



Statement by Mr. Ajai Malhotra, Ambassador/Deputy
Permanent Representative of India, on the Human Rights
Council, at the Informal Plenary meeting of the UN General
Assembly, New York, on 2 February 2006

Mr. Chairman,

Like other delegations, we look forward to the informal consultations of the UNGA plenary to be held on February 6, when more detailed comments would be offered. Nevertheless, like others, let me also make some preliminary comments on the revised text that you have just given us.

First of all, I would like to thank you for following an open, inclusive and transparent process involving everyone. I would also like to compliment you on the balanced, fair and reasonable proposal that you have placed before us. We may all be wedded to our positions, but a time comes to move ahead. I think that time for negotiations and give and take is upon us now.

Mr. Chairman, we have noted how you have introduced in the preambular portion the principle of equal rights and self-determination of peoples, which was referred to by many delegations during our last meeting. It has been done by placing in Preambular Paragraph 1 wording relating to "respect for principle of equal rights and self-determination of peoples" that has been taken from Article 1 paragraph 2 of the UN Charter. It is the most non-controversial wording

that could be found on the subject and we can certainly accept it and would like to encourage others to do the same.

There had been concern voiced earlier over language that appeared to by-pass national governments by providing benefits of international cooperation directly to rights holders. This has now been taken into account in Preambular Paragraph 9, which has been modified to indicate that the promotion and protection of human rights should be ‘... aimed at strengthening the capacity of Member States to comply with their human rights obligations’ for the benefit of rights holders.

Mr. Chairman, as regards OP 5(e) about undertaking a universal periodic review, every delegation that spoke on the previous occasion had supported the inclusion of “based on objective and reliable information” in line 1. We are grateful to you for now reflecting those words in our text. The sentence at the end, stating that ‘Conclusions of the review shall be presented in a Chair’s summary’, has also been dropped as several delegations, including mine, had felt that we should not circumscribe the manner in which we could present any conclusions that may be reached. Thank you for dropping it too.

In OP 5(f), the language on the new Human Rights Council “contributing towards the prevention of human rights violations” has been re-shaped by including the words ‘through dialogue and cooperation’ in the first line. While it would have been preferable that the sub-para be deleted entirely, this modification at least partly meets a concern voiced by many delegations. It is also noted that new language has also been proposed at the end of the sub-para, namely, that the Human Rights Council ‘respond promptly to deteriorating human rights situations’. In that phrase the usage of the term “deteriorating” is unclear and you may like to consider modifying it suitably, by circumscribing it somewhat.

As regards the text of OP 5(i), it has been shortened by deleting ‘... to Member States and the United Nations system’ towards its end. We welcome this, but would have also liked there to be an explicit reference to recommendations being made to the UNGA and only through it to others. That would have been appropriate and is an amendment that we had formally supported. However, if overall agreement demands that we not insist on our position, then we will not do so. After all, we have all accepted in OP1 that the Human Rights Council will be a subsidiary organ of the UN General Assembly, so who else would it report to if not to its superior body, the UNGA?

In OP 6, it has now been proposed that the HRC undertake a complete review of all mandates, mechanisms, functions and responsibilities of the CHR within one year after holding its first meeting. This is an unexceptionable and reasonable proposal.

The size of the proposed HRC has been proposed at 45 members. This falls exactly between the two earlier options of 38 or 53 members. While we would have certainly preferred an HRC with 53 members, we can live with your variant too. What could be fairer than proposing the middle road if a choice had to be made?

As regards electing new members, sensibly, both options have been retained, that is, by simple-majority or two-thirds of members present and voting. Again, what could be more fair-minded on the part of the Co-Chairs, than not to take sides? Our preference in this case has all along been for a simple majority, but we would be willing to go with two-thirds if that helps build consensus. In any case leaving both options in brackets appears to be the most reasonable way of presenting the choices before us at this stage.

We commend you for incorporating in Operative Paragraph 7 wording that provides that the composition of the HRC be based on equitable geographical distribution. That is how it should be. It represents the only fair way to proceed.

We agree that States should somehow take into account the human rights record of other States while electing them to the new body. In Operative Paragraph 8, a few indicative parameters have been suggested for consideration by Member States when electing HRC members. This too constitutes wording that is a vast improvement on the unacceptable choices that we had earlier. While we may have some minor modifications to suggest, we can also live with OP8 it as presently worded if there is no other choice.

We would still like to see greater certainty in the text of OP 10. As we had suggested earlier, it would be nice to know exactly how many normal meetings of the HRC we are talking about. Accordingly, we would have preferred to cap the number of normal meetings and their total duration by deleting the words "no fewer than" and "no less than" in the text. It would be difficult to explain to our budgetary authorities why we allowed such a lack of clarity to remain or how come others were satisfied with it. We would request you to revisit this issue once more. But if that is not possible, we would live with it, reluctantly.

As regards OP 10, we would have also far preferred that special sessions be convened only at the request of a Member supported by half of the HRC members. The present wording sets the bar lower and requires the support of only 1/3rd of the membership. In our view, this is not the better or preferred option. After all, much time and money would be unnecessarily wasted if 1/3rd of the members convened a meeting only to find that half the members did not approve of the idea behind it! Nevertheless, if it is the position of the

majority to go with 1/3rds, and not merely that of one-third of us, we would go along with it.

We are satisfied that the provision in OP 10, enabling convening of special sessions by the "Chair with the agreement of the Bureau or the Secretary-General", has been dropped. We welcome this as it reflects the reality that the HRC is an inter-governmental body and only its members should be able to convene its special sessions.

In conclusion, I would like to again congratulate you, Mr. Chairman, for a fair-minded and serious effort to progress our work.

Thank you, Mr. Chairman.

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