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RATIONALIZATION OF THE WORK OF THE COMMISSION

**Enhancing and strengthening the effectiveness of the special
procedures of the Commission on Human Rights**

Note by the United Nations High Commissioner for Human Rights

The United Nations High Commissioner has the honour to transmit to the members of the Commission on Human Rights the report of the open-ended seminar on this subject convened pursuant to Commission on Human Rights decision 2005/113.

Summary

The open-ended seminar organized by the Office of the High Commissioner for Human Rights and chaired by the Deputy High Commissioner for Human Rights was held in Geneva on 12 to 13 October 2005. Participants included Member States, special procedures mandate holders, representatives of non-governmental organisations and United Nations specialized agencies.

The unique and important role played by the special procedures system in the promotion and protection of human rights was generally recognized by participants. It was commonly agreed that the special procedures should be an integral part of the proposed Human Rights Council. Participants also generally shared the view that the system could be further enhanced by fostering a greater sense of collegiality among mandate holders, entailing more coordination, harmonization of working methods and self-regulation. The Coordination Committee, established at the twelfth annual meeting of special procedures, will play a pivotal part in this process, in particular, in updating the “manual for special rapporteurs/representatives/experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme”. Furthermore, participants stressed the importance of better cooperation with special procedures and the need for systematic follow-up to their work, and exchanged views on how different actors might contribute to such strategies.

**REPORT OF THE OPEN-ENDED SEMINAR ON ENHANCING AND
STRENGTHENING THE EFFECTIVENESS OF THE SPECIAL
PROCEDURES OF THE COMMISSION ON HUMAN RIGHTS**

(Geneva, 12-13 October 2005)

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Introduction

1. An open-ended seminar on enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights, organized by the Office of the High Commissioner for Human Rights (OHCHR) in consultation with the Expanded Bureau of the Commission upon the request of the Commission in decision 2005/113, was held in Geneva on 12 and 13 October 2005. The seminar was convened in order to allow Member States, special procedures mandate holders, non-governmental organizations (NGOs) and representatives from the United Nations and its agencies to have a constructive interactive discussion on ways to strengthen and enhance the special procedures system.

2. The Deputy High Commissioner for Human Rights, Ms. Mehr Khan Williams, chaired the seminar. The seminar was divided into four segments, each dealing with a particular theme: (a) the role and functions of the special procedures mechanisms; (b) working methods of mandate holders; (c) follow-up to the work of mandate holders; and (d) cooperation with and support from OHCHR, the United Nations specialized agencies, NGOs, national institutions and other organizations. Participants had before them a number of discussion papers submitted by Member States, regional groups and NGOs, and four background papers prepared by the Secretariat on each of the themes (see annex). Each segment was introduced by a representative of a Member State, an NGO and a mandate holder. At the fourth segment, a representative from a specialized agency also made introductory remarks. The present report summarizes the discussions and the proposals put forward by participants on each theme.

I. OPENING REMARKS BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

3. In her opening statement, the High Commissioner welcomed the participants and thanked the members of the Commission on Human Rights for having requested the seminar, which provided a timely and important opportunity to Member States, mandate holders and NGOs to gather and discuss together issues related to the special procedures system. Noting that the system of special procedures constitutes a vital tool for the promotion and protection of human rights, she recalled the many ways in which special procedures fulfilled this objective. At the same time, the system needed to be strengthened and made more effective.

4. This seminar offered a unique opportunity to exchange views and suggestions on these issues, take stock of the progress achieved and evaluate what remained to be done. This was particularly pertinent in view of the current reform of the United Nations, including in the area of human rights. The OHCHR Plan of Action (A/60/2005/Add.3), published in May 2005, set out the vision of a more effective human rights programme and put forward a number of action points which were directly relevant to an enhanced system of special procedures. In particular, a more strategic country engagement should help ensure better domestic implementation of human rights. Finally, the High Commissioner stressed that a strong and effective special procedures system depended to a large extent on the support it received and on its ability to achieve outcomes.

II. ROLE AND FUNCTIONS OF THE SPECIAL PROCEDURES SYSTEM

5. In his introductory remarks, the representative of the Sudan noted that the special procedures system played a vital role in achieving the objectives for which the Commission on Human Rights had been established and in achieving the objectives of the Charter of the United Nations, in particular, Article 1(3), regarding the protection and promotion of human rights and the need for international cooperation to achieve that end. The special procedures system had to find its proper place in the proposed Human Rights Council, bearing in mind the need to respect three principles: (i) all members of the United Nations should be included in the Council in order to promote transparency and cooperation in the functioning of the system; (ii) the mandates should reaffirm the principle that all human rights were indivisible and universal; and (iii) the system must guarantee the independence, professionalism and integrity of mandate holders. Regional groups should have the right to propose candidates for mandates to the Chairperson of the Commission. Mandate holders should give equal attention to non-State actors and their violations of human rights.

6. Mr. Vitit Muntarbhorn, Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, in introducing the topic, noted that the increase in the number of special procedures mandates in the United Nations system attested to the need for a monitoring arm of the United Nations in regard to key human rights issues. The following encapsulates their role and functions: to analyse the situation under their mandate for the international community; to advise on action based on their findings; to alert the United Nations and the rest of the international community to take stock of situations, including for preventive action and early warning; to advocate on behalf of the victims and to activate the international and national communities to address human rights issues. He noted that the added value of the procedures lay in their focus on victims, the broad range of the mandates, and the fact that action by special procedures in relation to an alleged violation of human rights did not require exhaustion of domestic remedies and could be based on *prima facie* concerns. The key challenges facing the system included constraints on resources, lack of time for presentation and discussion of reports during the Commission non-cooperation by some States, and the paradoxical situation that those States that did cooperate were more closely scrutinized than those that refused to issue invitations for visits. In view of the reform process of the United Nations currently taking place, there was a need to sustain and strengthen the special procedures as a key part of the United Nations system. That would involve more interactive dialogue, more effective follow-up to recommendations and sustained engagement with all relevant partners.

7. Ms. Rachel Brett of the Quaker United Nations Office in Geneva in her introductory remarks, pointed out that the conglomerate of special procedures was not yet a system and that the key question was how to move from a collection of individual mandates created *sui generis* and on an *ad hoc* basis to a cohesive system, without losing the benefit of individuality. Three key issues were highlighted in this regard: (i) expertise of mandate holders; (ii) reports of special procedures; and (iii) consideration of the reports. With regard to the first aspect, she noted that given the increased number of mandates, there was now a need to find a much larger pool of potential candidates with the requisite expertise. The special procedures and OHCHR should consider how to achieve this, as well as how to improve induction sessions for newly appointed mandate holders and the "Manual for special rapporteurs/representatives/experts and chairpersons of working groups of the special procedures of the Commission on Human Rights

and of the advisory services programme”. She suggested that there was a need to rethink the format and presentation of the reports of mandate holders in order to ensure that they remained of high quality and were not curtailed for reasons of bureaucratic formality. The reports should be posted on the OHCHR website as soon as they became available. Mandate holders must be given more time for the presentation and discussion of reports, so that their findings could be considered more seriously. There should also be an opportunity for groups or panels of special procedures to discuss issues of common concern.

8. In the subsequent discussion, the following issues were raised.

A. The special procedures system as a component of the future Human Rights Council

9. All participants stressed the vital importance of the special procedures in the United Nations human rights protection system and therefore the need to ensure that the special procedures were a major component of the Human Rights Council. Many participants voiced the view that the Council should be guided in its actions and decisions by the reports and findings of the special procedures, including with regard to responses to urgent situations, and systematically involved in follow-up strategies. That should also take into account the level of engagement of States with special procedures, including by implementing recommendations.

10. In view of the important and time-consuming nature of the work of special procedures and on the basis of their proposed increased participation in the Council, it was suggested by some participants that mandate holders be employed on a full-time basis or be given financial compensation.

11. It was generally recognized that the system would need to be adapted to new realities and be further strengthened through better coordination, ensuring transparency and basing itself on good cooperation with governments. The decision of the General Assembly to double the contribution to OHCHR from the regular budget was noted with approval by many participants in view of the increased support to the special procedures that that should entail.

12. Some participants suggested that there should be a moratorium on new mandates during the transitional period from the Commission to the Council. The idea was also put forward that under the Human Rights Council, all special procedures should have the same title, to avoid confusion about hierarchical status and working methods.

B. Consideration of reports of special procedures in the interactive dialogue

13. The importance of the interactive dialogue at the Commission on Human Rights was underlined repeatedly, but it was generally felt that the dialogue could be significantly enhanced by allowing more time for presentations and discussions. Many participants noted with interest the proposal for a special segment on special procedures, although some concerns were expressed that by focusing too much on the consideration of country situations on the part of geographic and thematic mandates, a special segment could lead to more politicization.

C. Selection of special procedures mandate holders

14. The general view of the participants was that the decision on appointments should continue to lie with the Chairperson of the Commission in consultation with the regional groups and the High Commissioner. A majority of participants and some regional groups also supported the principle that the nominations for special procedures mandate holders should be open to States, the High Commissioner, the Secretary-General and NGOs. A number of participants expressed their support for a more active role for regional groups in the nomination process in order to ensure geographical rotation.

15. Many participants noted with interest the proposal for the establishment of an advisory panel, chaired by the High Commissioner or her representative and composed of experts from all regions, which would produce a short list of candidates for the Chairperson of the Commission/Council. However, some concern was expressed that that might add another layer of bureaucracy to the nomination procedure.

16. It was also commonly agreed that appointments should be made based on the criteria of independence, expertise in the area of the mandate and integrity, with due regard to geographical representation and gender balance. Participants stressed that in order to ensure the independence of mandate holders, their regular activities should present no conflict of interest with the responsibilities arising from the mandates - in particular, they should not be members of the executive or legislative branches of their Government.

D. Selection of mandates

17. It was generally agreed that the criteria set by the working group on enhancing the mechanisms of the Commission on Human Rights in its 2000 report, as endorsed by Commission decision 2000/109, should continue to govern the selection of mandates, namely:

(a) Mandates should offer a clear prospect of an increased level of human rights protection and promotion;

(b) The balance of thematic mandates should broadly reflect the equal importance of civil and political rights and economic, social and cultural rights;

(c) Every effort should be made to avoid unnecessary duplication in creating or reviewing mandates, and whether the structure of the mechanism is the most effective in terms of increasing human rights protection;

(d) Any consideration of merging mandates should have regard to the content and predominant functions of each mandate holder as well as to the workload of individual mandates.

18. Certain participants voiced the concern that some of the difficulties encountered by a number of mandate holders were due to the fact that their respective mandates had been adopted by the Commission on Human Rights by a slim majority vote. One participant suggested that all mandates should be adopted by consensus, or at least a two-thirds majority. Other participants were of the view that more emphasis should be placed on establishing thematic rather than country mandates, which raised questions about selectivity and might have an adverse impact on cooperation. It was pointed out by other participants, however, that any decision of the

Commission validly adopted should be respected by all the members, and the manner of vote should in no way affect cooperation by States. Another suggestion put forward was to have a certain number of States selected every year to be subject to scrutiny, so that there was a general review of all States.

19. The proposal that OHCHR should take on an advisory role in identifying gaps in human rights protection or overlap between mandates, hence providing some guidance to the Commission/Council on the selection, merging or discontinuation of mandates, was supported by some participants, due account being taken that the creation of mandates was a political decision by member States. One participant cautioned against the Office having an advisory role in that capacity, underlining that was the member States' prerogative to select mandates and that OHCHR should confine itself to a supporting role. Another suggestion was that there should take place a thorough review of all mandates on a regular basis.

E. Cooperation by States

20. It was commonly recognized that States had the primary responsibility for the respect for human rights. In that light of this, it was underscored by many representatives of both States and NGOs and mandate holders that the cooperation of States was essential to the effective functioning of the special procedures system. This would entail, inter alia, according special procedures full access to all countries, seeking to implement recommendations and responding in a timely manner to communications.

21. Participants generally agreed that the basis for cooperation was sustained constructive dialogue between mandate holders and States. Such cooperation should be based upon mutual respect and informed by the appreciation of historical and cultural diversities, as well as the specific challenges that might exist in each society.

22. In order to encourage more cooperation, several participants welcomed the request to OHCHR of the special procedures at their twelfth annual meeting to produce an annual report containing disaggregated statistics reflecting responses, or lack thereof, to requests for visits and communications and indicating whether the response adequately addressed the substance of the allegation raised in the communication. It was also suggested that the High Commissioner and the Secretary-General should intervene, through the use of their good offices, when a State refused to cooperate with the special procedures.

23. Another proposal was the institution of mechanisms within the Council which would ensure that States that repeatedly refused to cooperate with mandate holders were not able to benefit there from. For example, membership of the Council might be barred to such States. That suggestion was opposed by some participants based on the argument that the imposition of formal criteria for membership in the Council linked to the issuing of standing invitations or implementing recommendations would contradict the sovereign equality of States enshrined in the Charter. It was also pointed out by some participants that cooperation was difficult where mechanisms were imposed on States in a selective way. Having the Manual made more widely available would also foster better cooperation and understanding between mandate holders and States.

III. WORKING METHODS OF MANDATE HOLDERS

24. In his introductory remarks to this item, the representative of the Republic of Korea observed that the main issue was how to strike the right balance between preserving the independence of mandate holders and the need for more coordination and coherence among mandate holders in their working methods. The Coordination Committee, established at the twelfth annual meeting of special procedures, would play a key role in facilitating discussions in that regard. The Manual should reflect best practices of special procedures. That should lead to better cooperation and would lend further credibility to the system as a whole.

25. Mr. Philip Alston, Chairperson of the Coordination Committee and Special Rapporteur on extrajudicial, summary or arbitrary executions, in his introductory statement informed participants that special procedures had already begun to institute many of the measures being proposed, especially with reference to updating the Manual and making it publicly available on the Internet.

26. Mr. Alston pointed out that accountability was multidimensional and multidirectional. Special procedures were accountable to the Commission on Human Rights, to the State whose record was being considered and to the public interest. There was also the accountability of States, and it was in that domain that problems regarding responses to invitations and replies to communications arose. The concern about transparency in working methods should be addressed by improving the Manual and by more extensive use of the website to post relevant documents and information. He suggested to reflect further about putting working drafts on the website together with the list of invitations for country visits and responses thereto.

27. With regard to the working methods of special procedures, he argued that the element which really threatened to undermine the system and which needed to be addressed was the ability of States to refuse a request for visits: States that cooperated were scrutinized while those States that refused invitations were not. The recommendations of special procedures should be sharpened considerably - in particular, they should be prioritized, practical, and of a reasonable number in order to facilitate follow-up and good cooperation with States. There was also a need to consider how best to highlight the extent to which States were failing to respond to communications.

28. Mr. Chris Sidotti of the International Service for Human Rights, in introducing the item, argued that there was a need to reinforce special procedures as a system and therefore to promote a stronger sense of collegiality among mandate holders. That would safeguard the independence of mandate holders from outside influence, help to enhance the basic operating methodology and ensure that best practices were obtained and shared. It would also entail mutual accountability and a degree of self-regulation in the system of special procedures. With that in mind, he suggested that it should be the mandate holders themselves who updated the Manual in an open and consultative manner, and that the Manual should be made public. He suggested that the induction of new members should also involve the mandate holders themselves.

29. Mr. Sidotti recognized that one of the main reasons for the reduced effectiveness of the special procedures system was the lack of cooperation by States. While much of the emphasis in that regard had been on encouraging States to issue standing invitations, that is a stop-gap response and the main emphasis should be on substantive cooperation. Such cooperation needed

to be based on mutual respect and an open relationship. That entailed, for example, special procedures giving prior notification to States about alleged violations before going public, without prejudice to the need for public dialogue and public engagement on human rights issues.

30. The relationship of the special procedures with the Commission/Council must be founded on regular and adequate reporting. There was also value in having the reports of special procedures made available to the General Assembly, the Security Council and other United Nations organs or agencies. Mr. Sidotti stressed the need for victims and human rights advocates to have unhindered access to the mandate holders during country visits free from any harassment, intimidation or reprisal. There should be timely public reporting by special procedures of their findings following country visits, including to the Commission/Council, shortly after the visit. On the issue of communications, he noted that the question of admissibility lay in the mandates of the special procedures individually and collectively. It would be up to the college of special procedures to determine the general criteria to be applied on a case-by-case basis. With regard to urgent communications, it was necessary for special procedures to strike the right balance between respect and the need to follow formal procedures with regard to States and the urgency of the communication: undue formality could result in unnecessary delay in addressing a situation. Finally, he expressed the view that all his recommendations could be instituted immediately, without waiting for the United Nations reform process.

31. In the subsequent discussion among participants, the following issues were raised.

A. Updating the Manual

32. There was common support for updating and improving the Manual. It was underlined that expanding the Manual should in no way curb the independence of each special procedure. Many participants felt that the Manual should reflect the use of new technologies such as the Internet to improve communication and coordination among special procedures. The online discussion forum established in 2004 by OHCHR was a good starting point in that regard and should help to foster collegial mentoring. States, NGOs and other stakeholders should provide the Coordination Committee with specific proposals on the content of the updated Manual.

B. Communications

33. Participants acknowledged that mandate holders intervened and engaged directly with Governments in a dialogue on specific allegations of violations of human rights that came within their mandates. The intervention could take the form of a letter of allegation or an urgent action, referring to alleged human rights violations that had already occurred, were ongoing, or had a high risk of occurring. The process, in general, involved the sending of a letter to the concerned Government requesting information and comments on the allegation and that preventive or investigatory action be taken.

34. Participants generally supported a more standardized format for communications, while also allowing time for States to respond. It was pointed out by some participants that urgent appeals should entail a more simplified procedure than other communications.

35. Several participants stressed that information contained in communications should be more comprehensively verified for accuracy and credibility, ideally by corroborating information from different sources. With regard to the criteria for admissibility of complaints, a few participants supported the view that domestic remedies should first have to be exhausted. Several participants, in response, pointed out that such a criterion would be unwarranted given that special procedures were not judicial mechanisms: they offered provisional protection to a potential victim of a human rights violation, and therefore there was a need to act fast upon *prima facie* evidence. Moreover, requiring the exhaustion of domestic remedies would prevent the functioning of the urgent appeals avenue, which existed to prevent imminent violations from occurring.

36. Concern was expressed by certain participants that some communications were sent to States bearing the stamped signature of the mandate holder, which raised questions about their validity. The Chairperson of the Coordination Committee, as well as other mandate holders present at the seminar, explained that all communications sent to States were always expressly authorized by the relevant special procedure. Any doubt about authorization could be taken up with the Coordination Committee if the concerned State so desired.

C. Country visits

37. It was pointed out that the country visits took place at the request of the relevant special procedure, at the invitation of the State concerned or on the basis of a standing invitation. During such missions, the experts assessed the general human rights situation in the country, as well as the specific institutional, legal, judicial, administrative and *de facto* situation under their respective mandates. During the country visit the experts met with national and local authorities, including members of the judiciary and parliamentarians; members of the national human rights institution, if applicable; non-governmental organizations, civil society organizations and victims of human rights violations; the United Nations and other intergovernmental agencies; and the press when giving a press conference at the end of the mission.

38. The success of any visit, at the preparatory level, during the visit and its follow-up, depended to a large degree on the extent to which the country concerned had cooperated with the mandate holder.

39. It was generally agreed that the procedure for requesting visits should follow diplomatic channels. The organization and facilitation of country visits should involve United Nations country teams for better cohesion and effectiveness of work during and after the visits. Where subsequent visits took place, the mandate holder should indicate whether or to what extent previous recommendations had been implemented.

40. A number of participants encouraged the resource of standing invitations, but was noted that such invitations were not an end in themselves and that States receiving special procedures should facilitate the smooth and effective functioning of the visit as much as possible. One participant underlined the fact that visits could not be imposed on States as it was the sovereign prerogative of each State to whether to issue such invitations; rather, the best way forward was

through cooperation. The idea of posting on the website a list of requests for visits and the responses thereto was rejected by this participant, based on the argument that the States concerned should not be stigmatized for refusing a request. In addition, the participant noted that the terms of reference for fact-finding missions was not an official document.

D. Reports of mandate holders

41. It was commonly agreed that the reports of mandate holders should be concise, focused, and based upon credible information. The recommendations should be prioritized, practical and constructive and take into account any obstacles to their implementation. Some participants voiced the view that reports on country visits should be made available to States before being made public, with sufficient time for States to respond. It was similarly suggested that the reports should include more information about the responses from States to recommendations and findings, which would make it easier to identify and monitor gaps in implementation. Several participants agreed that draft reports should be available on the website.

E. Role of the Coordination Committee

42. The establishment of the Coordination Committee was welcomed by all participants as an important step towards ensuring cohesion, coherence and harmonization in the working methods of special procedures, as well as in avoiding duplication of work by encouraging joint action. The Coordination Committee could also have an advisory role in the early warning function of the special procedure system by drawing the attention of the international community to situations of mounting concern. It was also suggested that the Committee act as an advisory panel to identify possible new mandate holders, draw up a roster of experts or identify protection gaps in order to guide the Commission/Council's deliberations in the creation of new mandates. Support was expressed for a system of peer review among special procedures mandate holders, which could be set up following consultation with the Coordination Committee. It was also suggested that any complaints or questions about the work of a special procedure could be put to the Committee, with a view to ascertaining if the expert had kept within the mandate and the Manual in the performance of his or her duties. It was noted that the Committee should be provided with sufficient support staff from the Secretariat, although one participant expressed concern that the establishment of the Committee should not have extrabudgetary implications or become another special procedures mechanism.

F. Interaction with the media

43. Some participants were of the view that the Manual should include updated guidelines on interactions with the media. In particular, it was suggested that where there had been allegations of violations of human rights, efforts should be made on the part of the mandate holder to contact the relevant State before holding a press conference or issuing a press statement. However, it was pointed out by some participants that the moral protection to victims offered by the special procedures should be the basis of the relationship with the media. The importance of the public statements of mandate holders at the end of a mission was highlighted, particularly in light of the fact that the official report might be made public only several months after the mission.

IV. FOLLOW-UP TO THE WORK OF MANDATE HOLDERS

44. In introductory remarks, the representative of Canada stressed that implementation was the true test of the effectiveness of human rights mechanisms. Follow-up involved a role for many stakeholders. The primary responsibility rested, however, with States. Cooperation was central to effective follow-up - that applied to replies to invitations, implementation of recommendations, accepting follow-up missions, providing information on the steps taken, requesting technical assistance where necessary, and creating domestic mechanisms and awareness-raising among government departments and in civil society. The international community also had a role in facilitating and encouraging the implementation of recommendations. The Human Rights Council could benefit from the timely participation of special procedures, including through interactive dialogue addressing follow-up and drawing attention to situations requiring urgent action. A special segment on special procedures during the Council session would help to highlight the need for follow-up. Recommendations should be clear and concise, indicate priorities and recognize financial implications. Another major player in follow-up was OHCHR - there remained a need for more technical cooperation and increased resources for special procedures' reports. A comprehensive media plan to promote awareness of special procedures and their role in the implementation of human rights would also enhance the effectiveness their recommendations.

45. In introducing the item, Mr. Louis Joinet, the independent expert on the situation of human rights in Haiti, shared the practice of the Working Group on Arbitrary Detention, of which he was formerly Chairperson-Rapporteur, in dealing with communications with Governments. He advised that where experts designated certain measures to be priorities, it should be explained why. In addition, special procedures should always respect diplomatic channels. If a special procedure wished to receive and assess replies from Governments to reports, it was necessary to submit the report in time. When a Government responded, it was important to include a chapter in the report to the Commission that took stock of any implementation of the recommendations. Follow-up visits were an important mechanism for special procedures and had two principal goals: the first was to understand why recommendations had not been implemented; the second, more important, reason was to further cooperation and provide technical assistance.

46. Mr. Peter Splinter of Amnesty International observed that the overriding importance of follow-up was to ensure that States abided by their human rights obligations. All aspects of follow-up should be given consideration, i.e the monitoring of the implementation of recommendations, of communications and of thematic studies. He underscored that there needed to be a systematic presentation of information on the extent to which States provided responses to communications. For follow-up to thematic studies, which cut across international boundaries, there should be an international response such as the drafting of treaties or action to implement international decisions.

47. To cooperate fully with special procedures, States must not only receive visits, but must also respond to and act on recommendations. Where recommendations could not be implemented, at a minimum, a Government must respond and give a prompt and detailed explanation of any obstacles to implementation. He suggested that the Human Right Council should assume responsibility for holding Governments accountable. The Council should make follow-up a distinct agenda item, demanding responses to communications and actively

encouraging implementation of recommendations. OHCHR had an important role in facilitating the implementation of recommendations on the ground. NGOs, national institutions and parliaments were also critical in ensuring that the work had a lasting effect at the national level. In order to make implementation easier, recommendations should be specific and time-bound. Follow-up measures could include requesting regular information about individual cases, dissemination of recommendations in the national language, publication of mission reports, the issuing of questionnaires to Governments to guide them in providing relevant information, follow-up visits, compilations of recommendations, and ensuring accountability for implementation at the political level at the United Nations.

48. In the ensuing discussion, the following issues were raised.

A. Follow-up to country visits

49. It was commonly agreed that it was crucial that the findings of special procedures following a country visit were not merely consigned to a report, but formed the basis of negotiation and constructive open dialogue with States, with a view to working together on overcoming obstacles. It was stressed by many participants that States should cooperate fully with special procedures and that this encompassed incorporating their findings into national policies. Where States did not implement recommendations, they should provide information on why. More avenues for communication between Governments and special procedures, both formal and informal, should be established. Furthermore, recommendations needed to be concise, realistic and concrete, taking due account of the complex situation that might exist in a country. It was generally felt that special procedures should explicitly recognize and report on steps taken by Governments to implement recommendations. Questionnaires designed to elicit relevant information from Governments in that regard were considered a useful tool for that purpose. It was also suggested that follow-up letters by special procedures and responses thereto be posted online.

B. Follow-up to communications

50. Many participants expressed deep concern about the paucity of responses by States to communications (30 per cent). It was suggested that follow-up to communications could be coordinated with NGOs who had information about the situation. There was also some support for the idea of a unified report compiling all communications sent by the special procedures and the responses thereto, which would facilitate follow-up.

C. Role of the Human Rights Council in follow-up

51. The majority of participants were of the view that the Human Rights Council should play a systematic role in monitoring follow-up. There was considerable support for including a specific item on follow-up on its agenda and for OHCHR to produce a report containing relevant information on recommendations by the special procedures and action taken thereon as a basis for discussion and action. It was also suggested that peer review might be one way to monitor follow-up activities. In addition, the interactive dialogue could be expanded to specifically discuss follow-up measures and how to make them more effective. The idea that a separate special procedure dealing exclusively with follow-up should be established was also put forward.

**D. Role of OHCHR, United Nations agencies,
NGOs and other partners in follow-up**

52. All participants agreed that follow-up required the cooperation and combined efforts of a range of partners, including United Nations agencies, civil society and national institutions. That necessitated a comprehensive, clear and realistic follow-up strategy. Most participants voiced the view that OHCHR could play a key role in devising such strategies in consultation with special procedures. There was strong support for posting on the website substantive information on recommendations as a way of encouraging cooperation by States or establishing a database of recommendations and measures to implement them. Another suggestion was that OHCHR should compile follow-up best practices. Follow-up initiatives by OHCHR were welcomed, including steps to involve UNCTs in follow-up to country visits of special procedures. More generally, OHCHR played a critical role in providing expertise and technical assistance. It was suggested that the advisory service be expanded to assist countries encountering difficulties in implementing recommendations, especially countries in transition.

53. Participants agreed that other United Nations agencies also needed to be involved, as did treaty bodies, in order to ensure coherence. With that in mind, some participants suggested that country strategies should be drawn up that took into account the recommendations of special procedures, treaty bodies and other mechanisms, and incorporated them into a workable harmonized package. It was observed by a mandate holder that not all United Nations agencies or related institutions were receptive to the work of special procedures, such as the Bretton Woods institutions. This was particularly worrying for those mandates concerned with economic, social or cultural rights, and the United Nations should consider how to apply a unified approach to such issues. Another mandate holder raised the problem of incorporating a human rights approach in United Nations peacekeeping or peace-building missions. It was suggested that the interaction between special procedures and United Nations peacekeeping missions should be clarified.

54. Participants generally concurred with the suggestion that international and national NGOs should be systematically involved in follow-up methodologies. Workshops on follow-up, where information on implementation of recommendations was compared, discussed, and a report prepared and sent to the Government and the special procedure, were highlighted as one positive example of NGO action. Such practices could be systematized, with special procedures asking national institutions and NGOs to provide information in that regard, which could then be published in annexes to the reports to the Commission/Council.

55. It was recognized that States were not monolithic entities and that there was a need to reflect the extent to which federal and local authorities were cognizant of recommendations. One participant proposed that the national media be better utilized as a way of raising public awareness about follow-up. The role of parliaments was also highlighted, and it was suggested that special procedures could be invited to explain to parliaments the extent to which their findings could help the situation in a country. Another proposal was to look at the possible involvement of professional associations in follow-up strategies.

**V. COOPERATION WITH AND SUPPORT FROM OHCHR,
THE UNITED NATIONS SPECIALIZED AGENCIES, NGOS,
NATIONAL INSTITUTIONS AND OTHER ORGANIZATIONS**

56. The representative of Mexico, in introductory remarks, underlined the importance of promoting dialogue between States, special procedures and other entities so that all could make a valuable contribution to the functioning of the special procedures system. The procedures must be able to interact at any time with the Human Rights Council in order to ensure that their findings and urgent appeals were made part of the Council's continual decision-making process.

57. OHCHR had an essential role and the development of its thematic expertise was welcomed as an important way of supporting the special procedures. OHCHR should be responsible for circulating special procedures' recommendations throughout the United Nations system. The annual report of the OHCHR, which should include the recommendations of special procedures, could be used as part of a peer review system in the Human Rights Council. OHCHR should organize meetings with Governments to promote follow-up. The Office could also help to coordinate requests for country visits. A basic methodology for the preparation of missions encompassing prior country assessment by UNCTs, country profiles by OHCHR, compilations of relevant treaty body findings, etc. should be developed.

58. It was stressed that States should support, including within the Fifth Committee of the General Assembly, requests for additional resources for special procedures. Bilateral interactive dialogues between States and special procedures should be strengthened. Other possible entities, such as universities and academic institutions, could also be looked to for support. National institutions, including ombudsmen's offices, if any, could be requested in order to provide information to special procedures, in particular, judicial rulings or administrative decisions.

59. In an introductory statement to the item, the representative of UNHCR made a number of observations and proposals from the Office's perspective. A number of examples of its cooperation with special procedures were mentioned, in particular, its contribution to the preparation and organization of missions, the exchange of information regarding conditions that could possibly lead to refoulement, negotiations regarding border access, conditions regarding return, discussion of the needs of specially vulnerable groups, and the contribution to critical reflection of the Office's approaches. Such cooperation had been explicitly recognized in resolutions of the Commission on Human Rights.

60. The representative made a number of proposals aimed at enhancing this cooperation, taking due account of the specificities of the different mandates. They included longer-term planning of missions, joint missions by rapporteurs, updating OHCHR country profiles and expanding them to a broader range of countries, and organizing meetings to bring together mandate holders, country delegates, United Nations agencies and NGOs to review follow-up measures a certain period of time (e.g. 6-12 months) after the mission. The importance of consultation between special procedures and UNHCR in the clarification or development of international standards which impacted upon the protection of refugees and asylum-seekers, in order to avoid any divergence or confusion in that regard, was underscored.

61. Ms. Loubna Freih of Human Rights Watch, in her introductory remarks, noted first that integrating the special procedures' work into the United Nations system as a whole offered

significant benefits. In terms of cooperation with special procedures, OHCHR could play a greater role in terms of using its good offices and strategic engagement with particular actors and countries to encourage better cooperation by States with special procedures. In addition, OHCHR could request formally that a country communicate in writing its reasons for non-cooperation and post such letters on the website. She welcomed the commitment to further country engagement, and stressed that it was institutionally important to have strong linkages between the geographic desks and the Special Procedures Branch. She noted the efforts to expand country profiles and suggested that these should include the recommendations of both the special procedures and the treaty bodies. She also suggested that special procedures could be used as a consultative voice, especially before high-level missions by OHCHR staff. There was a need for more country and thematic expertise in the preparation of and follow-up to missions.

62. Furthermore, strengthening the OHCHR office in New York could be important so that human rights were put on the political agenda. The human rights orientation of UNCTs could also be enhanced. There was a need to increase the Office's engagement with civil society, particularly national-level NGOs. She questioned whether it might be useful to clarify the relationship of special procedures with the United Nations system, especially in the light of the fact that mandate holders might be called upon to monitor the actions of the United Nations itself. Further special agreements between special procedures and United Nations agencies, such as the memorandum of understanding with UNDP, might be one way to advance cooperation. Finally, the interaction between special procedures and the Security Council should be enhanced. In particular, the Council should hold briefings with the special procedures and be provided with their reports.

63. In an introductory statement, Ms. Hina Jilani, the Special Representative of the Secretary-General on the situation of human rights defenders, stressed the need to clarify what was meant by cooperation. There had to be a definite framework for cooperation that needed to be built upon and institutionalized. She suggested that where there were parallel roles for human rights mechanisms and political organs of the United Nations, cooperation between the two systems could create a sound initiative in a particular region or country. In addition, the standards to which the special procedures adhered and on which they based requests for cooperation should instruct and form the basis of their work. In terms of the role of OHCHR, there needed to be better dialogue between the Office and special procedures themselves. Finally, she stressed the importance of cooperation with civil society, noting that the notion of international community included NGOs and other private groups. Their continued access to the United Nations system must be ensured and care should be taken that the modalities of access could not be discontinued or reduced in participation in any reform process.

64. In the subsequent discussion, the following issues were raised.

A. Cooperation with States

65. All participants agreed that the most important cooperation for the work of special procedures was with States. In that light, ways of generating positive political will should be encouraged.

B. Cooperation with and support from OHCHR

66. It was generally agreed that one of the core functions of OHCHR was to cooperate with and support the work of the special procedures. The recent steps taken by the Office to involve UNCTs in the work of special procedures were welcomed and more interaction of that nature was encouraged. Some participants felt that an updating of the guidelines on the relationship between special procedures and OHCHR could be helpful. It was suggested that OHCHR could better coordinate requests for country visits. Resources for special procedures should be allocated in a more transparent manner, with equal emphasis on mandates dealing with civil and political as well as economic, social and cultural rights.

C. Cooperation with other United Nations organs, specialized agencies and other organizations

67. It was generally recognized by participants that the experts' work could be greatly facilitated by exploring complementarities within the United Nations system, keeping in mind the different mandates. In particular, it would be useful to certain special procedures to draw on support from partners in economic or trade-oriented bodies. Participants welcomed the more extensive use of UNCTs in country profiling, mission preparation and follow-up activities. To further this cooperation, recommendations should be integrated in technical assistance programmes and protection activities. It was suggested that country visits by special procedures should be seen as occasions to promote inter-agency cooperation and increase public awareness of their work at the local level. Furthermore, recommendations by various United Nations bodies could be compiled in a common database for each State.

68. A number of participants stressed the need to foster better cooperation between treaty monitoring bodies and special procedures, such as sharing their respective recommendations to ensure coherence, provide mutual support and avoid duplication of work. One participant cautioned, however, that special procedures and treaty monitoring bodies had different mandates and time frames for their work.

69. Some participants noted that more interaction between special procedures and the Security Council was warranted. Reports of special procedures should be put before the Council or it should be briefed by mandate holders, where appropriate.

70. Some participants suggested that mandate holders should exchange information and feedback on country visits with intergovernmental regional organizations.

D. Cooperation with NGOs, national institutions and other partners

71. All participants recognized the key role played by NGOs in providing mandate holders with relevant information about human rights violations and ensuring appropriate follow-up to their recommendations. To increase the effectiveness of such cooperation, it was suggested that NGOs should be regularly informed of any action taken by a mandate holder as soon as possible, as well as of any replies from Governments on individual cases, on a confidential basis. It was

also advisable that mandate holders should consult with NGOs before, during and after country visits. A number of participants voiced the view that NGOs should be able to participate in an extended interactive dialogue at the Commission/Council. Academic institutions also supported special procedures.

72. It was noted that in order to ensure better cooperation with national law enforcement and human rights institutions, as well as the judiciary and parliamentary commissions, it would be advisable for Governments to inform them about the work of the special procedures. National human rights institutions, established in accordance with the Paris Principles, could be in a good position to implement recommendations. Special procedures should therefore have regular and systematic interaction with these bodies. Certain mandates required cooperation with other non-State actors, such as the private sector and even armed groups. How to get such actors to commit themselves to human rights standard was a significant challenge. A link with the Security Council, as was the case with the Special Representative of the Secretary-General on Children and Armed Conflict, might be useful in this regard.

VI. CONCLUDING REMARKS BY THE DEPUTY HIGH COMMISSIONER

73. **The Deputy High Commissioner for Human Rights concluded the seminar by thanking the participants for their extremely constructive and useful comments and proposals on enhancing and strengthening the effectiveness of the special procedures. She had taken particular note that participants had recognized that the special procedures were one of the prime instruments in the United Nations human rights protection system, and that there was overwhelming consensus that the system of special procedures should not only continue, but be strengthened in the proposed Human Rights Council. During the seminar, a common understanding had emerged of the role and functions of the mandate holders, the constraints under which they operated and the opportunities for improving the system, in particular by increased dialogue and cooperation with States, as well as further involvement by a number of other partners. A number of constructive proposals had been made to enhance the Office's facilitation of the work of special procedures and OHCHR would give them careful consideration.**

Annex

LIST OF DOCUMENTS SUBMITTED FOR THE SEMINAR*

A. United Nations resolutions and reports

Commission decision 2005/113. “Enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights”

Commission decision 2000/109. “Enhancing the effectiveness of the mechanisms of the Commission on Human Rights”

Commission resolution 2004/76. “Human rights and special procedures”

Report of the Secretary-General, “Strengthening of the United Nations: an agenda for further change” (A/57/387 and Corr.1)

Report of the Secretary-General “In larger freedom: towards development, security and human rights for all (A/59/2005) and OHCHR Plan of Action, Protection and Empowerment” (A/59/2005/Add.3)

Report of the twelfth meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme (E/CN.4/2006/4)

B. OHCHR documents

Enhancing the effectiveness of the special procedures of the Commission on Human Rights
Special procedures: paper presented by OHCHR to the informal consultation organized by OHCHR in response to Commission decision 2005/113

Guiding principles regarding the working relations between special procedures mandate holders and OHCHR staff

Notes and agenda of the seminar on enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights:

Opening remarks by the High Commissioner;

Closing remarks by the Deputy High Commissioner;

Segment 1: the role and functions of the special procedures system;

Segment 2: working methods of mandate holders;

* These can be retrieved at: <http://www.ohchr.org>.

Segment 3: follow-up;

Segment 4: cooperation with and support from the United Nations, NGOs, national institutions and other organizations.

C. Contributions from Member States

Initial discussion paper entitled “Enhancing the effectiveness of the special mechanisms of the Commission on Human Rights” prepared by the expert of the Asian Group on Human Rights

Observations of the African Group on the initial discussion paper entitled “Enhancing the effectiveness of the special mechanism of the Commission on Human Rights” prepared by the expert of the Asian Group on Human Rights

Observations of the Western Group on the initial discussion paper entitled “Enhancing the effectiveness of the special mechanism of the Commission on Human Rights” prepared by the expert of the Asian Group on Human Rights

Observations of the Eastern European Group on the initial discussion paper entitled “Enhancing the effectiveness of the special mechanism of the Commission on Human Rights” prepared by the expert of the Asian Group on Human Rights

Observations of the Latin American and the Caribbean Group on the initial discussion paper entitled “Enhancing the effectiveness of the special mechanism of the Commission on Human Rights” prepared by the expert of the Asian Group on Human Rights

Observations of Japan on the initial discussion paper entitled “Enhancing the effectiveness of the special mechanism of the Commission on Human Rights” prepared by the expert of the Asian Group on Human Rights

Position of Romania on the issue of enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

Position of the United States of America on the issue of enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

Position of the European Union on the issue of enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

Position of New Zealand and Canada on the issue of enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

Position of Switzerland on the issue of enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

Position of the delegations of Argentina, Brazil, Costa Rica, Chile, the Dominican Republic, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru and Uruguay on the issue of enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

Introductory remarks of the representative of Mexico on the issue of cooperation with and support from the United Nations, NGOs, national institutions and other organizations for enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

Conclusions of Peru, on behalf of Argentina, Brazil, Costa Rica, Chile, Guatemala, Mexico and Peru, on the issue of enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

D. Contributions from NGOs

Amnesty International: “United Nations special procedures: building on a cornerstone of human rights protection”, and three in-session papers on enhancing the effectiveness of the special procedures

Joint statement of 22 NGOs submitted to the informal consultation organized by the OHCHR in response to Commission decision 2005/113

Association for the Prevention of Torture, Enhancing the effectiveness of special procedures, in-session paper

Franciscans International, Enhancing the effectiveness of special procedures, in-session paper

Human Rights Watch, Enhancing the effectiveness of special procedures, two in-session papers

International Service for Human Rights, Enhancing the effectiveness of special procedures, four in-session papers

Quaker United Nations Office, Enhancing the effectiveness of special procedures, in-session paper

World Organization against Torture, Enhancing the effectiveness of special procedures, three in-session papers

E. Contribution from a mandate holder

Special procedures of the United Nations at the crossroads: paper submitted by Vitit Muntarbhorn, Special Rapporteur of the Commission on Human Rights

F. Contributions from a United Nations agency

Office of the United Nations High Commissioner for Refugees, Cooperation with and support from the United Nations, NGOs, national institutions and other organizations with the special procedures
