

**Statement by Malaysia on Progress Report of the Working Group  
on the Review of Mandates and Mechanisms  
3 October 2006**

Mr. President,

My delegation associates itself with the statements by Pakistan on behalf of the OIC and by Saudi Arabia on behalf of the Asian Group. We thank the facilitators - the distinguished Ambassadors of Czech Republic, Jordan and Switzerland - for their updates on the work done so far in the implementation of Operative Paragraph 6 of General Assembly resolution 60/251.

2. ~~Allow me first to refer to the process that the Council has undertaken in implementing that resolution.~~ We agree that the recent series of open-ended informal consultations on the review and rationalisation of mandates, expert advice and complaint procedure have been useful. <sup>we</sup> ~~In our assessment, there is already common understanding among delegations on a number of elements relevant to this exercise. At the same time, further deliberations are still required to promote such understanding on other important elements of the review.~~

3. ~~All efforts should be made to finally achieve consensus on all aspects of the so-called reform of a system that had formed part of the functioning of the former Commission on Human Rights so that it will suit the overall mandate and functioning of this new Human Rights Council.~~ Given the allocated period of one year for the Working Group on the Review of Mandates and Mechanisms to conclude its work, it is imperative that the process be expedited with a view to <sup>we believe that the compilation of input in a structured format would</sup> ~~bridging the divergences of positions in a more structured approach.~~ We take note that the Facilitators are in the process of compiling all inputs provided during the open-ended informal consultations <sup>by the Panelists</sup> ~~We hope that such compilation will facilitate the work of the Working Group when it next meets.~~

4. Given the linkages and complementarities of the work of the Working Group on the Review of Mandates and Mechanisms and that of the UPR, both should ensure consistency in their recommendations to the Council. In the meantime, both Working Groups should be keeping pace with each other, working in parallel so that they will reach their outcome around the same time. We believe this will consequently facilitate the work of the Council in a more effective manner.

Mr. President,

5. Let me now briefly reiterate some elements of the review of special procedures which ~~are~~ <sup>we consider</sup> fundamental to my delegation, ~~taking into account~~ ~~Decisions 2006/102 and 2006/104 the Council adopted at its first session:~~

- 5.1 The Council should as far as possible establish a mandate/special procedure through consensus decision. This will ensure solid support for the follow-up work of the mandate concerned. We should at all avoid any perception that a particular mandate is a result of politicisation or controversial manoeuvrings. There must be clear guidelines on the rationale and criteria for establishing new mandates, and the needed resources should be allocated to all mandate holders in a transparent and balanced manner.
- 5.2 The Council should elect a mandate holder/ special procedure from candidates nominated by States, as is the case of appointment of members of treaty bodies. This method will guarantee a transparent process besides ensuring consensus on the highest standard of professionalism. We do not agree that such method may affect impartiality and independence of special procedures. If so, we would have had problems with the treaty bodies. A mandate holder should not serve more than two consecutive terms of three

years each and may only be eligible for consideration after a lapse of three years;

5.3 Relating to appointment of mandate holders also, there should be adequate balance in the appointment of mandate holders for all core components of human rights. Adequate balance is also necessary in terms of geographical representation in the overall composition of mandate holders;

5.4 <sup>Council</sup> There should be clear terms of reference for each mandate holder and a uniformed code of conduct for all, including a specified and uniformed term of office;

5.5 The Council should regularly review performance of mandate holders to correct any gap that may exist in fulfilling their mandates and to maintain a high level of their professionalism;

5.6 As many have said, there should not be any overlapping of mandates and work among mandate holders, as well as between them and other UN human rights mechanisms.

5.7 We underline the importance to undertake a case by case review of special procedures as early as possible

6. The Sub-Commission for the Promotion and Protection of Human Rights, functioning as an advisory body, has contributed positively to the work of the Commission on Human Rights. Malaysia believes in maintaining this system of expert advice, taking into account the achievements of the Sub-Commission while rationalising some aspect of its work for further improvements. The expert advice body must also adhere to the same Code of Conduct as other Special Procedures.

depending on title availability.

7. As regards the 1503 Complaint Procedure, the confidentiality aspect of the process should remain a central feature, if the procedure is to be maintained. A clear set of criteria for admissibility of complaints and allegations should be laid down and strictly observed. In undertaking its work, a concerned State should be allowed to provide inputs directly to the mechanism processing the complaints. In whatever form it may eventually take, the 1503 Complaint Procedure should also function as a cooperative mechanism of the Council, giving special focus to the capacity building, technical assistance and advisory services, if requested by the State concerned.

Thank you.