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Human Rights Council Sub-Commission on the Promotion and Protection of Human Rights Fifty-eighth session

Summary record of the 2nd meeting

Held at the Palais des Nations, Geneva, on Monday, 7 August 2006, at 3 p.m.

Chairperson: Mr. Bossuyt

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

Adoption of the agenda (*continued*) (A/HRC/Sub.1/58/1 and Add.1)

1. **The Chairperson** invited the members of the Sub-Commission to resume consideration of the draft agenda. He took it that the Sub-Commission wished to approve the two amendments that had been proposed at the previous meeting: firstly, adding a new agenda item 7, entitled “Implementation of Human Rights Council decision 1/102 and other related issues”; secondly, the new agenda item 8 reading as follows: “Adoption of the report on the fifty-eighth session”.
2. *The two proposals were approved.*
3. *The agenda, as orally amended, was adopted.*

Organization of work

4. **The Chairperson** recalled that, in accordance with Human Rights Council decision 1/102, the Sub-Commission could decide to use the entire period it had been allocated for its fifty-eighth session, or finish its work on 11 August. Given the importance of the tasks the Council had entrusted to the Sub-Commission, he suggested that it should make full use of all the time available.
5. **Mr. Alfonso Martínez** fully supported the Chairperson’s suggestion.
6. **The Chairperson** said that, if there was no objection, the Sub-Commission would meet for the forthcoming three weeks.
7. *It was so decided.*
8. **The Chairperson** said that, according to the schedule of meetings of the Sub-Commission and its subsidiary bodies as announced during the first session of the Human Rights Council and indicated in paragraph 3 of the provisional agenda (A/HRC/Sub.1/58/1), all the Sub-Commission working groups would meet during the first week of the session, in parallel to the plenary.
9. **Ms. Warzazi** said it was surprising that no fewer than six meetings had been devoted to consideration of agenda item 7 entitled “Implementation of Human Rights Council decision 1/102 and other related issues”, given that the main issues had been discussed at the previous meeting.
10. **Mr. Alfonso Martínez** said that he understood Ms. Warzazi’s surprise at the programme of work. He recalled that the Sub-Commission, which did indeed have to meet in plenary to fulfil the Council’s requests detailed in its decision 1/102, was also obliged to consider the other agenda items.
11. **Mr. Decaux** said that, while he was aware that taking the Council’s requests into account when preparing the programme of work was a complex task, the programme did not reflect the agenda in its entirety. Devoting several closed meetings to consideration of agenda item 7 was a welcome move, but it was disappointing that only one public meeting had been scheduled given how important it was to hear the views of non-governmental organizations (NGOs) on the reform. He therefore questioned the wisdom of waiting until Friday, 25 August 2006 to find out what the relevant NGOs had to say on the subject. That meeting could be brought forward; that would enable the Sub-Commission to incorporate the views expressed by NGOs into its discussion. It was also necessary to ensure that enough meetings were devoted to interactive dialogue with States and NGOs on the substantive issues on the agenda of the fifty-eighth session.

12. **Mr. Salama** said that six meetings would not be excessive for the preparation of the paper on the future expert advisory service that the Council had requested. The first meeting on that issue should be public, so that observer States and NGOs could give their points of view. In addition, the Sub-Commission should task some members with preparing a summary of the different proposals on the future human rights expert advisory body.

13. **Ms. Koufa** said that the provisional programme of work should be amended so that the meetings of the Working Group on Minorities and the Working Group on Contemporary Forms of Slavery were not so far apart. Moreover, some meetings should be postponed because the relevant documents were apparently not yet available.

14. **Ms. Hampson** said that, given the importance of agenda item 7, six meetings did not seem excessive. It would be useful to hold two public meetings, one to seek the Sub-Commission's view on the reform in general, and the other to hear the observer States and NGOs on the issue. The Sub-Commission had not been asked to prepare a paper on its own future, but a document containing recommendations on the expert advisory services to be provided to the Council in future. Contrary to what Ms. Warzazi had said, that would demand much more intensive work than had been accomplished at the previous session. The meetings of the different working groups had been scheduled far apart to facilitate reflection and discussion. Translation of the documents should not dictate how the programme of work was prepared.

15. **Mr. Bengoa** said that the Sub-Commission should clarify its working methods in order to take full advantage of the short time available to it to achieve its objectives, especially the drafting of a document that was as detailed as possible on the reform in general and the future expert advisory body in particular. To that end, a drafting group comprising five members of the Sub-Commission should be established. In addition, it should not be forgotten that in response to another request from the Council in its decision 1/102, namely to review all the ongoing studies, the Sub-Commission should cover all the items on its agenda at the current session. It could adopt resolutions indicating how future work on each of the items could be handled.

16. **Mr. Kartashkin** noted that the most important documents were not drafted in plenary session. Two public meetings would be sufficient to consider the implementation of decision 1/102. An open-ended working group would be tasked with preparing a summary of the proposals made during those meetings and drafting a document which would then be submitted to the plenary for adoption. That would free up two meetings that could be devoted to the important agenda items, particularly the item on administration of justice, rule of law and democracy.

17. **The Chairperson** recalled that by calling meetings of the Sub-Commission's working groups in the first week, the Bureau was only following the Council's recommendations, with which it was obliged to comply. The Bureau had chosen to spread the meetings of the working groups over four half days to give members time to reflect between meetings and to facilitate meeting preparation. Devoting six meetings to consideration of agenda item 7 was not excessive, given the importance of the issues at stake. Fewer meetings had been devoted to consideration of other items on the agenda of the current session because the late convocation of the session had meant that fewer reports had been submitted. Lastly, it went without saying that the Sub-Commission reserved the right to adapt the current programme of work according to the progress it made in its work.

18. **Ms. Warzazi** said it was disappointing that only two meetings had been devoted to consideration of agenda item 2 and noted that the resolutions under that item would not be adopted until the second week. She wished to know if the Secretariat had verified whether NGOs, which had incurred expenses to travel to Geneva, would be able to participate in the discussions on that item.

19. **Mr. Alfonso Martínez** said that it was not necessary to set up a working group for the organization of work on agenda item 7. Instead, five members of the Sub-Commission should be entrusted with the task of summarizing the different views expressed on the reform. Indeed, it was up to all 26 members of the Sub-Commission to make recommendations to the Council, not a working group of limited membership.

20. **Mr. Sattar** said that, logically, the Sub-Commission should approve the proposals made by the Bureau. He underscored the need to devote enough meetings to consideration of agenda item 7 in order to complete the two priority tasks the Council had entrusted to the Sub-Commission. Regarding working methods, the Sub-Commission should give four or five members responsibility for drafting a summary reflecting the content of the discussions on that item. Such a working group would not take the place of the plenary, which was indeed the appropriate body to prepare the document the Council had requested.

21. **Ms. Chung Chin-sung** maintained that, given the importance of the issues under agenda item 7, it was necessary to ensure that all the members of the Sub-Commission could participate in the working group. The meetings devoted to that agenda item should be public, as far as possible. It was not excessive to dedicate six meetings to the issue of the implementation of decision 1/102.

22. **Mr. Sorabjee** said that he failed to understand why some members thought that too many meetings had been devoted to consideration of agenda item 7 given that it was of the utmost importance. That item should be considered during the first week of the session; the first meeting devoted to it should be private.

23. **The Chairperson** said that it would indeed be appropriate to begin the discussions on agenda item 7 in a private meeting. It was important that all the members of the Sub-Commission should attend the first meeting on that item; that was, in fact, why that meeting had been scheduled during the second week of the session.

24. **Ms. Koufa** said that, if there were no objections, the meeting of the sessional working group on agenda item 6 could be postponed until Wednesday, as the documents for consideration were not yet available.

25. **Mr. Alfonso Martínez** said that the Wednesday of the first week could be used to hear the views of observer States and NGOs on the reform and that the Friday could be devoted to consideration of agenda item 2. That would address the concerns raised by Ms. Warzazi.

26. **The Chairperson** said that, if there were no objections, he took it that the Sub-Commission wished to adopt the programme of work, as orally amended and specified.

27. *It was so decided.*

28. *The programme of work, as orally amended, was adopted.*

Draft statement of the Chairperson of the Sub-Commission on the situation in Lebanon *(continued)*

29. **The Chairperson** invited the members of the Sub-Commission to continue consideration of the draft statement of the Chairperson of the Sub-Commission on the situation in Lebanon, which Mr. Sattar had presented at the previous meeting.

30. **Ms. Warzazi** said that she could approve the draft statement. Personally, she would have gone further by naming the country directly responsible for the massive violations of human rights that had been committed in Lebanon, since nothing prevented the Sub-Commission from doing so.

31. **Mr. Decaux** thanked Mr. Sattar for his draft statement, which gave the Sub-Commission a timely opportunity to react to an urgent problem. Although there was room for further improvement of the proposed text, he was willing to support it.
32. **Mr. Sorabjee** said that the Sub-Commission could not remain silent about the exceptional situation in Lebanon and approved of the balanced text Mr. Sattar had proposed.
33. **Ms. Wadibia-Anyanwu** said that the Sub-Commission had a duty to react to the events in Lebanon.
34. **Mr. Salama** agreed that a statement from the Sub-Commission on the situation in Lebanon was necessary and approved the text Mr. Sattar had proposed.
35. **Ms. Sardenberg Zelner** said that the Sub-Commission on the Promotion and Protection of Human Rights could indeed not remain silent about the events in Lebanon.
36. **Ms. Rakotoarisoa** said that the Sub-Commission could not remain indifferent to the flagrant violations of human rights committed in Lebanon, and approved the text Mr. Sattar had proposed.
37. **Mr. Cherif** approved the proposed declaration Mr. Sattar had presented, as it concerned a problem that was as urgent as it was flagrant.
38. **Mr. Yokota** approved the main thrust of the text proposed by Mr. Sattar and proposed adding, at the end of the last operative paragraph, the following phrase: “the Charter of the United Nations and international humanitarian law”.
39. **Ms. Hampson** proposed, in the preamble, replacing the words “a brutal and barbarous war” with “a serious escalation in violence”. The word “war” was a precise technical term which was used to refer only to armed conflicts between States. In the case in question, there was an armed conflict between a State on the one hand, and non-State actors and civilians on the other. In addition, at the end of the last sentence of the preamble, the words “and to other countries in the region” could be added, because some displaced persons had had to leave the country. She also proposed, in the third sentence of the operative text, replacing the words “of the war” with “of the hostilities”. Lastly, a paragraph could be added in which the Chairperson of the Sub-Commission would call on all the parties to the armed conflict to ensure the effective delivery of humanitarian assistance, including water, food and medical assistance.
40. **Mr. Tuñon Veilles** approved the draft statement Mr. Sattar had proposed.
41. **Ms. Koufa** approved the draft statement Mr. Sattar had proposed, which could indeed include a reference to humanitarian assistance.
42. **Ms. Warzazi** said that the text Mr. Sattar had proposed should be adopted as it was, with the inclusion of a reference to humanitarian assistance.
43. **Mr. Salama** proposed adopting the draft statement Mr. Sattar had proposed, incorporating the last amendment proposed by Ms. Hampson and including the reference to the Charter of the United Nations and international humanitarian law, as Mr. Yokota had suggested.
44. **Mr. Alfonso Martínez** said that the terminological amendments suggested by Ms. Hampson were unnecessary and that he could approve the text as submitted by Mr. Sattar. The addition from Mr. Yokota was acceptable.
45. **Mr. Bengoa** approved the draft statement prepared by Mr. Sattar and the amendments suggested by Mr. Yokota. Replacing the word “war” with “hostilities” was

inappropriate. Indeed, it would seem impossible to describe the situation in Lebanon as anything other than a war.

46. **Mr. Sorabjee** supported the inclusion of a reference to humanitarian assistance and recalled that a statement of the Chairperson was not a “legal” document.

47. **Mr. Kartashkin** agreed with Mr. Sorabjee that a statement of the Chairperson of the Sub-Commission was not a legal document in the strictest sense. That said, the text should be beyond reproach from a legal point of view. It would therefore be more judicious to speak of “armed conflict”, since the concept of war applied to relations between States, not between States and non-State actors.

48. **Ms. Hampson** shared Mr. Kartashkin’s view and said that she failed to understand why her proposal to add the words “and to other regions” to the draft statement had not met with more support.

49. **Ms. Warzazi** said that the Sub-Commission had discussed the draft statement enough and requested that it be put to the vote.

50. **Ms. Hampson** said that she did not think it appropriate to put it to the vote and emphasized that the Sub-Commission, on the contrary, was striving to reach a consensus.

51. **The Chairperson** recalled that the statements of the Chairperson could be adopted by consensus only.

52. **Mr. Sataff** said that, throughout the media, the word “war” was being used to describe the situation in Lebanon. In spite of the observations of a legal nature that some members of the Sub-Commission had made, the word should therefore be maintained. Strict legal logic should not result in the use of a term that minimized the seriousness of the situation at hand. The statement under consideration was a way for the Sub-Commission to express its sadness and compassion. There was therefore no reason to prolong the discussion on the statement, the carefully considered contents of which could be adopted by consensus.

53. **Mr. Cherif** agreed with Ms. Hampson that the term “war” was inappropriate given that it implied a situation of armed conflict between two States. The word “hostilities” was even more inappropriate, as it implied less intense violence and a balance in the forces of the conflicting parties. The word “aggression” seemed to best fit the situation in Lebanon. He supported including a reference to humanitarian assistance.

54. **Mr. Biro** said that he could approve the text Mr. Sattar had proposed, as well as the inclusion of a reference to humanitarian assistance, as suggested by Ms. Hampson. Discussing terminological issues was pointless; it was the message from the Sub-Commission that was important rather than the wording of the statement itself.

55. **Mr. Salama** approved the amendment Mr. Yokota had proposed, and Ms. Hampson’s proposal to include a reference to humanitarian assistance, in the statement. The use of the word “war” was not legally questionable; referring to “armed conflict”, moreover, would weaken the message and give the mistaken impression that the situation in Lebanon did not have consequences in international law. It seemed unnecessary to add the words “and to other countries in the region”.

56. **Ms. Hampson** said that, on the contrary, speaking of “war” or “armed conflict” did indeed make a difference in international law. That said, in the spirit of compromise and if her two other proposals were maintained, she would not insist on that wording. She hoped that the members of the Sub-Commission would recognize her willingness to reach a consensus and would refrain from calling for a vote.

57. **The Chairperson** agreed with Ms. Hampson that the Sub-Commission definitely should reach a consensus on the issue.
58. **Mr. Sattar** said that he did not think it was appropriate to add the words “and to other countries in the region” and hoped that Ms. Hampson would nonetheless be in a position to approve the proposed text. He offered to read out the draft statement, as orally amended:
- “The Sub-Commission on the Promotion and Protection of Human Rights begins its current session at a tragic moment when a brutal and barbarous war has deprived a thousand men, women and children of their right to life, several thousands have been injured and maimed and a million innocent people have been displaced from their homes. Bound by its mandate to promote and protect respect for human rights, the Sub-Commission:
- Expresses its deep grief and outrage at the massive violations of human rights in Lebanon;
- Extends its condolences and sympathy to all the victims of the war and their families;
- Voices the hope that the United Nations Security Council, acting in discharge of its primary responsibility for the maintenance of international peace and security, will bring about cessation of the war without further delay, and promote an urgent settlement of the conflict in conformity with the principles of justice and international law, including the Charter of the United Nations and international humanitarian law;
- Calls upon all parties to ensure the effective delivery of humanitarian assistance, including water, food and medical assistance.”
59. **Ms. Hampson** said that she hoped Mr. Sattar would appreciate her spirit of compromise: even though the use of the word “war” and the reference to “international humanitarian law” were problematic for her, she was willing not to pursue those concerns. Given that in the second operative paragraph of the statement, the Sub-Commission offered its condolences and sympathy to all the victims of the war, it would be inappropriate to refer only to some displaced persons and not all of them. Since many people had had to leave the country, the proposed addition was merely intended to reflect reality.
60. **The Chairperson** said that if there were no objections, he took it that the Sub-Commission wished to adopt the draft statement Mr. Sattar had just read out.
61. **Ms. Hampson** regretted that she was still not prepared to join the consensus.
62. **Mr. Kartashkin** proposed that Ms. Hampson and Mr. Sattar should speak in private in order to overcome their disagreement and come back to the Sub-Commission with a text that could be adopted by consensus.
63. **The Chairperson** proposed postponing the adoption of the draft statement in order to allow Ms. Hampson and Mr. Sattar time to reach an agreement.
64. **Mr. Sattar** said that the draft statement under consideration was no longer his, but that of the majority of the members of the Sub-Commission, for whom he could not speak.
65. **Mr. Sorabjee** proposed adding the words “including all those who had been displaced in the region” after “all the victims of the war”.
66. **Ms. Hampson** said that she could support that proposal.
67. **Mr. Salama** said that Ms. Hampson’s concern could also be addressed by deleting the word “Lebanon” at the end of the last sentence of the preamble.

68. **The Chairperson** proposed deleting the word “Lebanon” in the preamble and adding the words “in Lebanon” after “victims of the war” in the second operative paragraph.

69. **Ms. Warzazi** said that the Sub-Commission should put the statement to a vote in order to avoid wasting time.

70. **The Chairperson** said that Chairperson’s statements should be adopted by consensus; he called on each member of the Sub-Commission to demonstrate the necessary spirit of compromise.

71. **Mr. Chen Shiqiu** said that the Sub-Commission could not remain silent about the events in Lebanon and that it appeared to be very close to a consensus. He proposed adding the words “in Lebanon” after “barbarous war” in the preamble in order to address Ms. Hampson’s concerns.

72. **Ms. Hampson** said that she would be in a position to support the draft statement if the reference to Lebanon was deleted from the preamble and inserted at the end of the second operative paragraph.

73. **The Chairperson** said that he took it the Sub-Commission wished to adopt the draft statement, as orally amended, without a vote.

74. *It was so decided.*

75. *The draft statement of the Chairperson, as orally amended, was adopted without a vote.*

The meeting rose at 6.15 p.m.