

Final

18 June 2007

Original: ENGLISH

HUMAN RIGHTS COUNCIL  
Fifth session  
Agenda item 2

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

**President: draft resolution**

**5/... 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(ces),

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/... of ... 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**

- The Charter of the United Nations;
- The Universal Declaration of Human Rights;
- Human rights instruments to which a State is party;
- Voluntary pledges and commitments made by States, including those undertaken when presenting their candidatures for election to the Human Rights Council (hereinafter "the Council");
- In addition to the above and given the complementary and mutually **inter-related** 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**

The Universal Periodic Review (UPR) should:

- Promote the universality, interdependence, indivisibility and interrelatedness of all human rights;
- Be a cooperative mechanism based on objective and reliable information and on interactive dialogue;
- Ensure universal coverage and equal treatment of all States;

- Be an intergovernmental process. United Nations Member-driven and action-oriented:
- Fully involve the country under review:
- Complement and not duplicate other human rights mechanisms, thus representing an added value:
- Be conducted in an objective, transparent, non-selective, constructive, non-confrontational and non-politicized manner;
- Not be overly burdensome to the concerned State or to the agenda of the Council:
- Not be overly long. It should be realistic and not absorb a disproportionate amount of time, human and financial resources;
- Not diminish the Council's capacity to respond to urgent human rights situations;
- Ensure that a gender perspective is fully integrated in UPR:
- UPR should, 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;
- Ensure participation of all relevant stakeholders, including non-governmental organizations (NGOs) and national human rights institutions (NHRIs), in accordance with General Assembly resolution 60/251 and Economic and Social Council resolution 1996/31, as well as any decisions that the Council may take in this regard.

## 2. Objectives

- Improvement of the human rights situation on the ground;
- Fulfilment of the State's human rights obligations and commitments and assessment of positive developments and challenges faced by the State;
- Enhancement of the State's capacity and technical assistance, in consultation with and with the consent of the State concerned;

- Sharing of best practices among States and other stakeholders in consultation with and with the consent of the State concerned;
- Support for cooperation in the promotion and protection of human rights;
- 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**

- Review begins after the adoption of the UPR mechanism by the Council;
- The order of review should reflect the principles of universality and equal treatment;
- The order of review should be established as soon as possible in order to allow States to prepare adequately;
- 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, should be reviewed first;
- A mix of member and observer States of the Council should be reviewed;
- Equitable geographic distribution should be respected in the selection of countries for review;
- The first member and observer States to be reviewed will be chosen from each Regional Group in such a way as to ensure full respect for equitable geographic distribution, by drawing of lots. Alphabetical order will then be applied beginning with these countries, with the exception of those who volunteer to be reviewed;
- The period between review cycles should be reasonable so as to take into account the capacity of States to prepare and the capacity of other stakeholders to respond to the requests arising from the review;

- The periodicity of the review for the first cycle will be of four years. This will imply the consideration of 48 States per year during three sessions of the Working Group of two weeks each.<sup>1</sup>

#### D. Process and modalities of the review

##### 1. Documentation

The documents on which the review would be based are:

- 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 will 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;
- Additionally OHCHR will prepare a compilation 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;
- In the review, the Council should also take into consideration additional credible and reliable information provided by other relevant stakeholders to UPR. OHCHR will prepare a summary of such information that shall not exceed 10 pages;

---

<sup>1</sup> 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.

- The documents prepared by OHCHR should be elaborated following the structure of the General Guidelines adopted by the Council regarding the information prepared by the State concerned;
- 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 General Assembly, in accordance with General Assembly resolution 53/208 of 14 January 1999.

## 2. Modalities

The modalities of the review shall be as follows:

- The review will 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;<sup>2</sup>
- Observer States can participate in the review, including in the interactive dialogue;
- Other relevant stakeholders can attend the conduct of the review in the Working Group;
- A group of three rapporteurs, selected by drawing of lots among the members of the Council and from different Regional Groups (*troika*) will be formed to facilitate each review, including the preparation of the report of the Working Group. OHCHR will provide the necessary assistance and expertise to the rapporteurs;
- The concerned country may request that one of the rapporteurs be from its own Regional Group and may also request the substitution of a rapporteur in only one occasion;
- A rapporteur may request to be excused from its participation in a specific review process;

---

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

- Interactive dialogue between the country under review and the Council will take place in the Working Group. The rapporteurs could 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;
- 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 Council plenary;
- 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 in between the review and the adoption of the report of each State in the Working Group;
- The final outcome will be adopted by the plenary of the Council.

## **E. Outcome of the review**

### **1. Format of the outcome**

A report consisting of a summary of the proceedings of the review process; recommendations and/or conclusions; and voluntary commitments.

### **2. Content of the outcome**

UPR is a cooperative mechanism. Its outcome could include, inter alia:

- Assessment in an objective and transparent manner of the human rights situation in the reviewed country, including positive developments and challenges faced by the country;
- Sharing of best practices;
- Emphasis on enhancing cooperation for the promotion and protection of human rights;



- Provision of technical assistance and capacity-building in consultation with and with the consent of the country concerned:<sup>3</sup>
- Voluntary commitments and pledges made by the country reviewed.

### **3. Adoption of the outcome**

- The reviewed country should be fully involved in the outcome:
- Before the adoption of the outcome by the plenary of the Council, the State concerned should be offered the possibility to present replies to questions or issues that were not sufficiently addressed during the interactive dialogue:
- The State concerned and the member States of the Council, as well as observer States, will be given the opportunity to express their views on the outcome of the review before the plenary takes action on it:
- Other relevant stakeholders will have the opportunity to make general comments before the adoption of the outcome by the plenary:
- Recommendations that enjoy the support of the State concerned will be identified as such. Other recommendations, together with the comments of the State concerned thereon, will be noted. Both will be included in the outcome report to be adopted by the Council.

### **F. Follow-up to the review**

- The outcome of UPR, as a cooperative mechanism, should be implemented primarily by the State concerned and, as appropriate, by other relevant stakeholders;
- The subsequent review should focus, inter alia, on the implementation of the preceding outcome;

---

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

- The Council should have a standing item on its agenda devoted to UPR:
- The international community will assist in implementing the recommendations and conclusions regarding capacity-building and technical assistance, in consultation with and with the consent of the country concerned:
- In considering the UPR outcome, the Council will decide if and when any specific follow-up would be necessary:
- After exhausting all efforts to encourage a State to cooperate with the UPR mechanism, the Council will address, as appropriate, cases of persistent non-cooperation with the mechanism.

## II. SPECIAL PROCEDURES

### A. Selection and appointment of mandate-holders

The following general criteria will 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.

Due consideration should be given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems.

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.

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.

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.

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

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

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

A Consultative Group would be established to propose to the President, at least one month ahead of the beginning of the session in which the Council would consider the selection of mandate-holders, a list of candidates who possess the highest qualifications for the mandates in question and meets the general criteria and particular requirements.

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.

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

The Consultative Group will consider candidates included in the Public List; however, under exceptional circumstances and if a particular post justifies it, the Group could consider additional nominations with equal or more suitable qualifications for the post. Recommendations to the President shall be public and substantiated.

The Consultative Group should 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.

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 will identify an appropriate candidate for each vacancy. The President will present to member States and observers a preliminary list of candidates to be proposed at least two weeks prior to the beginning of the session in which the Council will consider the appointments.

If necessary, the President will conduct further consultations to ensure the endorsement of the proposed candidates. The appointment of the special procedures will **be completed upon the subsequent** approval of the Council. Mandate-holders shall be appointed before the end of the session.

### **B. Review, rationalization and improvement of mandates**

The review, rationalization and improvement of mandates, as well as the creation of new ones, must 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.

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

The review, rationalization and improvement of mandates would 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.

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

The Council should always strive for improvements:

- Mandates should always offer a clear prospect of an increased level of human rights protection and promotion as well as of coherence within the system of human rights:
- Equal attention to all human rights should be given. The balance of thematic mandates should broadly reflect the accepted equal importance of civil and political rights and economic, social and cultural rights, including the right to development:
- Every effort should be made to avoid unnecessary duplication:
- Areas which constitute thematic gaps will 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:
- Any consideration of merging mandates should have regard to the content and predominant functions of each mandate, as well as to the workload of individual mandate-holders:
- In creating or reviewing mandates, efforts should 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:
- New mandates should be as clear and specific as possible, so as to avoid ambiguity.

It should 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.

Thematic mandates periods will be of three years. Country mandates periods will be of one year.

Mandates included in Appendix I, **where applicable**, will be renewed until the date on which they will be considered by the Council according to the programme of work.<sup>4</sup>

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

Decisions to create, review or discontinue country mandates should 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.

In case of situations of violations of human rights or a lack of cooperation, that require the Council attention, the principles of objectivity and non-selectivity, and the elimination of double standards and politicization should be applied.

### III. HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE

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

---

<sup>4</sup> \* Country mandates meet the following criteria:

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

### **A. Nomination**

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

The aim is to ensure that the best possible expertise is made available to the Council. For this purpose 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 should include:

- Recognized competence and experience in the field of human rights;
- High moral standing;
- Independence and impartiality.

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

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

### **B. Election**

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.

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.

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

The geographic distribution will be:

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

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 will serve for one year and another third for two years. The staggering of terms of membership will be defined by the drawing of lots.

### **C. Functions**

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.

The Advisory Committee should 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.

The Advisory Committee shall not adopt resolutions or decisions. The 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.

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**

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.

The Council may request the Advisory Committee to undertake certain tasks that could be performed collectively, through a smaller team or individually. The Committee will report on such efforts to the Council.

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

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

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 Human Rights Council Advisory Committee based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996 and practices observed by the Commission on Human Rights and the Council, while ensuring the most effective contribution of these entities.

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

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.

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

### B. Admissibility criteria for communications

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

- It has manifestly political motivations and its object is not 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; or
- It does not contain a factual description of the alleged violations, including the rights which are alleged to be violated; or
- Its language is abusive. However, such communication may be considered if it meets the other criteria for admissibility after deletion of the abusive language; or
- It is not submitted by a person or a group of persons claiming to be the victim of violations of human rights and fundamental freedoms or by any person or group of persons, including NGOs acting in good faith in accordance with 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

those violations. Nonetheless, reliably attested communications shall not be inadmissible solely because the knowledge of the individual authors is second hand, provided they are accompanied by clear evidence: or

- It is exclusively based on reports disseminated by mass media: or
- It refers 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: or
- The domestic remedies have not been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.

The National Human Rights Institutions (NHRIs), when they are established and work under the guidelines of the Principles Relating to Status of National Institutions (the Paris Principles) including in regard to quasi-judicial competence, can serve as effective means in addressing individual human rights violations.

### **C. Working groups**

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.

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 can establish their own rules of procedure.

#### **1. Working Group on Communications (WGC): composition, mandate and powers**

The Human Rights Council Advisory Committee (HRCAC) shall appoint five of its members, one from each Regional Group, with due consideration to gender balance, to constitute the WGC.

In case of a vacancy, the HRCAC shall appoint an independent and highly qualified expert of the same Regional Group from the HRCAC.

Since there is a need for independent expertise and continuity with regard to the examination and assessment of the communications, the independent and highly qualified experts of the WGC shall be appointed for three years. Their mandate is renewable only once.

The Chairperson of the WGC is requested, together with the secretariat, to undertake an initial screening of the communications, 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 WGC shall provide all members of the WGC with a list of all communications rejected after initial screening. This list should indicate the grounds of all decisions having resulted 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.

The members of the WGC 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 WGC shall provide the Working Group on Situations (WGS) with a file containing all admissible communications as well as recommendations thereon. When it requires further consideration or additional information, the WGC may keep a case under review until its next session and request such information from the State concerned. The WGC may decide to dismiss a case. All decisions of the WGC shall be based on a rigorous application of the admissibility criteria and shall be duly justified.

## **2. Working Group on Situations (WGS): composition, mandate and powers**

Each Regional Group shall appoint a representative of a member State of the Council, with due consideration to gender balance, to constitute the WGS. They shall be appointed for one year. Their mandate can be renewed once, if the State concerned is a member of the Council.

Members of the WGS 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.

The WGS is requested, on the basis of the information and recommendations provided by the WGC, 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 it requires further consideration or additional information, members of the WGS may keep a situation under review until its next session. The WGS may also decide to dismiss a case.

All decisions of the WGS shall be duly justified and indicate why the consideration of a situation has been discontinued or action recommended thereon. Decisions to discontinue should be taken by consensus; if not possible, by simple majority of the votes.

#### **D. Working modalities and confidentiality**

Since the complaint procedure is to be, inter alia, victims-oriented and conducted in a confidential and timely manner, both Working Groups shall meet at least twice a year for five working days each period, in order to promptly examine the communications, including replies of States thereon, as well as the situations which the Council is already seized of under the complaint procedure.

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 of the Council. It shall as well 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.

The Secretariat is requested to 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.

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

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

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

**E. Involvement of the complainant and of the State concerned**

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

- When the communication is deemed inadmissible by the WGC or when it is taken up for consideration by the WGS; or when his/her communication is kept pending by one of the Working Groups or by the Council;
- At the final outcome.

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

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

## **F. Measures**

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

- Discontinue considering the situation when further consideration or action is not warranted;
- Keep the situation under review and to request the State concerned to provide further information within a reasonable amount of time;
- Keep the situation under review and appoint an independent and highly qualified expert to monitor the situation and report back to the Council;
- Discontinue reviewing the matter under the confidential complaint procedure in order to take up public consideration of the same;
- 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 OHCHR 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 for Human Rights 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 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

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

### A. Institutional arrangements

#### 1. Briefings on prospective resolutions or decisions

These briefings would be informative only, whereby delegations would be apprised of resolutions/decisions tabled or intended to be tabled. These briefings will be organized by interested delegations.

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

These meetings shall provide information on the status of negotiations on draft resolutions/decisions so that delegations can gain a "bird's eye point of view" on the status of

such drafts. These consultations shall have a purely informational function, combined with information on the extranet, and shall 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**

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

### **4. Role of the Bureau**

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 could include panel debates, seminars, and round tables**

Use of these formats, including topics and modalities, would be decided by the Council on a case-by-case basis. They would serve as tools of the Council for enhancing dialogue and mutual understanding on certain issues. They should be utilized in the context of the Council's agenda and annual work programme, 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**

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 can deliver general statements.

## B. Working culture

There is need for:

- Early notification of proposals:
- Early submission of draft resolutions/decisions, preferably by the end of the penultimate week of a session:
- 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 in all official United Nations languages:
- **Proposers of a country resolution have the responsibility to secure the broadest possible support for their initiatives (preferably 15 members), before action is taken.**
- Restraint in resort 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:
  - (a) Minimizing unnecessary duplication of initiatives with General Assembly/Third Committee:
  - (b) Clustering of agenda items;
  - (c) *Staggering of tabling of decisions/resolutions and consideration of action on agenda items/issues.*

## C. Outcomes other than resolutions and decisions

These could include recommendations, conclusions, summary of discussions, and President's Statement. As such outcomes would have different legal implications, they should supplement and not replace resolutions and decisions.

#### **D. Special sessions of the Council**

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

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

The request for a special session of the Council in accordance with the requirement established in 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 issue to be addressed in the meeting and include any other relevant information the sponsors may wish to provide.

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.

The Secretariat of the Council shall immediately communicate the request and any additional information in the request provided by the sponsors, as well as the date for the convening of the special session, to all United Nations Member States and make available the information 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, should be made available in all official United Nations languages to all States in an equitable, timely and transparent manner.

The President of the Council should 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, inter alia, on previous special sessions' methods of work.

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.

If the requesting or other States intend to present draft resolutions or decisions at the special session, texts should 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.

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.

A special session should 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 PROCEDURE

### SESSIONS

#### **Rules of procedure**

##### *Rule 1*

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*

The Human Rights Council shall meet regularly throughout the year and schedule no fewer than three sessions per Council-year, 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.

### **Place of the Council**

#### *Rule 4*

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*

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*

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.

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*

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.

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 a President and four Vice-Presidents from among the representatives of its members. 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 (on replacement of President or Vice-President), 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*

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.

## **SECRETARIAT**

### **Duties of the secretariat**

#### *Rule 14*

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 make available 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; 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*

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

### **Private meetings**

#### *Rule 17*

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 (on participation of and consultation with observers). The rules of procedure of these bodies shall follow those of the Council, as applicable, unless decided otherwise by the Council.

### **Quorum**

#### *Rule 19*

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*

Decisions of the Council shall be made by a simple majority of the members present and voting, subject to Rule 19 (on quorum).

## 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 Rajaee 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	September 2006

Mandate-holder	Mandate	Terms in office
	food	(second term)
Paulo Sérgio Pinheiro	Special Rapporteur on the situation of human rights in Myanmar	December 2006 (second term)
Darko Göttlicher	Working Group on Enforced or Involuntary Disappearances	January 2007 (first term)
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)

Mandate-holder	Mandate	Terms in office
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)
Juan Miguel Petit	Special Rapporteur on the sale of children, child prostitution and child pornography	July 2007 (second term)
Vittit 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 Cabezur	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	February 2008

Mandate-holder	Mandate	Terms in office
	human rights in Haiti	(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)
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	July 2008

<b>Mandate-holder</b>	<b>Mandate</b>	<b>Terms in office</b>
	the exercise of the right of peoples to self-determination	(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)
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)

<b>Mandate-holder</b>	<b>Mandate</b>	<b>Terms in office</b>
Yash Ghai	Special Representative of the Secretary-General for human rights in Cambodia	November 2008  (first term)

-----