reviewed country, including positive developments and the challenges faced by the country;
- (b) Best practice;
- (c) An emphasis on enhancing cooperation for the promotion and protection of human rights;

(d) Recommendations on the provision of technical assistance and capacity-building in consultation with, and with the consent of, the country concerned;³

(e) Voluntary commitments and pledges made by the country under review.

3. Adoption of the outcome

25. The country under review shall be fully involved in the outcome. Before the adoption of the outcome by the plenary of the Council, the State concerned shall be offered the opportunity to present replies to questions or issues that were not sufficiently addressed during the interactive dialogue.

26. The State concerned and the member States of the Council, as well as observer States, shall be given the opportunity to express their views on the outcome of the review before the plenary takes action on it. Other relevant stakeholders shall have the opportunity to make general comments before the adoption of the outcome by the plenary.

27. Recommendations that enjoy the support of the State concerned shall be identified as such. Other recommendations, together with the comments of the State concerned thereon, shall be noted. Both shall be included in the outcome report to be adopted by the Council.

F. Follow-up to the review

28. The outcome of UPR, as a cooperative mechanism, shall be implemented primarily by the State concerned and, as appropriate, by other relevant stakeholders.

29. The subsequent review shall focus, inter alia, on the implementation of the preceding outcome.

30. The Council shall have a standing item on its agenda devoted to the follow-up of UPR.

³ A decision should be taken by the Council on whether to resort to existing financing mechanisms or to create a new mechanism.

31. The international community shall assist in implementing the recommendations and conclusions regarding capacity-building and technical assistance, in consultation with, and with the consent of, the country concerned.
32. In considering the UPR outcome, the Council shall decide if and when any specific follow-up is necessary.
33. After exhausting all efforts to encourage a State to cooperate with the UPR mechanism, the Council shall address, as appropriate, cases of persistent non-cooperation with the mechanism.

II. SPECIAL PROCEDURES

A. Selection and appointment of mandate-holders

34. The following general criteria shall be of paramount importance while nominating, selecting and appointing mandate-holders: (a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity.
35. Due consideration shall be given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems.
36. Technical and objective requirements for eligible candidates for mandate-holders will be approved by the Council at its sixth session (first session of the second cycle), in order to ensure that eligible candidates are highly qualified individuals who possess established competence, relevant expertise and extensive professional experience in the field of human rights.
37. The following entities may nominate candidates as special procedures mandate-holders: (a) Governments; (b) Regional Groups operating within the United Nations human rights system; (c) international organizations or their offices (e.g. OHCHR); (d) NGOs; (e) other human rights bodies; (f) individual nominations.

38. OHCHR shall immediately prepare, maintain and periodically update a public list of eligible candidates in a standardized format, which shall include personal data, areas of expertise and professional experience. Upcoming vacancies of mandates shall be publicized.

39. The principle of non-accumulation of human rights functions at a time shall be respected.

40. A mandate-holder's tenure in a given function, whether a thematic or country mandate, shall be no longer than six years (two terms of three years for thematic mandate-holders).

41. Individuals holding decision-making positions in Government or in any other organization or entity which may give rise to a conflict of interest with the responsibilities inherent to the mandate shall be excluded. Mandate-holders serve in their personal capacity.

42. A consultative group shall be established to propose to the President, at least one month before the beginning of the session in which the Council shall consider the selection of mandate-holders, a list of candidates who possess the highest qualifications for the mandates in question and meet the general criteria and particular requirements.

43. The consultative group shall also give due consideration to the exclusion of nominated candidates from the public list of eligible candidates brought to its attention.

44. At the beginning of the annual cycle of the Council, Regional Groups shall be invited to appoint a member of the consultative group, who will serve in his/her personal capacity. The Group shall be assisted by OHCHR.

45. The consultative group shall consider candidates included in the public list; however, under exceptional circumstances and if a particular post justifies it, the Group may consider additional nominations with equal or more suitable qualifications for the post. Recommendations to the President shall be public and substantiated.

46. The consultative group shall take into account, as appropriate, the views of stakeholders, including the current or outgoing mandate-holders, in determining the necessary expertise, experience, skills, and other relevant requirements for each mandate.

47. On the basis of the recommendations of the consultative group and following broad consultations, in particular through the regional coordinators, the President of the Council shall identify an appropriate candidate for each vacancy. The President shall present to member States and observers a list of candidates at least two weeks prior to the beginning of the session in which the Council will consider the appointments.

48. If necessary, the President may conduct further consultations to ensure the endorsement of the proposed candidates. The appointment of the special procedures mandate-holders shall be completed upon the subsequent approval of the Council and before the end of the session.

B. Review, rationalization and improvement of mandates

49. The review, rationalization and improvement of mandates, as well as the creation of new ones, shall be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development.

50. The review, rationalization and improvement of each mandate shall take place in the context of the negotiations of the relevant resolutions. An assessment of the mandate may take place in a separate segment of the interactive dialogue between the Council and special procedures mandate-holders.

51. The review, rationalization and improvement of mandates shall focus on the relevance, scope and contents of the mandates, having as a framework the internationally recognized human rights standards, the system of special procedures and General Assembly resolution 60/251.

52. Any decision to streamline, merge or possibly discontinue mandates shall always be guided by the need for improvement of the enjoyment and protection of human rights.

53. The Council shall always strive for improvements:

(a) Mandates shall always offer a clear prospect of an increased level of human rights protection and promotion as well as being coherent within the system of human rights;

(b) Equal attention shall be paid to all human rights. The balance of thematic mandates shall broadly reflect the equal importance of civil, political, economic, social and cultural rights, including the right to development;

(c) Every effort shall be made to avoid unnecessary duplication;

(d) Areas which constitute thematic gaps shall be identified and addressed, including by means other than the creation of special procedures mandates, such as by expanding an existing mandate, bringing a cross-cutting issue to the attention of mandate-holders or by requesting a joint action to the relevant mandate-holders;

(e) Any consideration of merging mandates shall have regard to the content and predominant functions of each mandate, as well as to the workload of individual mandate-holders;

(f) In creating or reviewing mandates, efforts shall be made to identify whether the structure of the mechanism (expert, rapporteur or working group) is the most effective in terms of increasing human rights protection;

(g) New mandates shall be as clear and specific as possible, so as to avoid ambiguity.

54. It may be considered desirable to have a uniform nomenclature of mandate-holders, titles of mandates as well as a selection and appointment process, to make the whole system more understandable.

55. Thematic mandate periods shall be of three years. Country mandate periods shall be of one year.

56. Mandates included in Appendix I, where applicable, are renewed until the date on which they will be considered by the Council according to the programme of work.⁴

57. Current mandate-holders may continue serving, provided they have not exceeded the six-year term limit (Appendix II). On an exceptional basis, the term of those mandate-holders who have served more than six years may be extended until the relevant mandate is considered by the Council and the selection and appointment process has concluded.

58. Decisions to create, review or discontinue country mandates shall also take into account the principles of cooperation and genuine dialogue aimed at strengthening the capacity of Member States to comply with their human rights obligations.

59. In case of violations of human rights or lack of cooperation that require the Council's attention, the principles of objectivity, non-selectivity, elimination of double standards and avoidance of politicization shall apply.

III. HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

60. The Human Rights Council Advisory Committee (hereinafter "the Advisory Committee"), composed of 18 experts serving in their personal capacity, shall function as a think-tank for the Council and work at its direction. The establishment of this subsidiary body and its functioning shall be executed according to the guidelines stipulated below.

⁴ Country mandates meet the following criteria:

- There is a pending mandate of the Council to be accomplished;
- There is a pending mandate of the General Assembly to be accomplished;
- The nature of the mandate is for advisory services and technical assistance.

A. Nomination

61. All Member States of the United Nations may propose or endorse candidates from their own region. When selecting their candidates, States shall consult their national human rights institutions and civil society organizations and, in this regard, include the names of those supporting their candidates.

62. With a view to ensuring that the best possible expertise is made available to the Council, technical and objective requirements for the submission of candidatures will be established and approved by the Council at its sixth session (first session of the second cycle). These shall include:

- (a) Recognized competence and experience in the field of human rights;
- (b) High moral standing;
- (c) Independence and impartiality.

63. Individuals holding decision-making positions in Government or in any other organization or entity which might give rise to a conflict of interest with the responsibilities inherent in the mandate shall be excluded. Elected members of the Committee shall serve in their personal capacity.

64. The principle of non-accumulation of human rights mandates at the same time shall be respected.

B. Election

65. The Council shall elect the members of the Advisory Committee, in secret ballot, from the list of candidates whose names have been presented in accordance with the agreed requirements.

66. The list of candidates shall be closed two months prior to the election date. The Secretariat will make available the list of candidates and relevant information to member States and to the public at least one month prior to their election.

67. Due consideration shall be given to gender balance and appropriate representation of different civilizations and legal systems.

68. The geographic distribution will be as follows:

- African States: 5
- Asian States: 5
- Eastern European States: 2
- Latin American and Caribbean States: 3
- Western European and other States: 3

69. The members of the Advisory Committee shall serve for a period of three years. They shall be eligible for re-election once. In the first term, one third of the experts shall serve for one year and another third for two years. The staggering of terms of membership shall be defined by the drawing of lots.

C. Functions

70. The function of the Advisory Committee is to provide expertise to the Council in the manner and form requested by the Council, focusing mainly on studies and research-based advice. Further, such expertise shall be rendered only upon the latter's request, in compliance with its resolutions and under its guidance.

71. The Advisory Committee shall be implementation-oriented and the scope of its advice should be limited to thematic issues pertaining to the mandate of the Council; namely promotion and protection of all human rights.

72. The Advisory Committee shall not adopt resolutions or decisions. The Advisory Committee may propose within the scope of the work set out by the Council, for the latter's consideration and approval, suggestions for further enhancing its procedural efficiency, as well as further investigation proposals within the scope of the work set out by the Council.

73. The Council shall issue specific guidelines for the Advisory Committee when it requests a substantive contribution from the latter and shall review all or any portion of those guidelines if it deems necessary in the future.

D. Methods of work

74. The Advisory Committee shall convene up to two sessions for a maximum of 10 working days per year. Additional sessions may be scheduled on an ad hoc basis with prior approval of the Council.

75. The Council may request the Advisory Committee to undertake certain tasks through a smaller team or individually. The Advisory Committee shall report on such efforts to the Council.

76. Members of the Advisory Committee are encouraged to communicate between sessions, individually or in teams. However, the Advisory Committee shall not establish subsidiary bodies unless the Council authorizes it to do so.

77. In the performance of its mandate, the Advisory Committee is urged to establish interaction with States, national human rights institutions, non-governmental organizations and other civil society entities in accordance with the modalities of the Council.

78. Member States and observers, including States that are not members of the Council, the specialized agencies, other intergovernmental organizations and national human rights institutions, as well as non-governmental organizations shall be entitled to participate in the work of the Advisory Committee based on arrangements, including Economic and Social Council resolution 1996/31 and practices observed by the Commission on Human Rights and the Council, while ensuring the most effective contribution of these entities.

79. The Council will decide at its sixth session (first session of its second cycle) on the most appropriate mechanisms to continue the work of the Working Groups on Indigenous Populations; Contemporary Forms of Slavery; Minorities; and the Social Forum.

IV. COMPLAINT PROCEDURE

A. Objective and scope

80. A complaint procedure is being established to address consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.

81. Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 as revised by resolution 2000/3 of 19 June 2000 serves as a working basis and has been improved where necessary, so as to ensure that the complaint procedure is impartial, objective, efficient, victims-oriented and conducted in a timely manner. The procedure shall retain its confidential nature, with a view to enhancing cooperation with the State concerned.

B. Admissibility criteria for communications

82. A communication related to a violation of human rights and fundamental freedoms, for the purpose of this procedure, shall be admissible, provided that:

(a) It is not manifestly politically motivated and its object is consistent with the Charter of the United Nations, the Universal Declaration of Human Rights and other applicable instruments in the field of human rights law;

(b) It gives a factual description of the alleged violations, including the rights which are alleged to be violated;

(c) Its language is not abusive. However, such a communication may be considered if it meets the other criteria for admissibility after deletion of the abusive language;

(d) It is submitted by a person or a group of persons claiming to have suffered violations of human rights and fundamental freedoms, or by any person or group of persons, including non-governmental organizations, acting in good faith in accordance with the principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and claiming to have direct and reliable knowledge of the violations

concerned. Nonetheless, reliably attested communications shall not be inadmissible solely because the knowledge of the individual authors is second-hand, provided that they are accompanied by clear evidence;

(e) It is not exclusively based on reports disseminated by mass media;

(f) It does not refer to a case that appears to reveal a consistent pattern of gross and reliably attested violations of human rights already being dealt with by a special procedure, a treaty body or other United Nations or similar regional complaints procedure in the field of human rights;

(g) Domestic remedies have been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.

83. National human rights institutions (NHRIs), established and operating under the Principles Relating to the Status of National Institutions (the Paris Principles), in particular in regard to quasi-judicial competence, may serve as effective means of addressing individual human rights violations.

C. Working groups

84. Two distinct working groups shall be established with the mandate to examine the communications and to bring to the attention of the Council consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms.

85. Both working groups shall, to the greatest possible extent, work on the basis of consensus. In the absence of consensus, decisions shall be taken by simple majority of the votes. They may establish their own rules of procedure.

1. Working Group on Communications: composition, mandate and powers

86. The Advisory Committee shall appoint five of its members, one from each Regional Group, with due consideration to gender balance, to constitute the Working Group on Communications.

87. In case of a vacancy, the Advisory Committee shall appoint an independent and highly qualified expert of the same Regional Group from the Advisory Committee.
88. Since there is a need for independent expertise and continuity with regard to the examination and assessment of communications received, the independent and highly qualified experts of the Working Group on Communications shall be appointed for three years. Their mandate shall be renewable only once.
89. The Chairperson of the Working Group on Communications shall, together with the secretariat, undertake an initial screening of communications received, based on the admissibility criteria, before transmitting them to the States concerned. Manifestly ill-founded or anonymous communications shall be screened out by the Chairperson and shall therefore not be transmitted to the State concerned. In a perspective of accountability and transparency, the Chairperson of the Working Group on Communications shall provide all its members with a list of all communications rejected after initial screening. This list shall indicate the grounds of all decisions resulting in the rejection of a communication. All other communications, which have not been screened out, shall be transmitted to the State concerned, so as to obtain the views of the latter on the allegations of violations.
90. The members of the Working Group on Communications shall decide on the admissibility of a communication and assess the merits of the allegations of violations, including whether the communication alone or in combination with other communications appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms. The Working Group on Communications shall provide the Working Group on Situations with a file containing all admissible communications as well as recommendations thereon. When a case requires further consideration or additional information, the Working Group on Communications may keep the situation under review until its next session and request such information from the State concerned. The Working Group on Communications may decide to dismiss a case. All decisions of the Working Group on Communications shall be based on a rigorous application of the admissibility criteria and duly justified.

2. Working Group on Situations: composition, mandate and powers

91. Each Regional Group shall appoint a representative of a member State of the Council, with due consideration to gender balance, to serve on the Working Group on Situations. Members shall be appointed for one year. Their mandate may be renewed once, if the State concerned is a member of the Council.

92. Members of the Working Group on Situations shall serve in their personal capacity. In order to fill a vacancy, the respective Regional Group to which the vacancy belongs, shall appoint a representative from member States of the same Regional Group.

93. The Working Group on Situations is requested, on the basis of the information and recommendations provided by the Working Group on Communications, to present the Council with a report on consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms and to make recommendations to the Council on the course of action to take, normally in the form of a draft resolution or decision with respect to the situations referred to it. When a case requires further consideration or additional information, members of the Working Group on Situations may keep the situation under review until its next session. The Working Group on Situations may also decide to dismiss a case.

94. All decisions of the Working Group on Situations shall be duly justified and indicate why the consideration of a situation has been discontinued or action recommended thereon. Decisions to discontinue shall be adopted by consensus; if that is not possible, by simple majority of the votes.

D. Working modalities and confidentiality

95. Since the complaint procedure is to be, inter alia, victims-oriented and conducted in a confidential and timely manner, both Working Groups shall hold two meetings a year of five working days each, in order to promptly examine communications received, including replies of States thereon, and the situations already referred to the Council under the complaint procedure.

96. The State concerned shall cooperate with the complaint procedure and make every effort to provide substantive replies in one of the United Nations official languages to any of the requests of the Working Groups or the Council. The State concerned shall also make every effort to provide a reply not later than three months after the request has been made. If necessary, this deadline may however be extended at the request of the State concerned.

97. The Secretariat shall make the confidential files available to all members of the Council, at least two weeks in advance, so as to allow sufficient time for the consideration of the files.

98. The Council shall consider consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms brought to its attention by the Working Group on Situations as frequently as needed, but at least once a year.

99. The reports of the Working Group on Situations referred to the Council shall be examined in a confidential manner, unless the Council decides otherwise. When the Working Group on Situations recommends that the Council consider a situation in a public meeting, in particular in the case of manifest and unequivocal lack of cooperation, the Council shall consider such recommendation on a priority basis at its next session.

100. So as to ensure that the complaint procedure is victims-oriented, efficient and conducted in a timely manner, the period of time between the transmission of the complaint to the State concerned and consideration by the Council shall not, in principle, exceed 24 months.

E. Involvement of the complainant and of the State concerned

101. The complaint procedure shall ensure that both the author of a communication and the State concerned are informed of the proceedings at the following key stages:

(a) When a communication is deemed inadmissible by the Working Group on Communications or when it is taken up for consideration by the Working Group on Situations; or when a communication is kept pending by one of the Working Groups or by the Council;

(b) At the final outcome.

102. In addition, the complainant shall be informed when his/her communication is registered by the complaint procedure.

103. Should the complainant request that his/her identity be kept confidential, it will not be transmitted to the State concerned.

F. Measures

104. In accordance with established practice the action taken in respect of a particular situation should be one of the following:

(a) To discontinue considering the situation when further consideration or action is not warranted;

(b) To keep the situation under review and request the State concerned to provide further information within a reasonable period of time;

(c) To keep the situation under review and appoint an independent and highly qualified expert to monitor the situation and report back to the Council;

(d) To discontinue reviewing the matter under the confidential complaint procedure in order to take up public consideration of the same;

(e) To recommend to OHCHR to provide technical cooperation, capacity-building assistance or advisory services to the State concerned.

V. AGENDA AND FRAMEWORK FOR THE PROGRAMME OF WORK

A. Principles

- Universality
- Impartiality
- Objectivity

- Non-selectiveness
- Constructive dialogue and cooperation
- Predictability
- Flexibility
- Transparency
- Accountability
- Balance
- Inclusive/comprehensive
- Gender perspective
- Implementation and follow-up of decisions

B. Agenda

- Item 1. Organizational and procedural matters
- Item 2. Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General
- Item 3. Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development
- Item 4. Human rights situations that require the Council's attention
- Item 5. Human rights bodies and mechanisms
- Item 6. Universal Periodic Review
- Item 7. Human rights situation in Palestine and other occupied Arab territories

- Item 8. Follow-up and implementation of the Vienna Declaration and Programme of Action
- Item 9. Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action
- Item 10. Technical assistance and capacity-building

C. Framework for the programme of work

- Item 1. Organizational and procedural matters
 - Election of the Bureau
 - Adoption of the annual programme of work
 - Adoption of the programme of work of the session, including other business
 - Selection and appointment of mandate-holders
 - Election of members of the Human Rights Council Advisory Committee
 - Adoption of the report of the session
 - Adoption of the annual report
- Item 2. Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General
 - Presentation of the annual report and updates
- Item 3. Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development
 - Economic, social and cultural rights

- Civil and political rights
- Rights of peoples, and specific groups and individuals
- Right to development
- Interrelation of human rights and human rights thematic issues

Item 4. Human rights situations that require the Council's attention

Item 5. Human rights bodies and mechanisms

- Report of the Human Rights Council Advisory Committee
- Report of the complaint procedure

Item 6. Universal Periodic Review

Item 7. Human rights situation in Palestine and other occupied Arab territories

- Human rights violations and implications of the Israeli occupation of Palestine and other occupied Arab territories
- Right to self-determination of the Palestinian people

Item 8. Follow-up and implementation of the Vienna Declaration and Programme of Action

Item 9. Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Item 10. Technical assistance and capacity-building

VI. METHODS OF WORK

105. The methods of work, pursuant to General Assembly resolution 60/251 shall be transparent, impartial, equitable, fair, pragmatic; lead to clarity, predictability, and inclusiveness. They may also be updated and adjusted over time.

A. Institutional arrangements

1. Briefings on prospective resolutions or decisions

106. The briefings on prospective resolutions or decisions shall be informative only, whereby delegations shall be apprised of resolutions and decisions tabled or intended to be tabled. These briefings shall be organized by interested delegations.

2. President's open-ended information meetings on resolutions, decisions and other related business

107. The President's open-ended information meetings on resolutions, decisions and other related business shall provide information on the status of negotiations on draft resolutions and decisions so that delegations may gain an overview of the status of such drafts. These meetings shall have a purely informational function, combined with information on the extranet, and be held in a transparent and inclusive manner. They shall not serve as a negotiating forum.

3. Informal consultations on proposals convened by main sponsors

108. Informal consultations shall be the primary means for the negotiation of draft resolutions and decisions, and their convening shall be the responsibility of the sponsor(s). At least one informal open-ended consultation shall be held on each draft resolution and/or decision before it is considered for action by the Council. Consultations shall, as much as possible, be scheduled in a timely, transparent and inclusive manner that takes into account the constraints faced by delegations, particularly smaller ones.

4. Role of the Bureau

109. The Bureau shall deal with procedural and organizational matters. The Bureau shall regularly communicate the contents of its meetings through a timely summary report.

5. Other work formats may include panel debates, seminars and round tables

110. Utilization of these other work formats, including topics and modalities, shall be decided by the Council on a case-by-case basis. They may serve as tools of the Council for enhancing dialogue and mutual understanding on certain issues. They shall be utilized in the context of the Council's agenda and annual programme of work, and reinforce and/or complement its intergovernmental nature. They shall not be used to substitute or replace existing human rights mechanisms and established methods of work.

6. High-Level Segment

111. The High-Level Segment shall be held once a year during the main session of the Council. It shall be followed by a general segment wherein delegations that did not participate in the High-Level Segment may deliver general statements.

B. Working culture

112. There is need for:

- (a) Early notification of proposals;
- (b) Early submission of draft resolutions and decisions, preferably by the end of the penultimate week of a session;
- (c) Early distribution of all reports, particularly those of special procedures, to be transmitted to delegations in a timely fashion, at least 15 days in advance of their consideration by the Council, and in all official United Nations languages;
- (d) Proposers of a country resolution to secure the broadest possible support for their initiatives (preferably 15 members), before action is taken;

(e) Restraint in resorting to resolutions, in order to avoid proliferation of resolutions without prejudice to the right of States to decide on the periodicity of presenting their draft proposals by:

- (i) Minimizing unnecessary duplication of initiatives with the General Assembly/Third Committee;
- (ii) Clustering of agenda items;
- (iii) Staggering the tabling of decisions and/or resolutions and consideration of action on agenda items/issues.

C. Outcomes other than resolutions and decisions

113. These may include recommendations, conclusions, summaries of discussions and the President's Statement. As such outcomes will have different legal implications, they shall supplement and not replace resolutions and decisions.

D. Special sessions of the Council

114. The following provisions shall complement the general framework provided by General Assembly resolution 60/251 and the rules of procedure of the Human Rights Council.

115. The rules of procedure of special sessions shall be in accordance with the rules of procedure applicable for regular sessions of the Council.

116. The request for the holding of a special session, in accordance with paragraph 10 of General Assembly resolution 60/251, shall be submitted to the President and to the secretariat of the Council. The request shall specify the item proposed for consideration and include any other relevant information the sponsors may wish to provide.

117. The special session shall be convened as soon as possible after the formal request is communicated, but, in principle, not earlier than two working days, and not later than five working days after the formal receipt of the request. The duration of the special session shall not exceed three days (six working sessions), unless the Council decides otherwise.

118. The secretariat of the Council shall immediately communicate the request for the holding of a special session and any additional information provided by the sponsors, as well as the dates of the special session, to all United Nations Member States and make the information available to the specialized agencies, other intergovernmental organizations and national human rights institutions, as well as to non-governmental organizations in consultative status by the most expedient and expeditious means of communication. Special session documentation, in particular draft resolutions and decisions, shall be made available in all official United Nations languages to all States in an equitable, timely and transparent manner.

119. The President of the Council shall hold open-ended informative consultations before the special session on its conduct and organization. In this regard, the secretariat may also be requested to provide additional information, including, on the methods of work of previous special sessions.

120. Members of the Council, concerned States, observer States, specialized agencies, other intergovernmental organizations and national human rights institutions, as well as non-governmental organizations in consultative status may contribute to the special session in accordance with the rules of procedure of the Council.

121. If the requesting or other States intend to present draft resolutions or decisions at the special session, texts shall be made available in accordance with the Council's relevant rules of procedure. Nevertheless, sponsors are urged to present such texts as early as possible.

122. The sponsors of a draft resolution or decision should hold open-ended consultations on the text of their draft resolution(s) or decision(s) with a view to achieving the widest participation in their consideration and, if possible, achieving consensus on them.

123. A special session shall allow participatory debate, be results-oriented and geared to achieving practical outcomes, the implementation of which can be monitored and reported on at the following regular session of the Council for possible follow-up decision.

VII. RULES OF PROCEDURE⁵

SESSIONS

Rules of procedure

Rule 1 [resolution 60/251, para. 11]

The Human Rights Council shall apply the rules of procedure established for the Main Committees of the General Assembly, as applicable, unless subsequently otherwise decided by the Assembly or the Council.

REGULAR SESSIONS

Number of sessions

Rule 2 [resolution 60/251, para. 10]

The Human Rights Council shall meet regularly throughout the year and schedule no fewer than three sessions per Council year,⁶ including a main session, for a total duration of no less than 10 weeks.

Assumption of membership

Rule 3

Newly-elected member States of the Human Rights Council shall assume their membership on the first day of the Council year, replacing member States that have concluded their respective membership terms.

⁵ Figures indicated in square brackets refer to identical or corresponding rules for the General Assembly or its Main Committees, unless otherwise stated.

⁶ Commencing on 19 June.

Place of meeting

Rule 4 [resolution 60/251, para. 1]

The Human Rights Council shall be based in Geneva.

SPECIAL SESSIONS

Convening of special sessions

Rule 5

The rules of procedure of special sessions of the Human Rights Council will be the same as the rules of procedure applicable for regular sessions of the Human Rights Council.

Rule 6 [resolution 60/251, para. 10]

The Human Rights Council shall hold special sessions, when needed, at the request of a member of the Council with the support of one third of the membership of the Council.

**PARTICIPATION OF AND CONSULTATION WITH
OBSERVERS OF THE COUNCIL**

Rule 7 [resolution 60/251, para. 11]

(a) The Council shall apply the rules of procedure established for committees of the General Assembly, as applicable, unless subsequently otherwise decided by the Assembly or the Council, and the participation of and consultation with observers, including States that are not members of the Council, the specialized agencies, other intergovernmental organizations and national human rights institutions, as well as non-governmental organizations, shall be based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996, and practices observed by the Commission on Human Rights, while ensuring the most effective contribution of these entities.

(b) Participation of national human rights institutions shall be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005, while ensuring the most effective contribution of these entities.

ORGANIZATION OF WORK AND AGENDA FOR REGULAR SESSIONS

Organizational meetings

Rule 8

(a) At the beginning of each Council year, the Council shall hold an organizational meeting to elect its Bureau and to consider and adopt the agenda, programme of work, and calendar of regular sessions for the Council year indicating, if possible, a target date for the conclusion of its work, the approximate dates of consideration of items and the number of meetings to be allocated to each item.

(b) The President of the Council shall also convene organizational meetings two weeks before the beginning of each session and, if necessary, during the Council sessions to discuss organizational and procedural issues pertinent to that session.

PRESIDENT AND VICE-PRESIDENTS

Elections

Rule 9

(a) At the beginning of each Council year, at its organizational meeting, the Council shall elect, from among the representatives of its members, a President and four Vice-Presidents. The President and the Vice-Presidents shall constitute the Bureau. One of the Vice-Presidents shall serve as Rapporteur.

(b) In the election of the President of the Council, regard shall be had for the equitable geographical rotation of this office among the following Regional Groups: African States, Asian States, Eastern European States, Latin American and Caribbean States, and Western European and other States. The four Vice-Presidents of the Council shall be elected on the basis of equitable geographical distribution from the Regional Groups other than the one to which the President belongs. The selection of the Rapporteur shall be based on geographic rotation.

Bureau

Rule 10

The Bureau shall deal with procedural and organizational matters.

Term of office

Rule 11

The President and the Vice-Presidents shall, subject to rule 13, hold office for a period of one year. They shall not be eligible for immediate re-election to the same post.

Absence of officers

Rule 12 [105]⁷

If the President finds it necessary to be absent during a meeting or any part thereof, he/she shall designate one of the Vice-Presidents to take his/her place. A Vice-President acting as President shall have the same powers and duties as the President. If the President ceases to hold office pursuant to rule 13, the remaining members of the Bureau shall designate one of the Vice-Presidents to take his/her place until the election of a new President.

Replacement of the President or a Vice-President

Rule 13

If the President or any Vice-President ceases to be able to carry out his/her functions or ceases to be a representative of a member of the Council, or if the Member of the United Nations of which he/she is a representative ceases to be a member of the Council, he/she shall cease to hold such office and a new President or Vice-President shall be elected for the unexpired term.

⁷ See A/520/Rev.16, introduction, para. 30 (e).

SECRETARIAT

Duties of the secretariat

Rule 14 [47]

The Office of the United Nations High Commissioner for Human Rights shall act as secretariat for the Council. In this regard, it shall receive, translate, print and circulate in all official United Nations languages, documents, reports and resolutions of the Council, its committees and its organs; interpret speeches made at the meetings; prepare, print and circulate the records of the session;⁸ have the custody and proper preservation of the documents in the archives of the Council; distribute all documents of the Council to the members of the Council and observers and, generally, perform all other support functions which the Council may require.

RECORDS AND REPORT

Report to the General Assembly

Rule 15

The Council shall submit an annual report to the General Assembly.

PUBLIC AND PRIVATE MEETINGS OF THE HUMAN RIGHTS COUNCIL

General principles

Rule 16 [60]

The meetings of the Council shall be held in public unless the Council decides that exceptional circumstances require the meeting be held in private.

⁸ See A/520/Rev.16, annex IV, para. 108.

Private meetings

Rule 17 [61]

All decisions of the Council taken at a private meeting shall be announced at an early public meeting of the Council.

CONDUCT OF BUSINESS

Working groups and other arrangements

Rule 18

The Council may set up working groups and other arrangements. Participation in these bodies shall be decided upon by the members, based on rule 7. The rules of procedure of these bodies shall follow those of the Council, as applicable, unless decided otherwise by the Council.

Quorum

Rule 19 [67]

The President may declare a meeting open and permit the debate to proceed when at least one third of the members of the Council are present. The presence of a majority of the members shall be required for any decision to be taken.

Majority required

Rule 20 [125]

Decisions of the Council shall be made by a simple majority of the members present and voting, subject to rule 19.

Appendix I

RENEWED MANDATES UNTIL THEY COULD BE CONSIDERED BY THE HUMAN RIGHTS COUNCIL ACCORDING TO ITS ANNUAL PROGRAMME OF WORK

Independent expert appointed by the Secretary-General on the situation of human rights in Haiti

Independent expert appointed by the Secretary-General on the situation of human rights in Somalia

Independent expert on the situation of human rights in Burundi

Independent expert on technical cooperation and advisory services in Liberia

Independent expert on the situation of human rights in the Democratic Republic of the Congo

Independent expert on human rights and international solidarity

Independent expert on minority issues

Independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights

Independent expert on the question of human rights and extreme poverty

Special Rapporteur on the situation of human rights in the Sudan

Special Rapporteur on the situation of human rights in Myanmar

Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea

Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (The duration of this mandate has been established until the end of the occupation.)

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Special Rapporteur on extrajudicial, summary or arbitrary executions

Special Rapporteur on freedom of religion or belief

Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.

Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children

Special Rapporteur on the human rights of migrants

Special Rapporteur on the independence of judges and lawyers

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Special Rapporteur on the right to education

Special Rapporteur on the right to food

Special Rapporteur on the sale of children, child prostitution and child pornography

Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Special Rapporteur on violence against women, its causes and consequences

Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises

Special Representative of the Secretary-General for human rights in Cambodia

Special Representative of the Secretary-General on the situation of human rights defenders

Representative of the Secretary-General on human rights of internally displaced persons

Working Group of Experts on People of African Descent

Working Group on Arbitrary Detention

Working Group on Enforced or Involuntary Disappearances

Working Group on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Appendix II

TERMS IN OFFICE OF MANDATE-HOLDERS

Mandate-holder	Mandate	Terms in office
Charlotte Abaka	Independent Expert on the situation of human rights in Liberia	July 2006 (first term)
Yakin Ertürk	Special Rapporteur on violence against women, its causes and consequences	July 2006 (first term)
Manuela Carmena Castrillo	Working Group on Arbitrary Detention	July 2006 (first term)
Joel Adebayo Adekanye	Working Group on Enforced or Involuntary Disappearances	July 2006 (second term)
Saeed Rajae Khorasani	Working Group on Enforced or Involuntary Disappearances	July 2006 (first term)
Joe Frans	Working Group on people of African descent	July 2006 (first term)
Leandro Despouy	Special Rapporteur on the independence of judges and lawyers	August 2006 (first term)
Hina Jilani	Special Representative of the Secretary-General on the situation of human rights defenders	August 2006 (second term)
Soledad Villagra de Biedermann	Working Group on Arbitrary Detention	August 2006 (second term)
Miloon Kothari	Special Rapporteur on adequate housing as a component of the right to an adequate standard of living	September 2006 (second term)
Jean Ziegler	Special Rapporteur on the right to food	September 2006 (second term)
Paulo Sérgio Pinheiro	Special Rapporteur on the situation of human rights in Myanmar	December 2006 (second term)
Darko Götlicher	Working Group on Enforced or Involuntary Disappearances	January 2007 (first term)

Mandate-holder	Mandate	Terms in office
Tamás Bán	Working Group on Arbitrary Detention	April 2007 (second term)
Ghanim Alnajjar	Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia	May 2007 (second term)
John Dugard	Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967	June 2007 (second term)
Rodolfo Stavenhagen	Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people	June 2007 (second term)
Arjun Sengupta	Independent Expert on the question of human rights and extreme poverty	July 2007 (first term)
Akich Okola	Independent Expert on the situation of human rights in Burundi	July 2007 (first term)
Titinga Frédéric Pacéré	Independent Expert on the situation of human rights in the Democratic Republic of the Congo	July 2007 (first term)
Philip Alston	Special Rapporteur on extrajudicial, summary or arbitrary executions	July 2007 (first term)
Asma Jahangir	Special Rapporteur on freedom of religion or belief	July 2007 (first term)
Okechukwu Ibeanu	Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights	July 2007 (first term)
Vernor Muñoz Villalobos	Special Rapporteur on the right to education	July 2007 (first term)

Mandate-holder	Mandate	Terms in office
Juan Miguel Petit	Special Rapporteur on the sale of children, child prostitution and child pornography	July 2007 (second term)
Vitit Muntarbhorn	Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea	July 2007 (first term)
Leila Zerrougui	Working Group on Arbitrary Detention	August 2007 (second term)
Santiago Corcuera Cabezut	Working Group on Enforced or Involuntary Disappearances	August 2007 (first term)
Walter Kälin	Representative of the Secretary-General on the human rights of internally displaced persons	September 2007 (first term)
Sigma Huda	Special Rapporteur on trafficking in persons, especially in women and children	October 2007 (first term)
Bernards Andrew Nyamwaya Mudho	Independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights	November 2007 (second term)
Manfred Nowak	Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment	November 2007 (first term)
Louis Joinet	Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti	February 2008 (second term)
Rudi Muhammad Rizki	Independent Expert on human rights and international solidarity	July 2008 (first term)
Gay McDougall	Independent Expert on minority issues	July 2008 (first term)

Mandate-holder	Mandate	Terms in office
Doudou Diène	Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	July 2008 (second term)
Jorge A. Bustamante	Special Rapporteur on the human rights of migrants	July 2008 (first term)
Martin Scheinin	Special Rapporteur on the promotion and protection of human rights while countering terrorism	July 2008 (first term)
Sima Samar	Special Rapporteur on the situation of human rights in the Sudan	July 2008 (first term)
John Ruggie	Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises	July 2008 (first term)
Seyyed Mohammad Hashemi	Working Group on Arbitrary Detention	July 2008 (second term)
Najat Al-Hajjaji	Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination	July 2008 (first term)
Amada Benavides de Pérez	Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination	July 2008 (first term)
Alexander Ivanovich Nikitin	Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination	July 2008 (first term)
Shaista Shameem	Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination	July 2007 (first term)

Mandate-holder	Mandate	Terms in office
Ambeyi Ligabo	Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	August 2008 (second term)
Paul Hunt	Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	August 2008 (second term)
Peter Lesa Kasanda	Working Group on people of African descent	August 2008 (second term)
Stephen J. Toope	Working Group on Enforced or Involuntary Disappearances	September 2008 (second term)
George N. Jabbour	Working Group on people of African descent	September 2008 (second term)
Irina Zlatescu	Working Group on people of African descent	October 2008 (second term)
José Gómez del Prado	Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination	October 2008 (first term)
Yash Ghai	Special Representative of the Secretary-General for human rights in Cambodia	November 2008 (first term)

9th meeting

18 June 2007

[Adopted without a vote. See chap. III.]

**5/2. Code of Conduct for Special Procedures Mandate-holders
of the Human Rights Council**

The Human Rights Council,

Guided by the aims and principles of the Charter of the United Nations and the Universal Declaration of Human Rights and recognizing the ensuing obligations inter alia of States to cooperate in promoting universal respect for human rights as enshrined therein,

Recalling the Vienna Declaration and Programme of Action adopted on 25 June 1993 by the World Conference on Human Rights,

Recalling also that in resolution 60/251 of 15 March 2006, entitled “Human Rights Council”, the General Assembly:

(a) Reaffirmed that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and that all human rights must be treated in a fair and equal manner on the same footing and with the same emphasis;

(b) Acknowledged that peace and security, development and human rights are the pillars of the United Nations system and that they are interlinked and mutually reinforcing;

(c) Decided that members elected to the Council shall uphold the highest standards in the promotion and protection of human rights and shall fully cooperate with the Council;

(d) Stressed the importance of “ensuring universality, objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization”;

(e) Further recognized that the promotion and protection of human rights “should be based on the principles of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings”;

(f) Decided that “the work of the Council shall be guided by the principles of universality, impartiality, objectivity, and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development”;

(g) Also decided that “the methods of work of the Council shall be transparent, fair and impartial and shall enable genuine dialogue, be results-oriented, allow for subsequent follow-up discussions to recommendations and their implementation and also allow for substantive interaction with special procedures and mechanisms”;

Underlining the centrality of the notions of impartiality and objectivity, as well as the expertise of mandate-holders, within the context of special procedures, along with the need to give the required degree of attention to all human rights violations, wherever they may be taking place,

Bearing in mind that the efficiency of the system of special procedures should be reinforced through the consolidation of the status of mandate-holders and the adoption of principles and regulations taking the specificities of their mandate into consideration,

Considering that it is necessary to assist all stakeholders, including States, national human rights institutions, non-governmental organizations and individuals, to better understand and support the activities of mandate-holders,

Recalling articles 100, 104, 105 of the Charter of the United Nations, section 22 of article VI of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and paragraph 6 of General Assembly resolution 60/251,

Noting decision 1/102 of 30 June 2006, in which the Council decided to extend exceptionally for one year the mandates and mandate-holders of the special procedures of the Commission on Human Rights, of the Sub-Commission for the Promotion and Protection of Human Rights as well as the procedure established pursuant to Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970,

Noting also decision 1/104 of 30 June 2006, in which the Council established the Open-ended Intergovernmental Working Group entrusted with the task of formulating recommendations on the issue of the review and possibly the enhancement and rationalization of all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights, in order to maintain a regime of special procedures in accordance with paragraph 6 of General Assembly resolution 60/251,

Noting further resolution 2/1 of 27 November 2006, in which the Council requested the Open-ended Intergovernmental Working Group to “draft a code of conduct regulating the work of the special procedures”,

Considering that this code of conduct is an integral part of the review, improvement and rationalization called for in General Assembly resolution 60/251 that, inter alia, seeks to enhance the cooperation between Governments and mandate-holders which is essential for the effective functioning of the system,

Considering also that such a code of conduct will strengthen the capacity of mandate-holders to exercise their functions whilst enhancing their moral authority and credibility and will require supportive action by other stakeholders, and in particular by States,

Considering further that one should distinguish between, on the one hand, the independence of mandate-holders, which is absolute in nature, and, on the other hand, their prerogatives, as circumscribed by their mandate, the mandate of the Human Rights Council, and the provisions of the Charter of the United Nations,

Mindful of the fact that it is desirable to spell out, complete and increase the visibility of the rules and principles governing the behaviour of mandate-holders,

Noting the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission that was adopted by the General Assembly in resolution 56/280 of 27 March 2002,

Noting also the draft Manual of the United Nations Human Rights Special Procedures adopted in 1999 by the sixth annual meeting of mandate-holders, as revised,

Taking note of the deliberations and proposals of the Open-ended Intergovernmental Working Group on Review of Mandates,

1. *Urges* all States to cooperate with, and assist, the special procedures in the performance of their tasks and to provide all information in a timely manner, as well as respond to communications transmitted to them by the special procedures without undue delay;

2. *Adopts* the Code of Conduct for Special Procedures Mandate-Holders of the Human Rights Council, the text of which is annexed to the present resolution and whose provisions should be disseminated by the Office of the United Nations High Commissioner for Human Rights, to the mandate-holders, to the Member States of the United Nations and to other concerned parties.

Annex

DRAFT CODE OF CONDUCT FOR SPECIAL PROCEDURES MANDATE-HOLDERS OF THE HUMAN RIGHTS COUNCIL

Article 1 - Purpose of the Code of Conduct

The purpose of the present Code of Conduct is to enhance the effectiveness of the system of special procedures by defining the standards of ethical behaviour and professional conduct that special procedures mandate-holders of the Human Rights Council (hereinafter referred to as “mandate-holders”) shall observe whilst discharging their mandates.

Article 2 - Status of the Code of Conduct

1. The provisions of the present Code complement those of the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission (ST/SGB/2002/9) (hereinafter referred to as “the Regulations”);
2. The provisions of the draft manual of United Nations Human Rights Special Procedures should be in consonance with those of the present Code;
3. Mandate-holders shall be provided by the United Nations High Commissioner for Human Rights, along with the documentation pertaining to their mission, with a copy of the present Code of which they must acknowledge receipt.

Article 3 - General principles of conduct

Mandate-holders are independent United Nations experts. While discharging their mandate, they shall:

- (a) Act in an independent capacity, and exercise their functions in accordance with their mandate, through a professional, impartial assessment of facts based on internationally recognized human rights standards, and free from any kind of extraneous influence, incitement, pressure, threat or interference, either direct or indirect, on the part of any party, whether

stakeholder or not, for any reason whatsoever, the notion of independence being linked to the status of mandate-holders, and to their freedom to assess the human rights questions that they are called upon to examine under their mandate;

(b) Keep in mind the mandate of the Council which is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, through dialogue and cooperation as specified in General Assembly resolution 60/251 of 15 March 2006;

(c) Exercise their functions in accordance with their mandate and in compliance with the Regulations, as well as with the present Code;

(d) Focus exclusively on the implementation of their mandate, constantly keeping in mind the fundamental obligations of truthfulness, loyalty and independence pertaining to their mandate;

(e) Uphold the highest standards of efficiency, competence and integrity, meaning, in particular, though not exclusively, probity, impartiality, equity, honesty and good faith;

(f) Neither seek nor accept instructions from any Government, individual, governmental or non-governmental organization or pressure group whatsoever;

(g) Adopt a conduct that is consistent with their status at all times;

(h) Be aware of the importance of their duties and responsibilities, taking the particular nature of their mandate into consideration and behaving in such a way as to maintain and reinforce the trust they enjoy of all stakeholders;

(i) Refrain from using their office or knowledge gained from their functions for private gain, financial or otherwise, or for the gain and/or detriment of any family member, close associate, or third party;

(j) Not accept any honour, decoration, favour, gift or remuneration from any governmental or non-governmental source for activities carried out in pursuit of his/her mandate.

Article 4 - Status of mandate-holders

1. Mandate-holders exercise their functions on a personal basis, their responsibilities not being national but exclusively international.
2. When exercising their functions, the mandate-holders are entitled to privileges and immunities as provided for under relevant international instruments, including section 22 of article VI of the Convention on the Privileges and Immunities of the United Nations.
3. Without prejudice to these privileges and immunities, the mandate-holders shall carry out their mandate while fully respecting the national legislation and regulations of the country wherein they are exercising their mission. Where an issue arises in this regard, mandate-holders shall adhere strictly to the provisions of Regulation 1 (e) of the Regulations.

Article 5 - Solemn declaration

Prior to assuming their functions, mandate-holders shall make the following solemn declaration in writing:

“I solemnly declare that I shall perform my duties and exercise my functions from a completely impartial, loyal and conscientious standpoint, and truthfully, and that I shall discharge these functions and regulate my conduct in a manner totally in keeping with the terms of my mandate, the Charter of the United Nations, the interests of the United Nations, and with the objective of promoting and protecting human rights, without seeking or accepting any instruction from any other party whatsoever.”

Article 6 - Prerogatives

Without prejudice to prerogatives for which provision is made as part of their mandate, the mandate-holders shall:

- (a) Always seek to establish the facts, based on objective, reliable information emanating from relevant credible sources, that they have duly cross-checked to the best extent possible;

(b) Take into account in a comprehensive and timely manner, in particular information provided by the State concerned on situations relevant to their mandate;

(c) Evaluate all information in the light of internationally recognized human rights standards relevant to their mandate, and of international conventions to which the State concerned is a party;

(d) Be entitled to bring to the attention of the Council any suggestion likely to enhance the capacity of special procedures to fulfil their mandate.

Article 7 - Observance of the terms of the mandate

It is incumbent on the mandate-holders to exercise their functions in strict observance of their mandate and in particular to ensure that their recommendations do not exceed their mandate or the mandate of the Council itself.

Article 8 - Sources of information

In their information-gathering activities the mandate-holders shall:

(a) Be guided by the principles of discretion, transparency, impartiality, and even-handedness;

(b) Preserve the confidentiality of sources of testimonies if their divulgation could cause harm to individuals involved;

(c) Rely on objective and dependable facts based on evidentiary standards that are appropriate to the non-judicial character of the reports and conclusions they are called upon to draw up;

(d) Give representatives of the concerned State the opportunity of commenting on mandate-holders' assessment and of responding to the allegations made against this State, and annex the State's written summary responses to their reports.

Article 9 - Letters of allegation

With a view to achieving effectiveness and harmonization in the handling of letters of allegation by special procedures, mandate-holders shall assess their conformity with reference to the following criteria:

- (a) The communication should not be manifestly unfounded or politically motivated;
- (b) The communication should contain a factual description of the alleged violations of human rights;
- (c) The language in the communication should not be abusive;
- (d) The communication should be submitted by a person or a group of persons claiming to be victim of violations or by any person or group of persons, including non-governmental organizations, acting in good faith in accordance with principles of human rights, and free from politically motivated stands or contrary to, the provisions of the Charter of the United Nations, and claiming to have direct or reliable knowledge of those violations substantiated by clear information;
- (e) The communication should not be exclusively based on reports disseminated by mass media.

Article 10 - Urgent appeals

Mandate-holders may resort to urgent appeals in cases where the alleged violations are time-sensitive in terms of involving loss of life, life-threatening situations or either imminent or ongoing damage of a very grave nature to victims that cannot be addressed in a timely manner by the procedure under article 9 of the present Code.

Article 11 - Field visits

Mandate-holders shall:

- (a) Ensure that their visit is conducted in compliance with the terms of reference of their mandate;

(b) Ensure that their visit is conducted with the consent, or at the invitation, of the State concerned;

(c) Prepare their visit in close collaboration with the Permanent Mission of the concerned State accredited to the United Nations Office at Geneva except if another authority is designated for this purpose by the concerned State;

(d) Finalize the official programme of their visits directly with the host country officials with administrative and logistical back-up from the local United Nations Agency and/or Representative of the High Commissioner for Human Rights who may also assist in arranging private meetings;

(e) Seek to establish a dialogue with the relevant government authorities and with all other stakeholders, the promotion of dialogue and cooperation to ensure the full effectiveness of special procedures being a shared obligation of the mandate-holders, the concerned State and the said stakeholders;

(f) Have access upon their own request, in consultation with the Office of the High Commissioner for Human Rights and after a common understanding between the host Government and the mandate-holder, to official security protection during their visit, without prejudice to the privacy and confidentiality that mandate-holders require to fulfil their mandate.

Article 12 - Private opinions and the public nature of the mandate

Mandate-holders shall:

(a) Bear in mind the need to ensure that their personal political opinions are without prejudice to the execution of their mission, and base their conclusions and recommendations on objective assessments of human rights situations;

(b) In implementing their mandate, therefore, show restraint, moderation and discretion so as not to undermine the recognition of the independent nature of their mandate or the environment necessary to properly discharge the said mandate.

Article 13 - Recommendations and conclusions

Mandate-holders shall:

(a) While expressing their considered views, particularly in their public statements concerning allegations of human rights violations, also indicate fairly what responses were given by the concerned State;

(b) While reporting on a concerned State, ensure that their declarations on the human rights situation in the country are at all times compatible with their mandate and the integrity, independence and impartiality which their status requires, and which is likely to promote a constructive dialogue among stakeholders, as well as cooperation for the promotion and protection of human rights;

(c) Ensure that the concerned government authorities are the first recipients of their conclusions and recommendations concerning this State and are given adequate time to respond, and that likewise the Council is the first recipient of conclusions and recommendations addressed to this body.

Article 14 - Communication with Governments

Mandate-holders shall address all their communications to concerned Governments through diplomatic channels unless agreed otherwise between individual Governments and the Office of the High Commissioner for Human Rights.

Article 15 - Accountability to the Council

In the fulfilment of their mandate, mandate-holders are accountable to the Council.

9th meeting
18 June 2007
[Adopted without a vote. See chap. III.]

B. Decisions

5/101. Institution-building of the Human Rights Council and draft code of conduct for special procedures mandate-holders of the Human Rights Council

At its 9th meeting, on 18 June 2007, the Human Rights Council decided, without a vote, to agree on the text introduced by the President entitled “United Nations Human Rights Council: institution-building” (A/HRC/5/L.2) considered jointly with the draft code of conduct for special procedures mandate-holders of the Human Rights Council (A/HRC/5/L.3/Rev.1).

[See chap. II.]

5/102. Postponement of consideration of all pending draft resolutions and decisions, and of the draft report

At its 9th meeting, on 18 June 2007, the Human Rights Council decided, without a vote, to postpone action:

- (a) On the following draft resolutions tabled at its fifth session:
 - A/HRC/5/L.4 entitled “Report of the United Nations High Commissioner for Human Rights on the follow-up to the report of the Commission of Inquiry on Lebanon”;
 - A/HRC/5/L.5 entitled “Human Rights situation in the Occupied Palestinian Territory: follow-up to Human Rights Council resolution S-1/1 and S-3/1”;
 - A/HRC/5/L.6 entitled “Follow-up to resolution 4/8 of 30 March 2007 adopted by the Human Rights Council at its fourth session entitled ‘Follow-up to decisions S-4/101 of 13 December 2006 adopted by the Human Rights Council at its fourth special session entitled “Situation of human rights in Darfur””;

(b) On the following draft decisions and resolution deferred from previous sessions pursuant to its decision 4/105 of 30 March 2007:

- A/HRC/2/L.19 entitled “The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”;
- A/HRC/2/L.30 entitled “World Programme for Human Rights Education”;
- A/HRC/4/L.3 entitled “Israeli violations of religious and cultural rights in Occupied East Jerusalem”;
- A/HRC/4/L.4 entitled “Human rights situation in the Occupied Palestinian Territory”;

(c) On the draft report on its fifth session.

[See chap. II.]
