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人权理事会
第八届会议
议程项目 5

人权机构和机制

2008 年 5 月 29 日瑞士常驻联合国日内瓦办事处代表团致
人权理事会秘书处的普通照会

瑞士常驻联合国日内瓦办事处和其他国际组织代表团向人权理事会秘书处致意，
并谨随本照会附上 2008 年 5 月 22 日关于咨商小组职权范围及工作方法问题的信件*。

瑞士常驻代表团请秘书处将信件作为第八届会议文件分发。

* 载于附件，仅以原文和英文印发。

Annex

Geneva, 22 May 2008

Sir,

In the context of the current discussion on special procedures, I hereby inform you of the Swiss position on the extension of mandates and the respective roles of the President of the Human Rights Council and the Consultative Group.

I. EXTENSION OF SPECIAL PROCEDURES MANDATES

Although the length of thematic mandates is three years and that of country mandates is one year, there is no provision for any differentiation in the manner of their possible extension. Paragraph 45 of resolution 5/1 simply states that a mandate-holder's tenure in a given function shall be no longer than six years.

Equal treatment should therefore be applied to the various special procedures. In keeping with both the spirit and the letter of the institution-building package, this means that, pursuant to paragraph 45 of the above-mentioned resolution, mandate-holders are to have their tenure extended unless they themselves have decided to resign, or they have not displayed expertise, experience, independence, impartiality, personal integrity and impartiality in the performance of their duties, as required by paragraph 39 of the resolution.

The duration of country and thematic mandates was restricted to one and three years, respectively, in order to fit the specific circumstances of such appointments and not in order to subject each mandate-holder to a selection process for re-election. If the Council had wished to make re-election compulsory at the end of a mandate, it would have clearly so specified, as was done for other bodies, such as the Advisory Committee (resolution 5/1, para. 74) and the Expert Mechanism on the rights of indigenous peoples (resolution 6/36, para. 6).

Lastly, on the basis of the principle of non-retroactivity which, as far as we know, has never been validly challenged by any argument, the established practice, that is, the tacit renewal of mandates, applies until such time as a decision has been taken on the matter.

II. RESPECTIVE ROLES OF THE PRESIDENT OF THE HUMAN RIGHTS COUNCIL AND THE CONSULTATIVE GROUP

Paragraphs 47, 52 and 53 of Human Rights Council resolution 5/1 provide that the Consultative Group shall propose a list of candidates to the President of the Council who shall then identify an appropriate candidate for each vacancy on the basis of the Group's recommendations and following broad consultations.

On the other hand, no provision is made for the President to report to the Group once it has supplied him or her with a list of recommendations. The Group's work is therefore completed once the list has been submitted.

Lastly, although paragraph 50 of resolution 5/1, states that recommendations to the President must be public and substantiated, we consider that this means no more than the forwarding of recommendations accompanied by the shortlisted candidates' curricula vitae in order to meet the requirements of objectivity and data protection.

Thank you in advance for communicating this letter to all members, observers and stakeholders.

Accept, Sir, the assurances of my highest consideration.

(Signed): Blaise Godet
Ambassador
Permanent Representative of Switzerland

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