Preliminary non-Paper from the Secretariat on some issues relating to working arrangements of the HRC throughout the year

(21 November 2006)

The present preliminary non-paper was prepared at the request of the President in preparation for the Third Council session which should dwell, according to decision 1/105, on issues relating to the Methods of work and agenda.

1. **Process:**

   a. Due to the transitional and institution-building character of the present period, the agenda of the HR Council as proposed by the President contains only one substantive item entitled "Implementation of GA resolution 60/251". As a result, the work of the Council is organized not on the basis of its agenda (which is a normal practice for UN bodies), but in accordance with the "draft framework for a programme of work of the Human Rights Council for the first year" as adopted by Council in its decisions 1/105 and 2/103.

   b. The issue of the agenda was included as a separate segment in the Council's programme of work for its November-December 2006 and March-April 2007 sessions. Should the draft resolution L.28 submitted by the Africa group be adopted, the process of elaborating the agenda of the Council for the second year onwards would be undertaken "in a structured framework by establishing an open-ended intergovernmental working group on the agenda of the Human Rights Council under the leadership of the President of the Council, which shall convene no more than two annual sessions of ten working days each and present its report to the relevant session of the Council".

   c. In view of the priority accorded under GA resolution 60/251 to the ongoing work on UPR and review of mandates which should be completed before June 2007 and bearing in mind already scheduled meetings of other inter-sessional working groups (see para. 5 below), a space for convening yet another working group on the agenda would be hard to find.

2. **Frequency and duration of the Council sessions throughout the year**:

   a. **Current practice:** The cycle of work of the HRC for its first year consists of 4 sessions amounting to 11 weeks of plenary meetings in total: 2 weeks in June, 3 weeks in September/October, 2 weeks in November/December and 4 weeks in March/April, the latter session being accepted as the main one.

   b. Without counting the special sessions (three in the first 6 months of Council's existence!) and frequent informal consultations, the above tight schedule of HRC for its first year has also accommodated 2 weeks of meetings of the working group on UPR and 4 weeks of meetings of

the working group on review of mandates, as well as 8 weeks of meetings of five other intersessional working groups, thus making another 14 weeks of meetings. Coupled with over 5 weeks of meetings of Council's inherited subsidiary expert body - Sub-Commission on the Promotion and Protection of Human Rights and its working groups, the grand total of Council and Council-related meetings in the first year of its history would reach over 30 weeks, or 7 ½ months in session.

c. **Future trends:** GA resolution 60/251 very clearly states that the Council 'shall meet regularly throughout the year and schedule no fewer that three sessions per year, including a main session, for a total duration of no less than ten weeks'.

d. **Three sessions would be the <u>first option</u> to consider** but the fact that the Council would have to adopt important decisions by the conclusion of the twelve month period which started with its first session implies that a session would have to be organized in June 2007. This, in turn, implies that for the first two years of its work (2006/2007), the Council will presumably work on the basis of a four sessions per year pace. Although this may not be considered as setting a precedent **it would nevertheless creates some expectations or perceptions that the normal frequency of meetings is four sessions per year and this would be the <u>second option</u> to consider**

e. In setting up a yearly calendar of meetings, it is of importance to also recognize that the May/July segment is always a very difficult period of time for the Conference Services that have to accommodate important meetings and Conferences every year in Geneva at that particular moment. Additionally, the October/November segment is usually found less palatable for a number of delegations that either send some of their experts to the Third Committee session or because of a lack of visibility for the Council at a time when the GA is in session.
Option A: Four sessions per year

   i. **Spring and Main Session: 4 weeks in March/April**
   ii. **Summer Session: (1 or) 2 weeks in June**
   iii. **Fall Session: 3 weeks in September**
   iv. **Winter Session: (1 or) 2 weeks in November /December.**

Option B: Three sessions per year:

   i. **Spring and Main Session: 4 weeks in March/April**
   j. **Fall Session: 3 weeks in September**
   k. **Winter Session: 3 weeks in November /December.**

f. **UPR: It should be borne in mind that this proposed schedule and/or duration of Council's regular sessions will need to be changed in the near future depending on the modalities and time allocation that will be adopted for the UPR process.**

3. **Agenda, timetable and programme of work for the year:**

a. **It is important to note that there is often a confusion made between the agenda of the Council, its programme of work and its timetable.** In the mind of the Secretariat these three documents are fundamentally different. While the agenda is of significant importance for the legal and political distribution of work of the Council under a number of items the programme of work relates to the translation into in deeds of the Council's agenda for one particular session. The timetable for each session is a living and very flexible document prepared on the basis of the programme of work and varies frequently whereby by essence the agenda should be relatively stable and not vary for a number of years to ensure consistency and predictability. The work programme is a mean to ensure that all stakeholders are fully aware of how and when the Council will deal with specific items/issues during any given year.

b. In terms of the Council **agenda**, the Secretariat would consider that, based on many interventions by delegations, a simple and user-friendly document would be a preferred option rather than the very lengthy type of agenda which prevailed at the time of the Commission. Other delegations have however come up with different points of view. This would however have to be confirmed and drafted by the Council itself.

c. As far as the **timetable and working programme**, the Secretariat would consider it convenient to regroup matters to be considered between those issues that have necessarily to be considered at each session of the Council and all the other ones. Additionally, in the latter group of issues, some should be considered at given sessions while others could be distributed at various moments based on precedents and preferred options. This is notwithstanding any decision of a policy or political nature that the Council may take in adopting its agenda.

i. **Standing issues to be discussed at each session:**

1. Adoption of the agenda
2. Programme of work/timetable
3. Adoption of the session's report (part of the Annual Report)
4. Updates by the High Commissioner for Human Rights
5. All other issues relating to the promotion and protection of human rights including initiatives/ issues/ decisions/ resolutions (1/105)
6. Follow up to decisions of the HRC (2/103)

ii. **Issues to be considered at given sessions throughout the year:**

1. Election of the Bureau of the Council (Summer Session)
2. Adoption of the Annual report of the Council (Summer Session – see below)
3. High Level Segment (At the start of the Spring Session)

iii. **Other issues**:

1. **Interactive dialogues (ID) with mandate-holders**: further to the reform of the special procedures, the Council will have to organize the format of the interactive dialogue with the system of special procedures taking into account the framework established by GA resolution 60/251 and the Council's decisions 1/102 (including its Annex) and 2/102. The ID could either take place in one go, for instance during the Spring session or divided in two parts (Spring and Fall sessions) on the basis of thematic clusters of issues yet to be developed. It should however be pointed out that such a clustering would be extremely difficult to undertake since many different types of clustering could be envisaged and that in turn it would make its adoption difficult.

2. **Presentation of reports prepared by the HC/SG and other reports.** This could either take place with mandate-holders' reports (see above sub-paragraph 1) or in one go at the Fall session should all ID take place during the Spring session. Some adaptations may be necessary on a case by case basis since some reports by the HC/SG are dealing with topics which are similar or comparable to the documents prepared by Special rapporteurs.

3. **General debate(s) and conclusions of the Council's work**: This may or may not be organized in the same manner as during the CHR sessions. It will be closely linked with the presentation of Special Rapporteurs and SG/HC reports.

4. Distribution of such presentation of reports, interactive dialogues and adoption of conclusions could thus be divided in the following manner :

   Option A:

   Spring session: All Interactive Dialogues with special rapporteurs, general debate on the issues raised by the Special Rapporteurs and adoption of resolutions stemming out of these debates and dialogues

   Fall session: Consideration of most of the HC/SG and other reports, subsequent ID and general debates and adoption of resolutions stemming out of these debates and dialogues.

Option B:

Spring and Fall sessions to deal with specific issues and resolutions thereupon according to thematic clusters yet to be developed.

iv. **Reports of Inter-governmental Working Groups:** In the past, all working groups were scheduled in such a manner that they would be in a position to report to the yearly session of the Commission in March. Opportunity may thus be taken to reschedule these meetings in such a manner than reports of the IWG would be spread between the Spring and Fall sessions.

4. **Annual Report of the Council:**

a. OP5 (j) of GA Resolution 60/251 very clearly states that the Council should submit an annual report to the GA. This has been understood as implying that one report only would eventually be adopted but that this would comprise several parts, each one concerning a given ordinary or special session of the Council. Hence, there is formally only one report of the HRC to be adopted by the GA but it comprises several parts relating to different sessions.

b. The current 10-week rule applicable to documents submitted to the GA would seem to imply that the Annual Report could be consolidated and adopted in June. However, this would also imply that the Report would be adopted at the end of the session when any new Bureau would be elected. The Council would then have to ponder whether this arrangement is appropriate or would need to be adapted. A discussion of the matter would need to take into consideration whether the report will eventually be discussed by the plenary or the 3rd Committee. In the former case the report could be also adopted in the Fall session while in the latter it should be adopted in June at the latest.

c. This technical matter is however much less complicated and controversial than the pending issue of reporting lines and, more generally, of relations between the GA/Third Committee and the HR Council which goes beyond the scope of the present non-paper.

5. **Rules of procedures** :

a. At present, the Council is working on the basis of Section XIII of the GA Rules of procedures and GA Resolution 60/251. It is also basing itself, as appropriate, on CHR precedents and its own emerging practice. The Secretariat would consider that, in due time, when the reform processes and the setting up of the UPR mechanism are achieved, as well as the above issues decided, it would be of use to consolidate the currently applicable rules and procedures and those new ones in one single document. At this stage it is however premature to anticipate how this would be shaped up.

b. Some Governments have already demonstrated their interest and produced initiatives in this regard.

c. **Council's future work on the rules of procedure could most probably be organized in the form of another intersessional working group (see above paragraph 1 (c)), which may also be requested to make recommendations on certain issues relating to the organization and methods of work of the Council, such as speaking time, interactive dialogues, modalities for HLS, guidelines on parallel events, etc.**