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ÓRGANOS Y MECANISMOS DE DERECHOS HUMANOS

**Nota verbal de fecha 29 de mayo de 2008 dirigida a la
Secretaría del Consejo de Derechos Humanos por la
Misión Permanente de Suiza ante la Oficina
de las Naciones Unidas en Ginebra**

La Misión Permanente de Suiza ante la Oficina de las Naciones Unidas y otras organizaciones internacionales en Ginebra saluda atentamente a la Secretaría del Consejo de Derechos Humanos y tiene el honor de hacerle llegar la carta adjunta*, de fecha 22 de mayo de 2008, relativa al mandato y las modalidades de trabajo del Grupo Consultivo.

La Misión Permanente de Suiza agradecería a la Secretaría que hiciese distribuir la presente carta como documento del Consejo de Derechos Humanos en su octavo período de sesiones.

* Se reproduce en el anexo como se recibió, en el idioma original y en inglés únicamente.

Annex

Geneva, 22 May 2008

Sir,

In the context of the current discussion on special procedures, I hereby inform you of the Swiss position on the extension of mandates and the respective roles of the President of the Human Rights Council and the Consultative Group.

I. EXTENSION OF SPECIAL PROCEDURES MANDATES

Although the length of thematic mandates is three years and that of country mandates is one year, there is no provision for any differentiation in the manner of their possible extension. Paragraph 45 of resolution 5/1 simply states that a mandate-holder's tenure in a given function shall be no longer than six years.

Equal treatment should therefore be applied to the various special procedures. In keeping with both the spirit and the letter of the institution-building package, this means that, pursuant to paragraph 45 of the above-mentioned resolution, mandate-holders are to have their tenure extended unless they themselves have decided to resign, or they have not displayed expertise, experience, independence, impartiality, personal integrity and impartiality in the performance of their duties, as required by paragraph 39 of the resolution.

The duration of country and thematic mandates was restricted to one and three years, respectively, in order to fit the specific circumstances of such appointments and not in order to subject each mandate-holder to a selection process for re-election. If the Council had wished to make re-election compulsory at the end of a mandate, it would have clearly so specified, as was done for other bodies, such as the Advisory Committee (resolution 5/1, para. 74) and the Expert Mechanism on the rights of indigenous peoples (resolution 6/36, para. 6).

Lastly, on the basis of the principle of non-retroactivity which, as far as we know, has never been validly challenged by any argument, the established practice, that is, the tacit renewal of mandates, applies until such time as a decision has been taken on the matter.

II. RESPECTIVE ROLES OF THE PRESIDENT OF THE HUMAN RIGHTS COUNCIL AND THE CONSULTATIVE GROUP

Paragraphs 47, 52 and 53 of Human Rights Council resolution 5/1 provide that the Consultative Group shall propose a list of candidates to the President of the Council who shall then identify an appropriate candidate for each vacancy on the basis of the Group's recommendations and following broad consultations.

On the other hand, no provision is made for the President to report to the Group once it has supplied him or her with a list of recommendations. The Group's work is therefore completed once the list has been submitted.

Lastly, although paragraph 50 of resolution 5/1, states that recommendations to the President must be public and substantiated, we consider that this means no more than the forwarding of recommendations accompanied by the shortlisted candidates' curricula vitae in order to meet the requirements of objectivity and data protection.

Thank you in advance for communicating this letter to all members, observers and stakeholders.

Accept, Sir, the assurances of my highest consideration.

(*Signed*): Blaise Godet
Ambassador
Permanent Representative of Switzerland
