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HUMAN RIGHTS COUNCIL  
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Agenda item 5

### HUMAN RIGHTS BODIES AND MECHANISMS

#### **Note verbale dated 29 May 2008 from the Permanent Mission of Switzerland to the United Nations Office at Geneva addressed to the secretariat of the Human Rights Council**

The Permanent Mission of Switzerland to the United Nations Office and to other international organizations in Geneva presents its compliments to the secretariat of the Human Rights Council and has the honour to enclose a letter\* of 22 May 2008 concerning the Consultative Group's terms of reference and working methods.

The Permanent Mission of Switzerland requests the secretariat to circulate this letter as a document of the eighth session.

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\* Reproduced as received in the annex in the language of submission and in English only.

## **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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