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Held at the Palais des Nations, Geneva,
on Friday, 30 June 2006, at 3 p.m.

President: Mr. DE ALBA (Mexico)

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CLOSURE OF THE SESSION

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The meeting was called to order at 5.20 p.m.

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF
15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL” (agenda item 4) (continued)

Draft statement proposed by the President of the Human Rights Council concerning the entry into force of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/HRC/1/L.5)

1. Ms. OVERVAD (Observer for Denmark) read out the amendments to the draft statement that had been agreed during the consultations. The title would be amended to read “Statement by the President on behalf of the Human Rights Council on the entry into force of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”. The first two paragraphs would be combined. Paragraph 2 would read: “The Human Rights Council reiterates General Assembly resolution 60/148, which inter alia calls upon States Parties to give early consideration to signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides further measures for use in the fight against and prevention of torture and other cruel, inhuman or degrading treatment or punishment.” Original paragraph 4 would become paragraph 3.

2. The statement of the President was adopted.

3. Mr. CERDA (Argentina) said that Argentina had been one of the first countries to ratify the Optional Protocol, and it was drafting a bill with the aim of establishing a national mechanism to prevent torture that would be in keeping with the provisions of the Optional Protocol. The mechanism would take the form of a national committee for the prevention of torture which would operate as an independent body that would not be subject to any administrative authority and would have its own budget. His delegation was convinced that the new international instrument would prove to be an extremely useful means of preventing torture and ill-treatment and would help to protect the human rights of all persons subjected to detention or imprisonment.

Draft resolution on the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action (A/HRC/1/L.8)

4. Mr. JAZAIRY (Algeria), speaking on behalf of the Group of African States, said that the draft resolution endorsed the conclusions and recommendations contained in the report of the fourth session of the Intergovernmental Working Group (E/CN.4/2006/18). It was co-sponsored by 63 delegations. He expressed the hope that the resolution would be carried by consensus.

5. The PRESIDENT announced that six delegations had joined the list of sponsors. The draft resolution had programme budget implications, which were contained in a paper that had been circulated among the members of the Council.

6. Mr. MEYER (Canada) said that his delegation was pleased to join the consensus on the draft resolution. The single most pressing obstacle to tackling racism was the failure of States to implement existing obligations. Although the International Convention on the Elimination of All Forms of Racial Discrimination was one of the most widely ratified treaties, racism and discrimination remained widespread. Canada would closely follow any future discussions on complementary standards, as it considered that a new instrument was not needed. Discussions on complementary standards by the Human Rights Council should first and foremost assess challenges to the implementation of existing mechanisms, particularly the International Convention on the Elimination of All Forms of Racial Discrimination, before considering the creation of new ones. The five experts should begin their study with an examination of the implementation of existing instruments, and should consider all options for addressing and bridging any identified gaps that might be identified.

7. The draft resolution was adopted.

Draft statement by the President of the Human Rights Council on the issue of hostage-taking (A/HRC/1/L.9 and a document circulated in the meeting room in English only)

8. The PRESIDENT said that the text submitted for adoption was based on the draft resolution contained in document A/HRC/1/L.9. The text would take the form of a statement by the President of the Council, made with the support of the members of the Council.

9. The draft statement was adopted.

PROGRAMME OF WORK FOR THE FIRST YEAR (agenda item 5) (continued)

Draft decision on the draft framework for a programme of work of the Human Rights Council for the first year (A/HRC/1/L.13)

10. Ms. AJAMAY (Observer for Norway) said that, in the first paragraph of the draft framework, the phrase “taking into account the transitional character of that period” should be inserted after the words “for the first year”. In the chart of the draft framework, under “1. Reports of mechanisms and mandates”, in the “Session 2” column, the words “in accordance with Human Rights Council resolution 6” should be added after “Reports of the special procedures”. In each column under “Other substantive issues”, the word “resolutions” should be added after “initiatives/issues/decisions”, and the phrase “to be communicated a minimum of 15 days ...” should be amended to read “to be communicated through the Secretariat, if possible a minimum of 15 days ...”. Also under “Other substantive issues”, the title, “Interactive dialogue with the High Commissioner on reporting” should be added in the first box under the “Session 4” column.

11. The draft decision, as orally revised, was adopted.

12. The PRESIDENT said that he intended personally to be involved in the working groups and the framework for the programme of work. He was committed to ensuring transparency and including all interested parties. The cooperation of all members of the Council in those efforts would be crucial to establishing a strong institution that met everyone’s aspirations.

13. Mr. HIMANEN (Finland), speaking on behalf of the European Union, said that the European Union welcomed the draft programme of work for the first year of the Council. The proposed framework struck the necessary balance between predictability in the Council's work and flexibility in its ability to respond effectively to emerging issues and situations.

14. With regard to the presentation of the annual report of the High Commissioner for Human Rights, the European Union continued to attach the greatest importance to the independence of the work of the High Commissioner and her ability to present reports in her own terms, in accordance with her mandate and General Assembly resolution 60/251.

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF
15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL" (agenda item 4) (continued)

Draft decision on the human rights situation in Palestine and other occupied Arab territories
(A/HRC/1/L.15)

15. Mr. KHAN (Pakistan), introducing the draft decision on behalf of the sponsors, said that indiscriminate attacks on civilians and the economic siege caused by the cutting off of international aid and the withholding of Palestinian tax revenues had led to a deterioration of the situation in the occupied Palestinian territories. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 had attested to the grave human rights and humanitarian situation. The recent events in Gaza had further exacerbated the plight and suffering of the Palestinian people.

16. Paragraph 3 of General Assembly resolution 60/251 provided that the Council should address situations of violations of human rights, including gross and systematic violations. The States members of the Organization of the Islamic Conference had therefore submitted the draft decision which, in view of the Council's time constraints, was extremely brief and went to the crux of the matter. He looked forward to unanimous support for its adoption.

17. The PRESIDENT announced that the draft decision had programme budget implications, which were contained in a paper that had been circulated among the members of the Council.

18. Mr. LABIDI (Tunisia), speaking on behalf of the Group of Arab States, said that the Arab States supported the statement made by the delegation of Pakistan on behalf of the States members of the Organization of the Islamic Conference. The Group of Arab States had been engaged in negotiations in order to find a compromise that would be in keeping with General Assembly resolution 60/251. It had shown flexibility and a willingness to consider all proposals made by the regional groups. In view of the serious deterioration of the human rights situation in Palestine and other occupied Arab territories, the Council should express its deep concern.

19. Mr. LEVANON (Israel) said that the draft decision was unbalanced and intentionally one-sided, and ran counter to the spirit of General Assembly resolution 60/251. The Council must not let itself become a mere instrument for Israel-bashing and be politicized and subverted by propaganda.

20. A fundamentalist terrorist organization had seized control of the Palestinian Authority. By its own admission, that organization called for the destruction of the State of Israel. It had taken its own people hostage in a campaign of indiscriminate terrorism, and had also taken Israeli hostages, one of whom had already been murdered. The terrorist entity indiscriminately shelled Israeli cities, targeting children and civilians, and used its own civilians as human shields, which was clearly a war crime and a crime against humanity. No country represented in the Council would let its own civilians be subjected to such clear and imminent threats.

21. The adoption of resolutions that ignored the facts would not alleviate the hardship of the Palestinians. Those who advocated adoption of the draft decision would have the Council believe that, in such a tragic conflict, only one side could claim to be the victim, as if no suicide bombs constantly exploded in crowded streets in Israeli cities, killing innocent civilians and wounding many others.

22. The Secretary-General had recently said that he hoped that the Council would abandon the former Commission's practice of selectivity and would not focus on Israel's record without paying attention to the records of other States. To ensure a fresh beginning, the members of the Council should vote against the draft decision.

23. Mr. ABU-KOASH (Observer for Palestine) said that Israel had instituted terrorism in the Middle East, particularly in Palestine, and had inflicted endless suffering on the Palestinian people. Although Israel claimed to be acting in self-defence, it had invaded and occupied foreign territory and was killing innocent civilians. The Israeli occupation authorities had abducted half the members of the Palestinian Government. The President of Palestine was under house arrest in Gaza and was unable to move to the West Bank. Israel was a fascist regime that was tolerated owing to the support that it received from a certain super-Power. In Palestine, water and electricity supplies had been cut, people had no access to medicines, and their salaries had been withheld for the past four months. In his statement, the representative of Israel had distorted the facts. Israel's human rights violations should not be tolerated, whether or not they were supported by the United States.

24. Mr. JA'AFARI (Observer for the Syrian Arab Republic) said that the Israeli occupying forces had abducted thousands of Palestinians, Syrians and Lebanese. Although colonialism had been eliminated everywhere else in the world, it continued to exist in Palestine. He asked why 15 Israeli fighter aircraft had recently violated Syrian airspace. Contrary to what the representative of Israel had said, the Israeli occupation of Palestine was a reality that must be addressed in the context of the United Nations, and from the perspective of international humanitarian law. The 953 Palestinian children who had been killed by Israeli snipers had not

been terrorists, and neither had the thousands of women who had been killed in Palestinian territory. The Human Rights Council must condemn such discrimination. The many existing United Nations resolutions against Israel should be implemented in order to end the current situation in Palestine.

25. Mr. SOUFAN (Observer for Lebanon) said that he hoped that the draft decision would be adopted by consensus. His delegation was disappointed that the many attempts to draft a common document on the human rights violations committed by Israelis in the occupied territories had not been successful, and hoped that the Human Rights Council would address that issue. Israeli actions were having devastating consequences not only in the occupied territories but also further afield. All possible diplomatic efforts must be made to address that situation, and he called on the members of the Council to vote in favour of the draft decision.

26. Mr. HIMANEN (Finland), speaking in explanation of vote before the voting, on behalf of the European Union member States that were members of the Human Rights Council and the acceding country Romania, said that the European Union was concerned at the recent escalation in violence in Palestine, and urged all parties to fulfil their obligations under international human rights and humanitarian law and to protect civilian lives. The Council should provide an opportunity to address human rights situations in a constructive atmosphere, and should encourage States to fulfil their human rights obligations. The European Union regretted that it had not been possible for the Council to come to an agreement on a comprehensive statement on subjects of concern, including the situation in the occupied Palestinian territories, religious intolerance, the situation of human rights defenders and the situation in Darfur. The European Union would therefore vote against the draft decision.

27. Ms. RODRÍGUEZ MANCIA (Guatemala) said that the international community should not ignore the suffering of any of the parties involved in the conflicts in the occupied Arab territories. In order to resolve the problem in a peaceful manner, cooperation and dialogue should prevail.

28. Mr. MEYER (Canada), speaking also on behalf of Australia, said that his delegation was disappointed that the draft decision on the human rights situation in Palestine and other occupied Arab territories had been submitted to the Council. Canada had hoped that the Council's discussions on the subject would have been reflected in a consensus-based statement rather than a one-sided decision. His delegation was dissatisfied with the procedure through which the issue had been introduced, and did not accept the singling out of one specific situation by the Council. Canada would therefore vote against the draft decision.

29. Mr. THORNE (United Kingdom) said that the draft decision took an unbalanced approach to the situation in Palestine and other occupied territories. At such an early stage in its existence, the Council should not decide how often it would discuss certain issues at its future sessions. While his delegation was prepared to take part in substantial discussions on the situation in the Israeli-occupied territories at future sessions of the Council, it could not support the draft decision.

30. At the request of the representative of Finland on behalf of the States members of the European Union that were members of the Council and the acceding country Romania, a recorded vote was taken on the draft decision.

In favour: Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Brazil, China, Cuba, Ecuador, Gabon, India, Indonesia, Jordan, Malaysia, Mali, Mauritius, Mexico, Morocco, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Tunisia, Uruguay, Zambia.

Against: Canada, Czech Republic, Finland, France, Germany, Japan, Netherlands, Poland, Romania, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Cameroon, Ghana, Guatemala, Nigeria, Republic of Korea.

31. Draft decision A/HRC/1/L.15 was adopted by 29 votes to 12, with 5 abstentions.

32. Mr. GODET (Switzerland) said that his delegation was disappointed that a consensus had not been reached on the text of the draft decision. Switzerland's opposition to the text was not based on the substance of the decision, but rather on the Council's procedures. All parties to the conflict should respect international human rights and humanitarian law.

33. Mr. ENDO (Japan) said that his delegation was concerned about the grave human rights and humanitarian situation in the Israeli-occupied territories, and considered that the deterioration of the situation might have a negative effect on future efforts to establish peace. All parties to the conflict should exercise maximum self-restraint. Since the Council was in its first session, a consensual approach would have been preferable, and Japan had therefore voted against the draft decision, which it did not consider to be a constructive text.

34. Mr. GONZÁLEZ (Uruguay) said that Uruguay had voted in favour of the draft decision, since its demands were in keeping with the gravity of the situation. Nevertheless, the vote had not set a good precedent. In future, such situations should be addressed through dialogue and negotiation.

35. Mr. CERDA (Argentina) said that his delegation supported the efforts of the international community to encourage the parties to the conflict to resume dialogue, and supported United Nations initiatives in that regard.

Draft decision on incitement to racial and religious hatred and the promotion of tolerance (A/HRC/1/L.16)

36. Ms. JANJUA (Pakistan), introducing the draft decision on behalf of its sponsors, said that incitement to racial and religious hatred was a formidable challenge and one of the main causes of social disharmony and human rights violations. The Organization of the Islamic Conference therefore wished to thank the Council for including it among the five urgent issues to be addressed at its first session. The Organization of the Islamic Conference was deeply concerned about the rise in Islamophobia, the ethnic and religious profiling of Muslims and the use of the media for incitement to violence, racial hatred, xenophobia and related intolerance.

According to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, open validation of Islamophobia in intellectual discourse and in the media had led to violent outbursts of racism and xenophobia against Muslims and Arabs. The most insidious manifestation of such stereotyping had been the publication and reprinting of caricatures. Under article 20 of the International Covenant on Civil and Political Rights, States were required to prohibit by law any advocacy of national, racial or religious hatred that constituted incitement to discrimination, hostility or violence. In a joint statement issued on 7 February 2006, the United Nations Secretary-General, the Secretary-General of the Organization of the Islamic Conference and the High Representative of the European Union for the Common Foreign and Security Policy had emphasized the need for renewed dialogue among faiths and cultures to promote respect and friendship. The President of the General Assembly had also urged the Council to address the issue. Although the Council had regrettably been unable to agree on a consensus statement, she urged members to adopt the draft decision by consensus.

37. Mr. MEYER (Canada) said that Canada was acutely aware that religious intolerance was a matter of great concern throughout the world and agreed with the High Commissioner for Human Rights that harmful stereotypes and myths that demonized, ridiculed or insulted deep-rooted religious beliefs should be denounced. While combating all forms of religious intolerance and urging States to respect the right to freedom of thought, conscience and religion as guaranteed in article 18 of the International Covenant on Civil and Political Rights, Canada was also a strong proponent of freedom of expression, as guaranteed by article 19 of the Covenant.

38. Canada had difficulty with calls for the protection of religions themselves rather than for the promotion and protection of the rights of adherents of religions. As it was individuals who had rights, not religions, it was questionable for the Council to refer to “defamation of religion”. However, Canada fully endorsed the proposal to have a panel discussion on religious intolerance at the Council’s second session in September 2006 with the participation of relevant special rapporteurs, including the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on freedom of religion or belief. The fact that the draft decision had been issued while constructive discussions were under way on a consensus-based Council statement on the subject was reminiscent of the old way of proceeding in the Commission and jeopardized the solidarity of the Council. Canada had therefore decided to call for a vote on the draft decision and would vote against it.

39. Mr. HIMANEN (Finland), speaking on behalf of the European Union members of the Council and the acceding country Romania, said that, although the draft decision addressed an issue of great importance, it presented both procedural and substantive difficulties for the European Union. The European Union firmly believed that constructive dialogue rooted in mutual respect and understanding was the best way of addressing the issue of religious intolerance. Action on the draft decision at such a late stage in the session was not in keeping with the spirit of genuine dialogue and cooperation advocated by the General Assembly in its resolution 60/251. While the European Union would have liked to propose a number of amendments to the text, the sponsors had not held any consultations.

40. Promoting respect for all religions and beliefs was best addressed in a comprehensive manner, based on reaffirmation of the need for equal promotion and protection of all human rights. The focus on defamation of religions implied protection of religion as an institution without due regard for the individual's right to freedom of religion and belief. Such a focus might therefore be used to justify limitations on or denial of the enjoyment of human rights. The European Union wished to highlight the role of the Special Rapporteur on freedom of opinion and expression in addition to the two special rapporteurs referred to in the draft decision. While it was prepared to engage in a constructive dialogue rooted in mutual respect and understanding through all existing mechanisms, the European Union was unable to support the draft decision and its Council members would vote against it.

41. At the request of the representative of Canada, a recorded vote was taken on the draft decision.

In favour: Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Brazil, Cameroon, China, Cuba, Ecuador, Gabon, Ghana, Guatemala, India, Indonesia, Jordan, Malaysia, Mali, Mauritius, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Tunisia, Uruguay, Zambia.

Against: Canada, Czech Republic, Finland, France, Germany, Japan, Netherlands, Poland, Romania, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Republic of Korea.

42. The draft decision was adopted by 33 votes to 12, with 1 abstention.

The meeting was suspended at 6.45 p.m. and resumed at 7.10 p.m.

REPORT TO THE GENERAL ASSEMBLY ON THE FIRST SESSION OF THE COUNCIL
(agenda item 6) (A/HRC/1/L.10)

43. Mr. ABREU E LIMA FLORÊNCIO (Brazil), speaking on behalf of the Group of Latin American and Caribbean States, said that paragraphs 36 and 37 of the draft report to the General Assembly (A/HRC/1/L.10) should have referred to the subject of international migration and human rights. The Group would also have liked to see a message from the Council to the United Nations High-level Dialogue on International Migration and Development, which would be held in New York in September 2006, to the effect that a holistic approach focusing on the human rights of migrants should be adopted.

44. Mr. BURAYZAT (Jordan), speaking in his capacity as Rapporteur, said that not since the founding of the United Nations some 60 years earlier had the international community been faced with such a daunting task as the creation of a completely new intergovernmental human rights body. While General Assembly resolution 60/251 laid down the basic principles and general framework applicable to the new body, the Council itself was largely responsible for giving shape to that framework. Such a complex task should be approached with circumspection. The Council could draw on the strengths and achievements of the Commission

and avoid its shortcomings, but it must also be prepared to prioritize and should not shy away from pressing issues. It was therefore appropriate to follow a dual track, giving attention to complex technical and procedural issues, while at the same time discussing substantive matters and collectively identifying a set of critical issues.

45. A fruitful discussion had been held on dialogue and cooperation, focusing on human rights education, capacity-building and technical assistance. The reports of the former Commission's five intergovernmental working groups had been considered and new human rights standards had been adopted: the International Convention for the Protection of All Persons from Enforced Disappearance and the United Nations Declaration on the Rights of Indigenous Peoples. It followed that the Council could deal effectively and credibly with numerous challenges if it mustered sufficient political will and commitment.

46. A record number of dignitaries had addressed the new body during the high-level segment. The Council had subsequently heard statements by special procedure mandate holders and representatives of the Sub-Commission on the Promotion and Protection of Human Rights, human rights treaty bodies, other United Nations bodies and international organizations, NGOs and national human rights institutions.

47. Steps had been taken to develop the modalities for the universal periodic review mechanism and the review of mandates, mechanisms, functions and responsibilities inherited from the Commission. The decision to extend the mandates of special procedures and the Sub-Commission, including the 1503 procedure, for one year on an exceptional basis and subject to review would ensure that there was no protection gap during the transitional period. A framework for the Council's programme of work during its first year had also been adopted.

48. The format of the draft report was based on the agenda and programme of work for the first session and should not serve as a precedent for future sessions of the Council. In conformity with United Nations documentation rules and guidelines for reports to the General Assembly, it consisted of a procedural description of the Council's work. The substance of the discussions, including during the voting process, would be reflected in the official summary records. Audio and video files of the meetings were also available on the website of the Office of the United Nations High Commissioner for Human Rights and on the Council's extranet.

49. The draft report was composed of six chapters corresponding to the agenda items and, for the time being, covered the proceedings until the end of the previous day. An account of the remainder of the proceedings would be included in the final version. Draft resolutions and draft decisions for action by the General Assembly were set out in chapter I. Chapters II to V reflected the proceedings of the session and chapter VI contained the resolutions and decisions adopted by the Council. Annex I contained the agenda, annex II the programme of work, annex III the estimated administrative and programme budget of Council resolutions and decisions, annex IV the list of attendance and annex V the list of documents.

50. Any comments on or corrections to the draft report should be submitted through the secretariat of the Council by 14 July 2006. The final report would be submitted to the General Assembly at its sixty-first session, it being understood that a separate document containing resolutions and decisions requiring urgent attention and action might be submitted immediately for consideration by the Assembly, in keeping with the well-established practice of a number of United Nations bodies.

51. The PRESIDENT said that he took it that the Council wished to adopt the draft report ad referendum.

52. It was so decided.

CLOSURE OF THE SESSION

53. The PRESIDENT said that the Council had embarked on the process of building the new human rights institution with expressions of support at its inaugural meeting by the President of the General Assembly, the United Nations Secretary-General, the High Commissioner for Human Rights and a Nobel peace laureate. It had heard statements from more than 85 dignitaries, from representatives of civil society and national human rights institutions and from parliamentarians. The Council had been motivated throughout the session by the principles of transparency, inclusiveness and dialogue.

54. The Council had successfully risen to the challenge of dealing with both procedural and substantive issues. Its interactive dialogues, including its dialogue with the High Commissioner for Human Rights, had covered not only the five major topics but also other matters deemed to be of special importance. The adoption of the International Convention for the Protection of All Persons from Enforced Disappearance and the United Nations Declaration on the Rights of Indigenous Peoples demonstrated the Council's ability to enhance the system of human rights standard-setting. A major event during the session had been the entry into force of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Council must seek to promote its wider ratification and implementation. Important decisions had just been taken on the situation of human rights in Palestine and other occupied Arab territories, and on the promotion of religious tolerance.

55. Agreement had been reached on the establishment of working groups on the modalities of the universal periodic review mechanism and on the review of special procedures. Although no deadline had been set for completion of the working groups' tasks, he urged all concerned to move forward on both fronts as soon as possible.

56. The Council must continue to deal with the complex issues before it in a spirit of dialogue and mutual understanding, recognizing that every view had merit. The process of confidence-building would take time, and he would do everything in his power to encourage and support that process.

The meeting rose at 7.40 p.m.