



*Reconstructed from extempore remarks*

**Statement by Ambassador Nirupam Sen, Permanent Representative of India to the United Nations, in the General Assembly, after the adoption of Resolution A/60/L.48 setting up the Human Rights Council on 15<sup>th</sup> March, 2006**

Mr. President,

Jawaharlal Nehru, in a famous and moving speech, said that “a moment comes, which comes but rarely in history, when we step out from the old to the new” and we have witnessed such a decisive moment this morning. The United Nations has shown, in spite of all its critics and the crescendo of criticism to which it has been exposed, particularly in the recent past, that it can deliver, that it can create something with a high threshold, something that is radical, something that is new and can achieve this broad agreement among such a vast membership. Here I must say that you, Mr. President, deserve our special congratulations for the sensitivity with which you have held firmly to the centre where broad agreement inhabits and the sensitivity with which you have been able to take on board the views of diverse members and to harmonise these in this text in order to achieve a broad agreement.

As far as India is concerned, for us it is certainly a special day because we are committed, and indeed have been since even before independence to the enlargement of human freedoms throughout the world. This Council meets the demands of the civil society of the world, again to use a phrase from the same speech of Jawaharlal Nehru, “not wholly or in full measure but very substantially”. This is

indeed a creditable achievement and a very important achievement for the United Nations itself. We also wish to congratulate the co-Chairs, Ambassador Arias and Ambassador Kumalo, for the work they did, for their tireless efforts. We think that the strength that has been evident in these negotiations has been the strength of cooperation and dialogue and the future strength of this Council will also depend on the same principles of cooperation and dialogue. It is really in this spirit that my delegation has also worked in order to promote a broad agreement and we therefore also have a sense of institutional satisfaction as a delegation.

We are also confident that because of the principle that I just enunciated there is no real contradiction. I have listened carefully to the statements of most of the delegations and I really do not see any contradictions between what is in the text and what most delegations would like to achieve and like to see happen. For instance, you yourself, Mr. President, have said in your statement here that we must evolve better ways of promoting tolerance, respect for and freedom of religion and belief. This is something that is a part of the work of any Human Rights Council, as it is certainly a part of innumerable human rights instruments that we have. In this connection, I would like to recall also the American Convention on Human Rights (to which almost all the countries of the Americas are signatories) which is also referred to as the Pact of San José, Costa Rica of November 22, 1969, which, in Part 1, Chapter 1, Article 1, emphasises opposition to "discrimination for reasons of race, colour, sex, language or religion". So we do not really think that there is a contradiction between what this Council will do and should do and established understanding of human rights as embodied in various instruments, including in this region where we are sitting at present. We all know also that this is very much a part of the African Union Charter on Human Rights, the Banjul Charter. This is part of the thinking of the developing countries also. I may mention a great philosopher of modern Ghana, Kwame Anthony Appiah whose great work called "Cosmopolitanism" clearly says that there are universals. We may not think that these universals include let us say liberalism or relativism, any special beliefs, but there are universal moral obligations which include respect, as he says, for particularities. So this is very much a part of our thinking and very much a part of the cooperation and dialogue in which this Council was born and which will give strength and life to this Council as it works in the future.

Similarly, we stand very firmly by the text on the General Assembly having the power to point out systematic and gross violations of human rights. We are happy that we do not have Security Council-determined conditionalities. Quite apart from the reasons which I have mentioned in detail elsewhere on earlier occasions and would not like to repeat at this stage, in the context of the current debate, any Security Council-determined conditionalities may, in fact, tempt it into further encroachment on what essentially is some thing for the General Assembly to ultimately take a view on and, therefore, such encroachment would continue to be resisted, as with a wall of steel and, hopefully, would eventually be rolled back and swept away, as by a river in spate. So here also I do not see any contradiction and, in fact, we think that the text captures what needs to be done.

The same is true of the Right to Development reflected both in the preambular and in the operative paragraphs of this Resolution. There is quite clearly a commitment to the Right to Development and, we think this is as it should be. Here also, again, we do not see any contradiction between the emphasis on this Right and that which the text has and here the text really belongs to a long tradition. It goes back to the General Assembly Resolution of December 4, 1986 on the Right to Development which clearly said that this is "an inalienable human right" in which "all human rights and fundamental freedoms can be fully realized". It was also the UN Committee on Economic, Social and Cultural Rights which, in 1990, sponsored in Geneva, as we all know, a Global Consultation on the Realization of the Right to Development as a Human Right. Mr. President you said in your statement that on development we must now do all we can to ensure that the commitments of 2005 are implemented in 2006 and if we are achieve the Millennium Development Goals by 2015, there is no time to lose. I would recall in this context the 7<sup>th</sup> session of the Working Group on the Right to Development which was held in Geneva from January 9 to 14, 2006. It adopted a set of criteria for evaluation, periodically, of the global partnership for development in MDG 8 from the perspective of the Right to Development. Also it said that the policies of the Bretton Woods Institutions have to be corrected in terms of deficiencies from the perspective of the Right to Development. Here also there is broad agreement which straddles across divides and again I see no fundamental contradiction. The Right to Development in Article 22 of the African Charter is a legally binding provision. This year in Geneva both Canada and Japan joined the consensus in this Working Group on the Right to Development so that, as we move forward, we should have the cooperation of a broad majority of States in fulfilling the promise of the Millennium

Declaration to “make the right to development a reality for all”. With this, I would conclude by expressing my congratulations to all Member States who have made the Human Rights Council possible.

I thank you.

[BACK TO TABLE OF CONTENTS](#)