

# COUNCIL MONITOR

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## HUMAN RIGHTS COUNCIL, 6<sup>TH</sup> SESSION DAILY UPDATE, 14 DECEMBER 2007

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### Overview

The Human Rights Council (the Council) continued the review of the mandate of the Special Rapporteur on the human rights situation in the Sudan. The discussion was dominated by the traditional divide between States that expressed concern at the human rights situation in the Sudan, and those supporting the Government of the Sudan in its approach. The former group urged the Government to fulfil its responsibility to promote and protect the human rights of its people and to cooperate with the international community to that effect. The second group was more protective of the Government of the Sudan, and highlighted the good cooperation between the Special Rapporteur and the Government. They stressed that the international community should better support the Government, so that it can better promote and protect human rights. However, since a deal had apparently already been struck in informal consultations on the previous day, the discussion seemed to lack purpose. It was already clear to most participants that the mandate of the Special Rapporteur on the situation of human rights in the Sudan would be renewed for one year and enlarged in scope, while in turn the mandate of the Experts Group would be terminated. The effect that this would have on the workload of the Special Rapporteur was not elaborated upon.

The Council then moved to decision making. It adopted several resolutions that extended the mandates of the following special procedures:

- Special Rapporteur on adequate housing
- Special Rapporteur on the right to the highest attainable standard of physical and mental health

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- Representative of the Secretary-General on the human rights of internally displaced persons
- Special Rapporteur on protection of human rights while countering terrorism
- Special Rapporteur on the human rights situation in the Sudan.

The Council also decided to create a new expert mechanism on the rights of indigenous peoples. As expected, the mandate of the Experts Group on Darfur was terminated.

Review, rationalisation and improvement of mandates

### **Special Rapporteur on the situation of human rights in the Sudan**

The morning session on the last day of the Council began with a continuation of the list of speakers pending from the interactive dialogue on the review of the mandate of the Special Rapporteur on the human rights situation in the Sudan. The statement by the Special Rapporteur Ms Sima Samar had been presented the previous day, as had the opening general comments by Egypt and the concerned country, the Sudan.<sup>1</sup> The Special Rapporteur was not able to attend the session. Some of the States expressed their regret in this regard.<sup>2</sup>

Generally speaking, two differing views regarding the human rights situation in the Sudan emerged from the dialogue on the review of the mandate. On the one hand, there were those who thought the measures taken so far by the Government of the Sudan had not improved the human rights situation on the ground. On the other hand, some States claimed that significant improvements had taken place.

- Several States expressed their concern at the human rights situation in the Sudan, and reiterated the importance of extending the mandate.<sup>3</sup>
- Algeria noted that the sovereignty of States needs to be respected, and that in relation to the Sudan much had improved with regard to security and human rights in general. Furthermore, the return of more than 400,000 displaced persons to their homes constituted a significant achievement.
- Norway stressed the valuable role the Council and the Special Rapporteur had played in improving the situation. Ireland noted that the Experts Group on Darfur and the Special Rapporteur both served as 'confidence measures' in helping improve the situation in the Sudan.
- Zambia and Ghana commended the Special Rapporteur for her work and the informative report, and Zambia also encouraged the Government of the Sudan to implement the recommendations of the Experts Group on Darfur.<sup>4</sup>
- Algeria highlighted that country-specific special procedures should not be imposed on any country against its will, and stressed the importance of cooperation with the Government.<sup>5</sup> Cuba stated that current results proved that recommendations could only fully be effective through their acceptance by the Government of the Sudan, and that this was achievable through constructive dialogue.<sup>6</sup>

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<sup>1</sup> For a summary of these statements please refer to ISHR's *Daily Update* of 13 December 2007.

<sup>2</sup> Egypt (on behalf of the African group), Morocco, Russian Federation.

<sup>3</sup> Canada, Switzerland, Morocco, Russian Federation, the United States of America (USA), Norway, Argentina, Sweden, Ireland, Ghana, Zambia.

<sup>4</sup> International Human Rights Leagues (FIDH).

<sup>5</sup> Supported by the Russian Federation, Cuba.

<sup>6</sup> Cuba.

- Several States mentioned the need for both the Council and the international community to look closer at, and emphasise the positive developments and the information submitted by the Government of the Sudan regarding the situation in Darfur<sup>7</sup>. Algeria stated that the needs of the Sudanese people were not heard, and called on the international community, and especially donor countries to live up to their financial obligations.<sup>8</sup> The Russian Federation noted specifically that the situation in the south of the Sudan should also be considered.
- Algeria criticised the Rapporteur for not paying enough attention to certain aspects of her mandate, including economic, social, and cultural rights.
- The Cairo Institute for Human Rights Studies pointed out that the Special Rapporteur has important functions, complementary to those of the Experts Group on Darfur. From that perspective, both mandates should be continued. The representative affirmed that any measure of compromising the mandate of the Special Rapporteur or the Experts Group would only embolden the Government of Sudan to continue with impunity. Discontinuing either of the mandates would represent a “clear and unequivocal” failure to protect human rights.

In conclusion Egypt (on behalf of the African group) thanked the Special Rapporteur for her efforts, and encouraged her to continue her work in the Sudan, while cooperating with the Government. The representative expressed surprise that the Special Rapporteur was not able to be present during the dialogue, as it ‘was expected that she would have an interest in answering the questions’. It called on the Special Rapporteur to show greater commitment to the work in the future. Furthermore Egypt was dissatisfied with the majority of the statements made by States, claiming that they did not focus on the review and rationalisation of the mandate itself, but was rather used to reiterate already known positions on the situation in the Sudan. It concluded that review of the mandate had now been completed, however only in theory and noted that this was a continuous exercise and that the review of the mandate would be examined again in the future.

## Conclusions and decisions adopted by the Council

### **Decisions adopted by consensus**

#### ***Elaboration of Human Rights Voluntary Goals to be Launched on the Occasion of the Celebration of the 60th Anniversary of the Universal Declaration of Human Rights***

Brazil as the main co-sponsor of the proposal, introduced the draft, explaining that the draft had initially been tabled during the first part of the 6<sup>th</sup> session.<sup>9</sup> It had been refined to meet consensus through broad cross-regional consultations. The draft aims to initiate an open-ended intergovernmental process to elaborate voluntary human rights goals, be launched on 10 December 2008, the 60<sup>th</sup> anniversary of the *Universal Declaration of Human Rights* (UDHR). Slovenia, on behalf of the EU member States that are members of the Council, shared its view on the draft in a general comment. It pointed out that the voluntary goals should not replace the obligations under the UDHR or be construed as being prerequisites for the implementation of these obligations. Cuba pointed out that the UDHR lacks reference to “third generation rights” such as the rights to development, solidarity and peace. In this sense, it expressed its wish that the elaborations of the goals should be an inclusive process, and take into account the 15<sup>th</sup> anniversary of the Vienna Declaration and

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<sup>7</sup> The Russian Federation, Norway, Algeria, Tunisia.

<sup>8</sup> Supported by Tunisia, Cuba.

<sup>9</sup> A/HRC/6/L.36/Rev.1, 10 December 2007.

Programme of Action, which recognised the universality, indivisibility and interrelatedness of all human rights. The draft was adopted without a vote.

Japan, in an explanation of vote after the vote, expressed its appreciation for the efforts of Brazil in the adoption of the resolution. It said, however, that it was not convinced of the need for an additional intergovernmental mechanism, particularly in light of the budgetary restraints the UN faces.

### ***Alliance of civilisations***

Turkey and Spain introduced the draft resolution.<sup>10</sup> Turkey explained that the initiative of the Alliance of civilisations had been launched under the auspices of the UN Secretary-General. The purpose of the initiative was to build bridges across cultures and civilisations. Spain noted that it also aimed at promoting dialogue and understanding. The resolution invited the High Representative of the Alliance of civilisations to address the Council during its high level segment at its 7<sup>th</sup> session.

Pakistan, speaking in a general comment on behalf of the OIC, affirmed its strong belief that that differences between States, religions or cultures should never be a cause of conflict. It stated that it attaches great importance to the initiative of the Alliance of civilisations and noted that the members of the OIC were undertaking similar efforts to promote dialogue among civilisations. Pakistan finally reaffirmed that after all ‘we are only one human civilisation’.

### ***Adequate Housing as a component of the right to an adequate standard of living***

Germany as one of the main sponsors of the draft on “adequate housing as a component of the right to an adequate standard of living” introduced its proposal.<sup>11</sup> It aims at extending the mandate of the Special Rapporteur on housing for three years. Germany specified that the proposal take into account both the mandate of the Special Rapporteur and the initiative by the Commission on Human Rights on the issue of women’s equal ownership of, access to and control over land. In that light, Germany wishes to follow mandate to not only review but also improve and rationalise the system of special procedures. In contrast to previous resolutions on the mandate of the Special Rapporteur, the draft provides an indicative list of focus areas for the Special Rapporteur. The draft resolution was adopted by consensus.

### ***Protection of human rights and fundamental freedoms while countering terrorism: mandate of the Special Rapporteur***

Mexico introduced its draft resolution<sup>12</sup> noting that it enjoyed the support of 65 co-sponsors. It explained that the resolution would extend the mandate of the Special Rapporteur for three years. Mexico explained that the mandate was based on the Commission on Human Rights Resolution 2005/80 that had first established the mandate. However, several adjustments had been made in response to developments. It noted that Mexico would introduce another resolution addressing the substantive issues related to human rights and counter-terrorism at a later stage.

### ***Integrating the human rights of women throughout the United Nations system***

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<sup>10</sup> A/HRC/6/L.37.

<sup>11</sup> A/HRC/6/L.41, 11 December 2007.

<sup>12</sup> A/HRC/6/L.43.

Chile in introducing the draft resolution<sup>13</sup> stated that the Council had assumed a commitment to the equal rights of men and women. It recalled the background to this resolution in the resolutions adopted in the past by the Commission on Human Rights. Chile also reminded that the Council had been given a mandate to take account of and build on the achievements of the Commission. It noted that the mandate of the Council, as laid down in General Assembly Resolution 60/251, also included promotion of all human rights obligations and commitments, including from international summits and conferences. Chile also made reference to the statement by Argentina on behalf of 57 States delivered at the 4<sup>th</sup> session of the Council.<sup>14</sup> Chile finally introduced an oral amendment to the draft resolution's operative paragraph 6.

A small number of States made general comments before the resolution was adopted by consensus. These States expressed concern about the resolution and reserved their right to return to the issues.<sup>15</sup>

South Africa opened by stating its commitment to promoting the role and empowerment of women. South Africa expressed its 'serious concern' with regard to a number of paragraphs of the resolution that it believed sought to give the Council mandate and powers that it does not possess and to undermine the mandate of other bodies. South Africa stated that if a vote were called on the resolution, it would vote against. The Russian Federation stated that some provisions of the resolution would weaken the mandate of the Council and would not respect the mandate of some other bodies. India also stated that while it attached importance to the integration of the rights of women, the integration of a gender perspective would go beyond the mandate of the Council. Egypt expressed its serious reservations regarding both the scope and content of the resolution. It noted that it had concerns regarding the mandate of the gender unit of the Office of the High Commissioner for Human Rights (OHCHR). Pakistan (on behalf of the OIC) welcomed the focus in the resolution on the promotion and protection of the rights of women and on efforts to counter violence against women. It noted that these issues should be priority areas in the Council's work. However, it stated its view that the issue of mainstreaming was larger and should be handled by the Economic and Social Council (ECOSOC) the Division for the Advancement of Women and other bodies. Finally, it noted that the resolution would give the gender unit of OHCHR clear guidance for its work.

***The right of everyone to the enjoyment of the highest attainable standard of physical and mental health***

Brazil as main sponsor of the proposal introduced the draft entitled "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health", saying it was counting on wide cross-regional support from member State and observers, including civil society. Brazil particularly stressed that the mandate is essential to the promotion of the interrelatedness and indivisibility of all human rights. It expressed its hope that the consensual approach seen so far in the process of reviewing the special procedures mandates would be maintained. This hope held true immediately, as the draft was accepted by consensus.

***Mandate of the representative of the Secretary General on the Human Rights of Internally displaced persons***

Austria introduced the draft resolution<sup>16</sup> and explained that it would extend the mandate of the mandate of the Representative of the Secretary-General for a further three-year period. It then presented a number of oral amendments to the text.

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<sup>13</sup> A/HRC/6/L.32 rev.1.

<sup>14</sup> The statement is available on the OHCHR extranet, see 28 March 2007. The OHCHR extranet can be accessed (fill out the form on the page to receive the user name and password) at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm).

<sup>15</sup> South Africa, Russian Federation, India, Pakistan (on behalf of OIC), Egypt.

<sup>16</sup> A/HRC/6/L.46.

Azerbaijan gave an explanation of vote before the vote and stated that it attached great importance to the mandate. It stated that the mandate should continue to analyse and take account of the major causes of displacement.

The resolution was then adopted without a vote.

***Follow-up to the report on the situation of human rights in Myanmar***

Portugal (on behalf of the EU) as one of the main sponsors of the proposal introduced the draft.<sup>17</sup> As a result of the consultations, and to ensure consensus, it introduced extensive oral amendments from the floor. The main thrust of the amendments was to urge the Government of Myanmar to follow-up and implement all the recommendations contained in the report in general, instead of enumerating some specific recommendations. A paragraph reiterating the call for full cooperation with humanitarian organisation was included, reflecting a call made by Switzerland during informal consultations earlier in the week. Portugal pointed out that the approach of the draft was forward looking, while not neglecting past responsibilities. While noting the recent release of a large number of ordinary prisoners, Portugal stressed that many political prisoners remain in detention, therefore hindering a useful dialogue with all political forces in Burma/Myanmar. It reiterated its call on the Government of Myanmar to continue cooperation with the Council and its mechanisms.

A number of States took the opportunity of delivering general comments on the draft. The representative of the Government of Myanmar as concerned country said that the fact that another resolution on Burma/Myanmar was passed only two months after the special session was proof of the agenda of some States exerting pressure on the Government. It thanked its “friends for consistently taking a balanced position”. India regretted that the draft did not appropriately reflect the positive steps taken by the Government of Myanmar, and expressed its hope that the Council would deal more cooperatively with the question. It declared that it would not undermine the consensus found on the draft. China again claimed that the situation had improved since the special session, and hoped that the resolution would improve the cooperation of the Council and Burma.<sup>18</sup> The Russian Federation said it would have wanted to see a more balanced resolution, but was hopeful that it will have a stabilising impact in Burma/Myanmar.

The resolution was adopted by consensus. Malaysia and Indonesia in an explanation of vote after the vote welcomed the adoption. Malaysia said it was encouraged by the spirit of understanding observed in the negotiations, and hoped that the adoption by consensus would encourage the Government of Myanmar to sustain the positive steps already taken. Japan asked the delegation of Myanmar to convey the concern of the international community, and promised that it would not forget what has happened in Burma/Myanmar recently.

***Mandate of the Special Rapporteur on the situation of Human Rights in the Sudan***

Egypt introduced the draft resolution on the human rights situation in the Sudan.<sup>19</sup> It explained that the resolution would extend the mandate of the Special Rapporteur on the Sudan for one year in accordance with the terms of reference given to the current mandate by Commission on Human Rights Resolution 2005/82. Egypt noted that the resolution called on the Government of the Sudan to cooperate and on OHCHR and donors to continue to provide necessary support and technical assistance. The resolution would also entrust

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<sup>17</sup> A/HRC/6/L.38.

<sup>18</sup> The delegate then apologised for having called the country Burma instead of Myanmar.

<sup>19</sup> A/HRC/6/L.50.

the Special Rapporteur with ensuring effective follow up to the remaining recommendations of the Experts Group on Darfur and report back to the Council at its 9<sup>th</sup> session.

Egypt recalled the principled position of the African Group in relation to country mandates and noted that they doubted whether such mandates were 'the most appropriate vehicle' for promoting human rights as they were 'intrusive' and had 'limited impact'. However, it reiterated its recognition of the sovereign right of each State to request the technical assistance of the international community and stated that the African Group would therefore not oppose the mandate. Finally, Egypt stated that the consensual outcome had only been possible because of the openness and constructive approach of all stakeholders.

Slovenia (on behalf of the EU) in a general statement reiterated that it remained deeply concerned about the situation in the Sudan. While the cooperation by the Government was welcomed, human rights violations continued to occur. Consequently, the Council had a duty to continue to play particular attention to the situation in the Sudan.

Pakistan (on behalf of the OIC) welcomed the consensus reached and encouraged the Special Rapporteur to continue the constructive dialogue with the Government<sup>20</sup> and called on the international community to strengthen its support. China stated that it hoped that the consensual approach could be maintained in the future.

The Sudan stated that there had been significant progress in the human rights situation. It noted that while the turbulence in Darfur had created an environment that may result in human rights violations measures had been taken to address the situation. The Sudan claimed that those that were against peace in Darfur were provided with arms and media support by some members of the international community. Finally, it expressed its appreciation to the African Group and the OIC for their efforts to eliminate politicisation in the Council and to the countries that had provided it with support.

The resolution was then adopted without a vote.

Switzerland in an explanation of vote after the vote stated that it was in favour of the renewal that it considered to be fully justified by the interests of victims. It noted that the Sudan would have benefited from the expertise and support of the Experts Group and regretted that this proposal had not received support. Malaysia and Jordan acknowledged the constructive engagement of the Sudan. Japan hoped that this constructive engagement would lead to improvements in the human rights situation.

Observer States were given the opportunity to make general comments regarding the adoption of the resolution. Syria stated that the Sudan had made all efforts to implement the recommendations and that the international community was responsible for providing necessary technical and material support. The United States of America noted that the people of the Sudan continued to suffer because of the lack of commitment by the Government.

***Human rights Council Group of Experts on the situation of human rights in Darfur***

Egypt and Portugal introduced the draft resolution they put forward jointly.<sup>21</sup> Egypt stated that the resolution acknowledged the cooperation of the Government and called on it to intensify its efforts to implement the recommendations identified by the Experts Group. It also urged UN agencies and donors to assist the Government. Portugal (on behalf of the EU) thanked the Experts Group, and claimed that the compilation of

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<sup>20</sup> Supported by the Russian Federation.

<sup>21</sup> A/HRC/6/L.51.

relevant UN recommendations on Darfur was a “major step forward in creating a mechanism that can have a concrete impact in the lives of the people.” It said that the Special Rapporteur would now continue the tasks commenced by the Experts Group. Portugal urged the Government of Sudan to intensify its efforts to implement the recommendations compiled by the Experts Group, and in particular to combat impunity and cooperate with the International Criminal Court. It also underlined that the draft urges all parties to the conflict in Darfur to join the peace process. Both Egypt (on behalf of the African Group) and Portugal (on behalf of the EU) failed to explain why the mandate of the Experts Group would be discontinued if it had carried out such valuable work.

Pakistan (on behalf of the OIC) welcomed the consensus reached. It noted that the conclusions of the report of the Experts Group reflected the efforts of the Government of the Sudan to ameliorate the situation in Darfur.

The Sudan stated that it is aware of the responsibility it has to shoulder for the protection of the people of Darfur. To that effect, it had taken a number of steps, in particular the Darfur peace agreement. It added that it had cooperated constructively with the Experts Group, not least by clarifying the situation, which had been portrayed graver than it was by international mass media. The Sudan expressed the hope that the Council would abide by the principles it was founded upon, and not lose its credibility like the Commission on Human Rights before.

### ***Expert Mechanism on the Human Rights of Indigenous Peoples***

Bolivia as one of the original main sponsors of the draft introduced a number of oral amendments.<sup>22</sup> It did not comment on the draft in detail, which establishes a subsidiary expert mechanism to provide the Council with thematic expertise on the human rights of indigenous peoples. Guatemala, as the second main co-sponsor thanked all indigenous peoples and their organisations for their cooperation and participation in the negotiations. The draft was adopted by consensus, but a number of States explained their position after the adoption. Cuba said it would have preferred a more inclusive resolution, to allow to better take into account the interests of indigenous people. It pointed out that the thematic efforts of the new mechanism would focus mainly on studies and research-based advice. Bolivia, even though it was one of the original sponsors of the draft, said while it would fully support the new mechanism, it was not satisfied with the end result. Bolivia stressed that it disagrees with a number of basic points of the resolution. In particular, it would have wanted a reference to the full implementation of the UN Declaration on the Rights of Indigenous Peoples and regretted that “the full participation of indigenous peoples is not guaranteed.” Under these circumstances, Bolivia withdrew its name from the text. The International Indian Treaty Council, in a statement on the occasion of the closing of the session, expressed its appreciation for the new mechanism, saying it was a good basis for the next steps.

### ***Independent Expert on the situation of human rights in Liberia***

Portugal (on behalf of the EU) introduced the draft resolution entitled “advisory services and technical assistance for Liberia”, which was sponsored by the United Kingdom.<sup>23</sup> Minor oral amendments, which had already been discussed and agreed in informal consultations on the previous day, were introduced. The draft aims at extending the mandate of the Independent Expert on the situation of human rights in Liberia for one year, and is welcomed and supported by the Government of Liberia. Liberia sent its Ambassador to France, Dudley McKinley Thomas for the consideration of the mandate on Thursday, 13 December 2007. Even though Ambassador McKinley Thomas was not present for the adoption of the draft, this unequivocal support

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<sup>22</sup> A/HRC/6/L.42.

<sup>23</sup> A/HRC/6/L.45.



seemed to convince even those States that had earlier advocated the termination of all country specific mandates for Africa. Egypt (on behalf of the African Group) made its usual declaration that it only deems country specific mandates useful if they enjoy the support of the Government, since “cooperation and dialogue are the best and only means to achieve progress”. Given that the Government of Liberia welcomes the extension of the mandate, the African Group has decided “not to oppose” its renewal. The resolution was adopted by consensus.

### **Decisions adopted by vote**

#### ***Elimination of all forms of intolerance and of discrimination based on religion or belief***

The draft introduced by Portugal (on behalf of the EU) on the elimination of all forms of intolerance and of discrimination based on religion or belief has had a rather turbulent history.<sup>24</sup> It was tabled during the first part of the 6<sup>th</sup> session, but was then postponed because substantial disagreements could not be cleared away before the end of the first part. The draft condemns all forms of intolerance based on religion or belief, and also condemns any advocacy of religious hatred. The second part of the draft extends the mandate of the Special Rapporteur on freedom of religion or belief for three years, and provides some specific tasks for the Special Rapporteur. Portugal (on behalf of the EU) introduced the draft, regretted that despite intensive consultations since the end of the September part of the 6<sup>th</sup> session, consensus could not be reached. It said that the negotiations efforts were exhausted, and it had no other option than bringing the draft to a vote. However, it pledged that it would take up the negotiations again, hoping that consensus on the issue could be re-established soon.

Before Portugal (on behalf of the EU) introduced the draft, Egypt (on behalf of the African Group) asked for a point of order. Claiming that the Arabic translation did not faithfully reflect the English version of the text, the representative asked that it be sent back to the translators. In the meantime, the vote would only carry on the correct versions, but not on the Arabic one.

Pakistan (on behalf of the OIC) tabled a number of amendments to the European draft.<sup>25</sup> However, the OIC decided to not pursue action on its amendments, and therefore only the European draft resolution had to be decided on. A number of States regretted that the EU was not ready to incorporate the amendments proposed by the OIC. Both Cuba and the Russian Federation said that they would have supported the amendments, had they been put to a vote. Cuba announced that it plans to elaborate a draft convention on religious intolerance, which would “solve once and for all this sensitive topic”.

Pakistan (on behalf of the OIC) gave an extensive explanation of vote before the vote. It said while the OIC opposes all form of intolerance or discrimination based on religion or belief, and was always supportive of the mandate of the Special Rapporteur, it could not agree to the draft. Pakistan said that the draft touches some “concerns of fundamental importance to the members of the OIC”. In particular, the differences in the following areas could not be resolved:

- The OIC wanted a clearer denouncement of recent stereotyping of religions, their adherents and prophets in the media and by political parties in some societies.<sup>26</sup>
- It wanted to see the respect for all religions or belief enshrined in the resolution. The disagreed with the approach taken by the EU, which calls for the promotion of diversity and tolerance instead.

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<sup>24</sup> A/HRC/6/L.15/Rev.1.

<sup>25</sup> A/HRC/6/L.49.

<sup>26</sup> This would have been taken into account by an additional paragraph proposed by Pakistan (on behalf of the OIC).

- It called for the “respect for norms about the right to change one’s religion”. The EU draft explicitly urges States to guarantee the right to change one’s religion or belief, a requirement the OIC could not subscribe to.<sup>27</sup>
- The resolution urges all Governments to respond favourably to requests by the Special Rapporteur. The OIC was of the view that it States should only “consider responding favourably” to such requests.

Based on these disagreements, the OIC called for a vote, and said it would abstain. A large number of OIC members of the Council then took the floor to align with the statement by Pakistan, and, while regretting the failure to achieve consensus, announced their abstention as well.<sup>28</sup>

Egypt added a further dimension of disagreement, saying the draft suffers from a lack of coherence, and disregards the understanding reached in the institution-building text in June 2007. It also regretted that the EU had decided to pursue a similar resolution in the Third Committee of the General Assembly. South Africa, although not a member of the OIC, also announced its abstention. It said the draft does not follow the normal format of drafts renewing special procedures mandates in the context of the institution building, and also regretted the lack of attention to the role of the media in relation to religious intolerance. The draft was then put to vote, and adopted with 29 votes in favour and 18 abstentions.<sup>29</sup>

### Deferred decisions

The President announced that the draft resolution on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination submitted by Cuba was postponed until the 7<sup>th</sup> session.<sup>30</sup>

### Organisational matters

President Costea announced that delegations wishing to make statements related to organisational questions could do so after the decisions making. On the previous day, an updated draft of the annual programme of work was distributed, and the President had announce his intention of adopting the programme.<sup>31</sup> An “annex to the draft annual programme of work” was also distributed, containing the list of special procedures mandates to be reviewed, and an indication in which session they would be reviewed. Egypt (on behalf of the African Group) requested that the mandate of the Special Rapporteur on the situation of human rights in the

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<sup>27</sup> See para 9 (a) and the proposed amendment thereto, in A/HRC/6/L.49. Saudi Arabia later said it could not accept texts going against the Sharia, while emphasising that Islam is a religion of fraternity, tolerance and non-discrimination. Algeria, as an observer State, took the floor after the voting had concluded to express its dissatisfaction with the resolution passed. The Ambassador said he could not understand how a resolution with the word “tolerance” in the title could contain provisions that go “directly against the mandate” of a major religion.

<sup>28</sup> Egypt, Azerbaijan, Indonesia, Saudi Arabia, Senegal, Jordan, Qatar, Bangladesh, Malaysia. Morocco and Algeria took the floor after voting was concluded to make similar statement. Morocco expressed its hope that the issue could be taken up again, and be brought back to consensus.

<sup>29</sup> Angola, Bolivia, Bosnia and Herzegovina, Brazil, Canada, Cuba, France, Germany, Ghana, Guatemala, India, Italy, Japan, Madagascar, Mauritius, Mexico, Netherlands, Nicaragua, Peru, Philippines, Republic of Korea, Romania, Russian Federation, Slovenia, Switzerland, Ukraine, United Kingdom, Uruguay and Zambia voted Yes. Azerbaijan, Bangladesh, Cameroon, China, Djibouti, Egypt, Gabon, Indonesia, Jordan, Malaysia, Mali, Nigeria, Pakistan, Qatar, Saudi Arabia, Senegal, South Africa and Sri Lanka abstained.

<sup>30</sup> A/HRC/6/L.19.

<sup>31</sup> Available on the OHCHR extranet, at <http://portal.ohchr.org/portal/page/portal/HRCExtranet/AnnualPoW-12Dec07.pdf>. See fn. 14 on how to access the extranet.

Palestinian territories occupied since 1967 be removed from that list.<sup>32</sup> President Costea specified that the annex was not an official annex, and therefore not part of the programme of work as such. It was mainly a stock-taking to inform what the Council would have to accomplish over the next year. With this reservation, the programme of work was then accepted and adopted. Nevertheless, it will almost certainly change again, said the President.

Egypt (on behalf of the African Group) also raised the issue of the troikas for the universal periodic review (UPR).<sup>33</sup> The representative pressed that it is important that the Council develop a shared understanding of the exact role of these troikas, a call made during the organisational meeting on 26 November 2007 as well.<sup>34</sup> He asked the President for further details on how he intends to address this issue.

### Closing of the session

As it has been the practice for a number of sessions, a representative of civil society was given the opportunity to address the Council before the closing remarks by the President. The Friends World Committee for Consultation in a joint statement<sup>35</sup> highlighted that the Council's experience with reviewing special procedures mandates has shown that the key to the most successful review was the quality of the mandate holder. In that perspective, the independence and expertise of mandate holders was of critical importance, a fact that should be kept in mind in the coming appointment process for new mandate holders. As before, the ineffective time-management was criticised, as this leads to considerable difficulties for NGOs and others to engage effectively in the interactive dialogues with special procedures. The NGOs suggested, once again, that the timetable for interactive dialogues with special procedures be set sufficiently in advance and not subjected to change. Other items could be adapted accordingly. They also highlighted the need for the Council to address the substance of special procedures reports. Only through following-up to the recommendations contained in special procedures reports could the Council work to affect real changes for the promotion and protection of human rights.

In his concluding remarks, the President recalled that many resolutions had been adopted, and many by consensus. He said that while consensus is desirable, it should not be pursued at every price. He cautioned that consensus for its own sake was a trap the Council should avoid.

President Costea expressed his appreciation for the successful start of the process of review, rationalisation and improvement of special procedures mandates. The Council has reviewed 12 special procedures mandates, and has created four new mechanisms. The President stressed that the specificities and history of each mandate has to be taken into account. He urged members to start consultations as early as possible for the mandates to be reviewed in the March 2008 session, and suggested that informal meetings be organised with mandate holders. Whenever possible, he said, mandate holders should take part in the informal consultations. He also recalled that the Council would start appointing new mandate holders in March. In relation to this, he

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<sup>32</sup> Pakistan (on behalf of the OIC) supported that call. It seems to be the interpretation of many States that this particular mandate does not have to be reviewed, since it is "established until the end of occupation."

<sup>33</sup> The so-called 'troika' is a group of three rapporteurs, selected by drawing of lots from among Council members and from different regional groups. Their role is to facilitate each review, including the preparation of the report of the UPR Working Group.

<sup>34</sup> See ISHR's *Council Alert*, available at [www.ishr.ch](http://www.ishr.ch).

<sup>35</sup> Friends World Committee for Consultation (Quakers), Asian Legal Resource Centre, Cairo Institute for Human Rights Studies, International Service for Human Rights, Centre on Housing Rights and Evictions, Action Canada for Population and Development, and acknowledged by the Conference of NGOs.

will hold a first informal meeting with the consultative group on Monday, 17 December 2007.<sup>36</sup> He announced that the list of vacancies, that is of special procedures mandate holders that will need to be replaced, would be published on the OHCHR extranet as of next week.

Turning to the UPR, he said the next important moment would be the decisions on the troikas for the UPR. The President will have further discussions on the election of troika members, and on their “job description”. He did not announce a timetable for these discussions.

### Adoption of the report of the session

Ambassador Alejandro Artucio of Uruguay, the Council’s Rapporteur, said the draft report of the Session was available on the Council’s website. Comments could be sent to him until 12 January 2008.

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<sup>36</sup> A consultative group of five members, one from each regional group, serving in their personal capacity, will shortlist candidates for special procedures mandate holders from a public roster prepared by OHCHR and submit that shortlist to the President. From the shortlist, the President will select one candidate for each vacancy, and the Council will endorse the President’s selection.

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