

**NEW ZEALAND MISSION to the UNITED NATIONS**



**Te Māngai o Aotearoa**

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**UNITED NATIONS GENERAL ASSEMBLY  
SIXTIETH SESSION**

**INFORMAL CONSULTATIONS OF THE PLENARY ON THE HUMAN RIGHTS  
COUNCIL**

**Second meeting: mandates and functions**

**STATEMENT BY H E ROSEMARY BANKS  
PERMANENT REPRESENTATIVE OF NEW ZEALAND**

**ON BEHALF OF CANADA, AUSTRALIA AND NEW ZEALAND**

**TUESDAY 18 OCTOBER 2005**

**CHECK AGAINST DELIVERY**

Mr President,

Canada, Australia and New Zealand would like to first of all take this opportunity to reaffirm our support for this process, and for both the draft timetable you distributed at the last meeting and the schedule of meetings circulated by the Co-Chairs. We believe that the process that you have outlined is open, transparent, and inclusive, and the most appropriate way forward.

### Thematic forum

Two things would help to improve the thematic debates from what we currently have in the Commission. Firstly, the Council as a whole needs to reconsider how it organises debate on thematic issues without falling back into the patterns of the Commission. The Commission spends too much of its time negotiating resolutions on thematic issues that are repetitive, poorly focused, and too long. Consequently, the debate on many thematic issues has become stale, and we as diplomats are mistaking activity for achievement.

The Council needs to redesign the thematic debate from scratch. That should go hand in hand with discussions on how to put the standing nature of the Council into practice. How often the Council meets, and for how long, will depend on what sort of debate we want it to have.

The debate should be refocused around new and emerging issues, and on implementation of agreed standards. It should also be more closely linked to the work and recommendations of the special procedures, many of whom prepare excellent reports that are currently largely ignored by delegates rehashing old debates in their resolutions. The High Commissioner should also be able to draw issues to the attention of the Council.

Secondly, we should reconsider the practice of negotiating resolutions. They will still be needed on some occasions, but they should be shorter and action oriented. We need to get away from the culture of negotiations being the default activity of the Council, where the success of a meeting is judged by the number of pages of text it produces.

Having said all of that, we consider that the fine tuning on how thematic discussions should be conducted could be left for the Council. The level of detail in paragraph 140(a)(i) of President Ping's draft outcome document Rev.2, which would mandate the Council to examine thematic issues, seems to us to be about right. That paragraph was unchallenged during the outcome negotiations, and could easily be replicated in the compilation text that you plan to issue.

### Promotion of cooperation and technical assistance

Mr President, we all know that having diplomats sitting in meeting rooms debating human rights theory will never, in itself, improve the situations of those people who are being denied their basic human rights. The work of the Council must be directed towards actual on the ground improvement in the observance of human rights.

For those few governments who simply ignore their human rights obligations, attention by the international community is appropriate and can be instrumental in bringing about change and improvement. For those many governments, on the other hand, who are willing to improve their application of human rights standards but do not have the capacity, non-political cooperation and technical assistance is essential.

There has been common recognition that the UN system as a whole needs to do more to provide such technical assistance. The roles of the Council and the High Commissioner for Human Rights should be complementary in formulating strategies in this regard, and the Council can provide a useful forum for member states to exchange best practices and experiences in overcoming the challenges of implementation. None of us has a perfect record, and all of us can learn from each other.

Again, that gets us into more detail than we would need to put into the resolution establishing the Council. As with the paragraph on thematic issues, paragraph 140(a)(ii) of President Ping's Rev.2 draft outcome document on technical assistance and cooperation was not challenged during the negotiations, and should be included in the compilation text.

### Development of norms

Mr President, we said in our statement last week that there needed to be a clear division of labour between the Council and the Third Committee to avoid the current duplication between these bodies. Assigning norm development to the General Assembly, and not the Council, would be a good place to start.

In last week's discussion, and previously, many delegations expressed concern that a small Council would not be representative enough to develop norms that apply to all. This is a valid point. We need to balance that, however, with the need for a Council that is small enough to be effective. The logical answer is for the General Assembly, with its universal membership, to undertake the norm development work, leaving the Council to focus on implementation.

There is a precedent for this. The General Assembly is already negotiating a new core human rights treaty on the rights of people with disabilities. It is doing so in a non-politicised manner, and the transparent, constructive and consultative nature of the debate is a model for how norms should be

developed.

While proposals for new norms could emanate from the Council, they should be passed to the General Assembly for development.

#### Periodic review

As we search for new and constructive approaches to assist states in the implementation of human rights, a periodic review, by peers, of the human rights situation in states merits further consideration.

A well-designed periodic review could enable a useful discussion of the challenges we all face in the implementation of human rights. It could also assist us in identifying needs and opportunities to support interested states with technical assistance and capacity development. It should not replace or duplicate existing mechanisms, but complement them.

#### Assumption and review of mandates of the Commission on Human Rights

Mr President, the establishment of the Council provides an opportunity to review existing mandates. We would prefer, however, that the Council undertakes that task.

The system of Special Procedures of the Commission similarly must be carried over to the Council. For the most part, the Special Procedures have been instrumental in highlighting issues that need to be discussed, and providing expert and independent contributions to the debate. There was no serious opposition during the outcome document negotiations to continuing the system of Special Procedures, and last week's seminar in Geneva on the strengthening of the Special Procedures reaffirmed that there is a vital role for them in the new Council. They should be retained in the compilation text you prepare.

Mr President, what is not covered by the list of headings you have asked us to discuss is urgent or grave situations of human rights violations. The Commission on Human Rights currently addresses such situations. It is essential that the Council also have the ability to continue do so, as outlined in the Outcome Document.

Thank you Mr President for this opportunity to put forward our views as CANZ.