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Fourth session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 16 March 2007, at 10 a.m.

President: Mr. DE ALBA (Mexico)

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The meeting was called to order at 10.15 a.m.

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF
15 MARCH 2006 (agenda item 2) (continued)

Reports prepared by the secretariat, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Secretary-General (continued)

Reports of intergovernmental working groups (continued)

Statements in exercise of the right of reply

1. Mr. DROUSHIOTIS (Observer for Cyprus), referring to the claim by the observer for Turkey that his country did not occupy Cyprus, deplored that speaker's inability to refer to countries by their official designation as States Members of the United Nations and drew attention to Security Council resolution 550 (1984), which expressed grave concern about the further secessionist acts in the occupied parts of Cyprus and called on States not to recognize any Cypriot State other than the Republic of Cyprus. He drew attention also to General Assembly resolution 37/253, which demanded the immediate withdrawal of all occupation forces from the Republic of Cyprus.
2. Mr. FRANCO (Observer for Colombia), referring to the calls made by a number of non-governmental organizations (NGOs) at previous meetings for close monitoring of the human rights situation in Colombia, said that his country had issued a standing invitation to the special procedures, had invited the OHCHR office to remain in the country and had volunteered to be one of the first countries to submit to the universal periodic review procedure. With regard to the efforts to clarify the relationship between illegal armed forces and those exercising political authority in Colombia, he recalled that the Deputy Prime Minister of Colombia had stated during the high-level segment of the current session that the Government was strongly supporting the judiciary in that regard.
3. Some speakers had cited passages in the High Commissioner's report on the situation of human rights in Colombia (A/HRC/4/48) in which she had drawn attention to specific challenges facing the country. He assured them that Colombia had taken due note of those passages and was seeking to address the challenges. While inviting NGOs to continue their independent monitoring of the situation, he urged them to acknowledge the work accomplished by the State either as a result of NGO pressure or in collaboration with NGOs. He pointed out that objectivity enhanced legitimacy and that joint action enhanced efficiency and effectiveness.
4. Ms. ÜĞDÜL (Observer for Turkey) said that it was clear from paragraph 2 and the conclusion of the OHCHR report on the situation of human rights in Cyprus (A/HRC/4/59) that a comprehensive settlement was necessary for the full enjoyment of human rights in that country. It was also evident that Turkey and the Turkish Republic of Northern Cyprus were committed to a comprehensive settlement, especially in view of Turkish Cypriot support for the United Nations Plan as expressed in the April 2004 referendum. Although the Greek Cypriots claimed to be committed to a settlement, they had missed a historic opportunity to demonstrate

their commitment when they had rejected the Plan. The Greek Cypriot side had failed to clarify its position until July 2006. It must now turn its words into deeds so that working groups and technical committees could be set up to reach a comprehensive settlement.

5. The terminology used by Turkey in referring to the Greek Cypriot side reflected the fact that it did not represent the island as a whole.

6. Mr. CHHEANG Vun (Observer for Cambodia) said that Cambodia regarded democracy based on recognition of human dignity as the appropriate value system for its people. Every Cambodian had the right to social, religious and political freedom and was entitled to enjoy the right to development through the fair distribution of national income. The Cambodian Government's human rights policy was based on the belief that national reconciliation, democracy, peace, social justice and economic development were closely intertwined and that progress on one front was not possible without progress on the others.

7. He thanked all Cambodian leaders who had opposed the Khmer Rouge in 1979, protecting the human rights, particularly the right to life, of the Cambodian people. He also thanked the High Commissioner, who had expressed her support during her visit to the country for the efforts of the Cambodian Government and people to promote human rights. He pledged to continue working with OHCHR to strengthen democracy and human rights in Cambodia.

Follow-up to resolutions and decisions adopted by the Human Rights Council (A/HRC/4/80, 113, 115 and 116; A/HRC/4/G/2; A/HRC/4/NGO/29, 104 and 145)

Human rights situation in the Occupied Palestinian Territory (resolutions S-1/1, 2/4 and 3/1) (A/HRC/4/17)

8. The PRESIDENT recalled that in its resolution S-1/1, entitled "Human rights situation in the Occupied Palestinian Territory", the Council had decided to dispatch an urgent fact-finding mission headed by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. By its resolution 2/4, entitled "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan", it had decided to continue the consideration of the question at its fourth session, and by resolution 3/1, entitled "Human rights situation in the Occupied Palestinian Territory: follow-up to Human Rights Council resolution S-1/1", the Council had requested the Special Rapporteur to report to the Council on the implementation of resolution S-1/1 at its next session. As the Special Rapporteur was unable to travel to Geneva during the current week, he had requested the Council to permit him to present his report on 22 March 2007, at which time he would engage in an interactive dialogue with the Council. Accordingly, if he heard no objection, he would take it that the Council wished to accede to the Special Rapporteur's request.

9. It was so decided.

The grave situation of human rights in Lebanon caused by Israeli military operations (Council resolutions S-2/1 and 3/3) (A/HRC/4/115)

10. The PRESIDENT recalled that in its resolution S-2/1 the Council had decided to establish a high-level commission of inquiry to: investigate the systematic targeting and killings of

civilians by Israel in Lebanon; examine the types of weapons used by Israel and their conformity with the international law; and assess the extent and deadly impact of Israeli attacks on human life, property, critical infrastructure and the environment. By its resolution 3/3 the Council had taken note with appreciation of the report of the Commission of Inquiry on Lebanon (A/HRC/3/2) and requested the United Nations High Commissioner for Human Rights to consult with the Government of Lebanon on the relevant recommendations contained therein and to report to the Council at its fourth session.

11. The Council had before it the High Commissioner's report on the follow-up to the report of the Commission of Inquiry on Lebanon (A/HRC/4/115). As noted in paragraph 6 of that report, a number of the Commission's recommendations pertained directly to the mandate of United Nations agencies or bodies other than OHCHR. Letters had been sent to those agencies and bodies requesting information on their activities that had a bearing on the Commission's recommendations. As replies to those letters were still being received and OHCHR wished to continue its consultations with the Government of Lebanon, the High Commissioner had informed him that she would submit an update to her report on follow-up to the Commission's report to the Council at its fifth session.

12. Mr. SOUFAN (Observer for Lebanon) said that although the High Commissioner's follow-up report was a preliminary one and somewhat brief, it was nonetheless substantive and presented a plan of action involving the establishment of an inter-branch OHCHR task force to ensure a comprehensive and holistic approach to follow-up of the Commission's recommendations as well as the establishment of a Protection Working Group in Lebanon. As implementation of resolution 3/3 required synergy among a number of United Nations and other agencies, the High Commissioner had rightly sent letters to those agencies and was awaiting the results.

13. Implementation of the resolution also required intensive consultations with the competent authorities in Lebanon. The Commission had in fact met with 21 senior Government officials, 3 parliamentarians, 31 officials of other institutions, representatives of NGOs and others. It was therefore essential to extend the time available to OHCHR to discharge its duties. He expressed his delegation's deep appreciation of the work accomplished by the Office to date and said he looked forward to further constructive engagement with OHCHR and to the submission by the High Commissioner of the update to her follow-up report.

Human rights violations emanating from Israeli military incursions in the Occupied Palestinian Territory, including the recent one in northern Gaza and the assault on Beit Hanoun (resolution S-3/1) (A/HRC/4/113)

14. The PRESIDENT recalled that in its resolution S-3/1 the Council had decided to dispatch urgently a high-level fact-finding mission, to be appointed by the President of the Human Rights Council, to travel to Beit Hanoun to, inter alia, assess the situation of victims; address the needs of survivors; and make recommendations on ways and means to protect Palestinian civilians against any further Israeli assaults. He had appointed Archbishop Desmond Tutu and Professor Christine Chinkin to carry out that mission. Document A/HRC/4/113 contained a letter from Archbishop Tutu concerning the mission. As the Archbishop would be unable to attend the current session of the Council, Professor Chinkin would present a report later in the session.

Situation of human rights in Darfur (decision S-4/101) (A/HRC/4/80)

15. The PRESIDENT recalled that in its decision S-4/101 the Council had decided to dispatch a High-Level Mission to assess the human rights situation in Darfur and the needs of the Sudan in that regard, comprising five highly qualified persons and the Special Rapporteur on the situation of human rights in the Sudan, and had requested the Mission to report to it at its fourth session.
16. On behalf of the Council he welcomed the members of the High-Level Mission: Ms. Jody Williams, Nobel Peace Laureate and Head of Mission; Ms. Sima Samar, Special Rapporteur on the situation of human rights in the Sudan; Mr. Mart Nutt, member of the Estonian Parliament and member of the European Commission against Racism and Intolerance of the Council of Europe; and Mr. Patrice Tonda, Permanent Representative of Gabon to the International Organizations at Geneva. Mr. Bertrand Ramcharan, another member of the Mission, was unable to attend. He invited Ms. Williams to introduce the Mission's report.
17. Ms. WILLIAMS said that it had been a great honour for her as a human rights activist to form part of the High-Level Mission to Darfur. The members of the Mission had kept their minds fixed on their mandate and on the sufferings of the people of Darfur despite all the difficulties the Mission had encountered. She thanked the President of the Council for demonstrating an unwavering commitment to the success of the Mission while respecting its independence and integrity, and expressed appreciation for the highly professional assistance afforded by OHCHR. The Mission was also grateful for the assistance of representatives of the African Union, United Nations agencies and other organizations. Above all, it wished to thank the refugees and victims from Darfur who had trusted the Mission with their stories, especially in refugee camps in Chad.
18. In response to the Council's request, the Mission's report (A/HRC/4/80) contained both a situation assessment and a needs assessment. It described a pattern of counter-insurgency carried out by the Government of the Sudan together with the Janjaweed militia and noted also that the rebel forces were guilty of violations of human rights and humanitarian law. Civilians were victims of ongoing war crimes and crimes against humanity: killing, rape, torture, arbitrary arrests, repression of political dissent and abuses of political freedoms occurred with chilling frequency. Ineffective justice mechanisms, the free flow of weapons, the absence of meaningful disarmament and a climate of impunity meant that the rule of law was unknown in the region. Deprivation and denial of economic and social rights, rooted in decades of economic marginalization and underdevelopment, had been exacerbated. The conflict continued to fester, millions were displaced, more than 200,000 had died and hope was fading.
19. Among the most pressing needs identified in the report were enhanced protection for civilians, renewed progress towards sustainable peace, expanded humanitarian space, increased accountability for perpetrators, programmes to address root causes, serious efforts to ensure the implementation of existing recommendations by human rights bodies and compensation for victims of human rights violations.
20. The 2005 World Summit had embraced the principle of the responsibility to protect, recognizing that every State had the responsibility to protect its population from genocide, war

crimes, crimes against humanity and ethnic cleansing. Where a State was unable or unwilling to do so, the international community had the duty to take action to ensure effective protection. That principle had been sadly disregarded in the case of the civilians of Darfur.

21. In its recommendations, the Mission had proposed that the Council should establish a special mechanism to monitor the situation in Darfur and press for protection and accountability; the Council should also support the establishment of an independent national human rights commission to ensure adequate protection on the ground. The Mission had recommended that the General Assembly should compile a list of foreign companies whose activities had an adverse impact on human rights in Darfur. It called on the international community to ensure the effective protection of civilians by deploying the proposed peacekeeping and protection force, by cooperating with the International Criminal Court and by pressing for the implementation of outstanding resolutions on Darfur. It further called on individual Member States to support the efforts of the United Nations and the African Union as well as the establishment of a national human rights commission and compensation programmes for victims. It also urged them to prosecute war criminals through the exercise of universal jurisdiction in national courts outside the Sudan.

22. The Mission called for the convening of a national conference on peace and human rights for the Sudan with the participation of all stakeholders, and the holding of a regional conference on the safeguarding and promotion of peace and human rights in the region, to be attended by representatives of all neighbouring and other concerned States. Both conferences should be supported and facilitated by the international community under the auspices of the United Nations and the African Union.

23. The Mission called on the Government of the Sudan to respect its international obligations by admitting the proposed United Nations and African Union force, removing obstacles to humanitarian assistance, ensuring the free movement of human rights monitors, cooperating fully with the International Criminal Court and implementing the many outstanding recommendations of United Nations human rights mechanisms.

24. The situation of human rights in Darfur remained grave, and the corresponding needs profound. The Sudan had not met its responsibility to protect, and the international community, despite many efforts, had yet to provide civilians on the ground with effective protection. The record was clear and the documentation overwhelming: innocent civilians continued to suffer and die. They did not need more reports but were pleading for protection. The Council must take action to alleviate their suffering and give the people of Darfur hope for the future.

25. Mr. EL MARDI (Observer for the Sudan) said that the Human Rights Council had been established in part to end the politicization, selectivity and double standards that had characterized the Commission on Human Rights. Unfortunately, that goal had not been met, and his country continued to be targeted for political reasons. The High-Level Mission had used information collected outside the Sudan as the basis for an unfair report. It had failed to complete its mandate, namely to assess both the situation of human rights and the needs of the Sudan from within the country. His Government had hoped that its unprecedented flexibility and willingness to cooperate with the Council would encourage the international community to support its efforts

to achieve peace and stability. Instead, the report commended the actions of those who were fighting the central Government, destroying Government facilities and infrastructure, and undermining the country's capacity for development.

26. Initially, the international community had welcomed the conclusion of the Darfur Peace Agreement and had called on all parties to sign it, threatening to impose sanctions on those that failed to do so. Those words had been followed by silence and inaction towards the armed groups that continued to fight the legitimate Government of the Sudan.

27. Some 200,000 people had reportedly died in Darfur. The fact that the figure had remained unchanged over three years cast doubt on its credibility. If there had been no new casualties, it should be deduced that the situation had improved and the High-Level Mission had missed its opportunity to get a first-hand impression of the progress made in Darfur.

28. The Sudanese Government had not refused to grant visas to team members. It had expressed reservations about one member, who had publicly condemned the Government for the situation in Darfur prior to his appointment. The four Mission members who had been granted entry, rather than visiting Darfur as planned, had decided to conduct their investigations outside the country, in contravention of their mandate. Their final report did not contribute to peace in Darfur, contained erroneous information and had no legal standing. It was not for the High-Level Mission to recommend sanctions or other measures, as it had done in the report. The Council should therefore neither discuss nor adopt the document.

29. Mr. STEINER (Germany), speaking on behalf of the European Union, said that at its fourth special session the Council had been given a clear mandate to act in response to the grave human rights situation in Darfur. The deployment of the High-Level Mission to assess the situation had been decided by consensus and supported by the Sudanese Government. It was therefore regrettable that the Government had subsequently withdrawn its cooperation.

30. Neither its inability to visit Darfur nor the resignation of one of its members affected the legitimacy of the Mission. It had submitted a high-quality report that testified to the gravity of the situation in Darfur. The European Union was deeply concerned at the persisting sexual violence against women, the forcible recruitment of children, the mass displacements, and the denial of access to humanitarian workers, violations which had been attributed to both Government forces and rebel groups. The Council had a duty to follow up the report and take effective measures to protect the victims, thereby demonstrating its capacity to respond promptly to human rights crises. By acting to improve the situation in Darfur, the Council would serve both the people in Darfur and its own credibility. The European Union would present its proposals for follow-up in the following week.

31. Mr. SOUALEM (Algeria), speaking on behalf of the Group of Arab States, said that the Group was not ready to engage in a discussion of the substance of the Mission's report. Paragraph 4 of decision S-4/101 stipulated that the High-Level Mission should be composed of "five highly qualified persons". Given that one original member had resigned and another had refused to go to Chad, considering such a visit to fall outside the Mission's mandate, document A/HRC/4/80 could not be considered to constitute the report of the High-Level

Mission requested by the Council. Moreover, one of the members had publicly accused the Government of the Sudan of war crimes and genocide prior to his appointment. That combination of circumstances cast doubt on the legitimacy of the report.

32. In the light of those circumstances, the Mission should have deferred its departure and sought guidance from the Council. Instead, it had decided to travel to Ethiopia and Chad, travel that was not part of its mandate; it had altered the composition and size of the Mission, thereby undoing its geographical balance, and had overstepped its mandate by seeking to investigate the application of the principle of “responsibility to protect”. Before the visa-related difficulties had even arisen, the Mission had already decided that an in situ visit would be unnecessary for a proper assessment of the situation, even though it had transpired from the debate at the fourth special session that a first-hand evaluation was essential.

33. The unanimous endorsement of Council decision S-4/101 had been a welcome change from the previous practice of condemnation. Yet despite the goodwill expressed, the Sudan had been even more vilified in certain quarters during the current session. The Council’s approach to the situation in Darfur would be a milestone for future engagement. Its role should be to encourage rather than sanction. If the legitimate concerns of States to be visited by high-level missions were addressed through dialogue and cooperation, they would have no excuse for refusing entry visas.

34. Ms. JANJUA (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that OIC would be unable to comment on the report. Given the reservations expressed by the Sudanese Government about the composition of the High-Level Mission and the early resignation of one of its members, the report could not be considered to have been prepared in accordance with Council decision S-4/101.

35. The Organization of the Islamic Conference appreciated the fact that Ambassador Wibisono, an original member, had withdrawn from the Mission, believing that the inability to make an in situ visit would adversely affect the Mission’s effectiveness. The Mission had been given a clear task; no reference had been made to the “responsibility to protect”, a concept that had multiple political and security dimensions that went beyond the mandate given to the Mission.

36. The Council had welcomed the cooperation between the Sudanese Government and the Special Rapporteur on the situation of human rights in Sudan. The High-Level Mission could have built on that cooperation, in keeping with the Council’s stated aim of promoting human rights through dialogue and cooperation rather than selectivity and targeting. Issuing a list of condemnatory recommendations did not serve the people of Darfur. The situation could only be improved through cooperation with the Sudanese Government and assistance from the international community.

37. Ms. FERNANDO (Sri Lanka), speaking on behalf of the Group of Asian States, said that despite the Sudanese Government’s commitment to cooperating fully in the implementation of decision S-4/101, subsequent developments had made it impossible for the High-Level Mission to carry out its mandate. Any outcome was thus to be considered incomplete. The Asian States supported Ambassador Wibisono’s decision to withdraw from the Mission and had conveyed their position to the Council in a letter dated 21 February 2007.

38. Mr. MTESA (Zambia) said that the inability of the High-Level Mission to assess the situation in Darfur in accordance with its mandate was a major setback for the Council. While it was true that much of the information contained in the Mission's report was already known, the United Nations had accepted reports with similar characteristics in the past. Several fact-finding missions to South Africa in the times of apartheid, for example, had been unable to conduct in situ visits. The least the Council could do was to take note of the report.

39. Prolonged discussions about technicalities would not serve the people in Darfur and could only be read as indifference on the part of the Council. The people of Darfur were not interested in technicalities; they wanted and deserved to live in peace, freedom and dignity.

40. The Council's aim should be objectivity, non-selectivity and non-politicization; its collective concern should be the promotion and protection of human rights everywhere. Prolonged procedural discussions would only divert attention from the need to act, and would discredit the Council in the long run. Ensuring full implementation and follow-up of its resolutions and decisions was crucial for the Council's credibility.

41. Mr. WIBISONO (Indonesia) said that the Council's success would depend on its capacity to implement its decisions and resolutions. The establishment of the High-Level Mission and the Sudanese Government's willingness to cooperate had opened a window of opportunity for improving the human rights situation in Darfur. A spirit of constructive dialogue and cooperation and the active participation of the country concerned were crucial to addressing human rights violations effectively. His delegation had repeatedly insisted that the High-Level Mission should be part of the solution and not part of the problem. He had been honoured by his appointment to the Mission and had accepted that task as part of his commitment to support the Council's work. The reasons for his subsequent resignation were well known.

42. In order to draw lessons from the present experience, the Council must reflect on ways to address situations where missions of inquiry were unable to undertake country visits. It should identify possible courses of action in cases where the composition of a mission differed from that set forth in the founding decision. The Council should also review the reasons for non-implementation of its decisions and identify similarities and differences, and decide whether the reasons and extent of non-compliance should be taken into account when deciding on appropriate follow-up. It should also be established which entity would be responsible for deciding on further action. The Council should draw up guidelines for the deployment of fact-finding missions in order to ensure that such missions constituted an objective response, irrespective of political considerations.

43. Mr. FUJISAKI (Japan) said that while it was regrettable that the High-Level Mission had been unable to visit Darfur, the Council should accept the Mission's report as the best possible effort. While the report inevitably had its limits, it provided sufficient basis for further action under the circumstances. Adequate follow-up to the report was crucial, and the Sudanese Government should cooperate fully with the Council in that effort.

44. Mr. ALI (Bangladesh) said that given its key role in the promotion and protection of human rights, the Council should be concerned with human beings and human values, not politics. Population growth, receding grazing lands, inadequate property rights and environmental degradation resulting from climate change had exacerbated the long-standing

inter-tribal conflict in the Darfur region. Conflict in neighbouring countries had further contributed to the deterioration of the situation, and the political and security problems in Darfur were no secret. The Council's engagement in Darfur should aim at alleviating human suffering, without any underlying political motives.

45. While there was justified concern over media reports of alleged human rights violations, other information suggested that the situation had improved since the signing of the Darfur Peace Agreement. The task before the Council was to ascertain the facts. The deployment of the High-Level Mission to assess the situation and the Sudanese Government's commitment to cooperate had thus been a welcome development. Expectations had been high for a reliable, unbiased report. Unfortunately, the Sudanese Government's legitimate concerns regarding the composition of the team had not been taken into account. The member nominated by the Group of Asian States who had demonstrated his impartiality and integrity in the past had been forced to withdraw, and the outcome report was an expression of views prepared without visiting the site. It was unsurprising that the report's legitimacy was being called into question.

46. The current discussion neither served the cause of the people in Darfur nor satisfied those who had hoped for positive change. The Council had missed a good opportunity and must work towards creating another.

47. Mr. GUILHOU (France) recalled that when the Council had decided at its fourth special session to send the High-Level Mission to Darfur, the President of the Sudan had himself undertaken to cooperate fully with the Mission. His failure to do so was incomprehensible and unacceptable. The Sudanese authorities should in future honour their commitments.

48. He commended the Mission's report, which confirmed the worst fears of the international community and revealed urgent needs. The civilian population was still subjected to constant murderous attacks by rebels, Government forces and the Government-supported militias. The whole world knew that atrocious crimes had been committed with the involvement of the Sudanese authorities. Those principally responsible for such crimes had not yet been prosecuted, owing to the prevailing climate of impunity and the Government's refusal to cooperate with the International Criminal Court.

49. It was the responsibility of the Government of the Sudan to protect its people, yet according to the Mission, it had not only failed to do so but was partially responsible for the people's suffering. Under the Charter of the United Nations and the 2005 World Summit Outcome, Member States were called on to take action against Governments that failed to protect their people against war crimes and crimes against humanity. That point had nearly been reached in the Sudan. He called on the Sudanese authorities to cooperate fully with the international community before it was too late. First, they should agree to the urgent deployment of an international force in Darfur, in accordance with the three-phase approach proposed by the Secretary-General in November 2006. Secondly, they should cooperate fully with the Council and all United Nations procedures.

50. Mr. LA Yifan (China) observed said that the High-Level Mission to Darfur established under decision S-4/101 had failed to materialize: one appointee had, understandably, decided to resign, another had declined to serve and the Mission itself had failed to reach Darfur. The

Mission's report could therefore not be considered authentic or accurate or be deemed to have any legal status. The Council had achieved consensus when it had established the Mission, and his delegation called for a renewal of that spirit of dialogue and cooperation.

51. Mr. ATTAR (Saudi Arabia) said that the international community's urgent concern to improve the situation in Darfur had led it to hold the special session in December 2006 and establish the High-Level Mission to visit the region, yet the Council's mandate had not been carried out. The Mission's failure to reach Darfur meant that his delegation, like others, had reservations concerning the report. He commended the establishment of the peace process in the Sudan and stressed his delegation's commitment to the protection of human rights in Darfur.

52. Mr. VAN EENENNAAM (Netherlands) said that calling the status of the High-Level Mission's report into question distracted the Council from a reality in which human rights violations continued. Officials from the African Union Mission in the Sudan and the United Nations, along with other reliable and consistent sources, had been consulted and the report was valid as both a situation assessment and a needs assessment. Rather than considering new recommendations, the Council should follow up those already made; it owed such action to the people of Darfur.

53. Ms. KORUNOVA (Russian Federation) said that in supporting the convening of the special session in December 2006 and the decision to establish the High-Level Mission, her delegation had assumed that the Mission would be balanced and representative, taking into account the proposals of the regional groups regarding its composition. In fact, the formation of the Mission had been subject to pressure and manipulation, to the detriment of the Mission's work. Similarly, hopes that a new impetus would be given to cooperation by the Sudanese Government with the international community and Council mechanisms had been disappointed. Her delegation would not comment on the report, if only because doubts had arisen as to its legal status.

54. Serious though the problems in Darfur were, the crucial factor in their resolution was the conclusion and implementation by all parties in the region of the Darfur Peace Agreement, which contained specific provisions on human rights and fundamental freedoms, as highlighted by Security Council resolution 1679 (2006) and other Security Council resolutions on the Sudan. Her delegation's position was that all United Nations decisions concerning Darfur should be based on the need to maintain a constructive dialogue in order to overcome the humanitarian problems that had arisen. Constructive proposals should be made, a needs assessment carried out and effective aid provided. It was to be hoped that the Government of the Sudan would continue to cooperate with the Council.

55. Mr. BAAH-DUODU (Ghana) said that the decision to send the High-Level Mission to Darfur at the special session in December 2006 had shown that the Council was at long last playing the role it was expected to play. Views had been expressed as to why the report should not be considered; the Council could not, however, pretend that the report did not exist, whether or not all delegations agreed with the recommendations. It was regrettable that the Mission had been plagued with a number of problems, which had prevented it from visiting the Sudan. Nonetheless, any decision made by the Council should contribute to the solution of the problems of the people of Darfur rather than compounding them.

56. The report could not be rejected simply because one member of the Mission had withdrawn. In 1992-1993, the Yugoslav member of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories had been unable to participate in a number of meetings, yet that Committee's report had been considered and adopted. There had been several other cases in which reports had been considered despite the fact that mandated missions could not visit the countries concerned. Special Rapporteurs, too, when refused entry, had travelled to neighbouring countries and met refugees or any other person from the country concerned who could provide information on what was happening. The Council could not address the situation in Darfur if the Mission's report was rejected. Moreover, no decision should be taken that might preclude the Council from considering similar situations in the future.

57. Mr. FERNÁNDEZ PALACIOS (Cuba) said that the situation in Darfur was complex and delicate, rooted as it was in the Sudan's colonial past. His delegation had supported the convening of the fourth special session, the outcome of which - decision S-4/101 - had been most significant, since it had not been the product of inflammatory rhetoric but had been focused on working with the Sudan. Misunderstandings and mistrust, however, had attended the High-Level Mission, and the Indonesian member had, understandably, resigned. The Mission's mandate, as defined at the special session, had not been carried out. At the same time, the Sudan had shown its continued willingness to cooperate. Any action taken would be effective only if a constructive dialogue was held with the Sudan and the country was provided with long-term development assistance rather than punished with sanctions. He called for an end to selfish political interest and for the discharge by the Mission of its mandate.

58. Ms. HSU King Bee (Malaysia) said that the Council should take a more constructive approach to human rights issues. Solutions should be found through dialogue and cooperation on the part of both States and the Council. In the current case, the Sudan had cooperated with OHCHR and various special rapporteurs. The High-Level Mission had failed because it had not been backed by all the members of the Council and had, moreover, departed from its mandate in too many respects.

59. Mr. DUMONT (Argentina) expressed concern that the Council was not taking adequate or determined action in the case of Darfur. It was regrettable that the refusal to issue visas to members of the High-Level Mission had prevented them from carrying out a mandate approved by consensus at the special session. The Council should take action, in accordance with General Assembly resolution 60/251, to deal with a whole range of systematic human rights violations in Darfur. If it did not do so, other institutions and organizations would feel compelled to act. In other words, if the Council took no action, the United Nations system should act through other bodies. Failure to act would set a serious precedent.

60. Mr. JAZAÏRY (Algeria) said that his delegation would not comment on the substance of the High-Level Mission's report, both because it had been produced by an assessment team that did not reflect the mission established under decision S-4/101, and because the assessment was incomplete owing to the Mission's failure to reach Darfur. He noted with concern that the Mission had determined of its own accord that the situation did not require a human rights fact-finding mission. The Mission had not, however, been mandated to draw up a desk study, and he expressed consternation that the Mission had failed to understand the Council's mandate.

61. The gravity of the situation in Darfur, including the humanitarian crisis, was a source of concern to the whole international community. He therefore welcomed the reiterated commitment of the Government of the Sudan to cooperate in bringing about a lasting solution to the crisis, ending the violence and continuing to permit the delivery of humanitarian relief to those in need. He urged the non-signatories of the Darfur Peace Agreement to join the peace process. The Council must address the situation in Darfur through dialogue and cooperation. If it failed to do so, it would set an ominous precedent at the formative stage of the new Council's rules of engagement. A resolution should be adopted that would restore confidence in the process and ensure transparency.

62. Mr. SINGH (India) said that his delegation had consistently urged all the parties concerned to subscribe to and implement the Darfur Peace Agreement, which would facilitate the tackling of the humanitarian situation in Darfur. Human Rights Council decision S-4/101 had established the High-Level Mission with the mandate of assessing the human rights situation in Darfur and the needs of the Sudan in that regard. The Mission had, however, been unable to complete its mandate, since the visit to the Sudan had not materialized. It was important that it should fulfil the mandate agreed upon by consensus. In the interests of the credibility of the Council, a modality must be found that would allow the Mission to complete its work through a process of consultation and with the cooperation of all concerned. A complete report could then be submitted at the next session of the Council, which would consider the recommendations contained therein.

63. Mr. CHOI Hyuck (Republic of Korea) said that the situation in Darfur remained grave and innocent people continued to die. The world was watching to see how the Council would respond. Questions of responsibility and the exact status of the High-Level Mission's report should be addressed in the future; for the time being, the report should be accepted as a meaningful assessment of the situation. Procedural minutiae should be overlooked, given the urgency of the situation.

64. Mr. THORNE (United Kingdom) expressed regret that the High-Level Mission had been unable to visit the Sudan. All States should cooperate with Council mechanisms, and no State could be allowed a veto over the composition of any Council team or mission; otherwise, the Council would be unable to fulfil its mandate. The failure of the Sudanese Government to grant all the Mission members visas was deeply regrettable, particularly in the light of the personal assurances given by the President of the Sudan to the Secretary-General, after the members of the Mission had already been appointed, that the Mission would be able to visit Darfur.

65. Some delegations might raise procedural or other spurious objections to the report, but to do so was to miss the point. The report was based on information provided by officials of the African Union Mission in the Sudan, United Nations humanitarian agencies and the Office of the United Nations High Commissioner for Refugees (UNHCR) office in eastern Chad, which had all reported an appalling human rights and humanitarian situation in Darfur and in eastern Chad. Such consistent reports could not be dismissed on procedural grounds.

66. The Government of the Sudan stood accused of failing to protect its own people from attack and displacement. Reliable reports stated that there had been no abatement in attacks, including aerial bombing on civilians, attacks on humanitarian workers by Government forces, militias and rebels, widespread and systematic rape and forced displacements. The Council must

take action on the basis of the situation as seen by experts on the ground. Some delegations might wish to play politics with the report. However, he wished to recall that the United Nations human rights system had been subjected to such manoeuvres before, in Rwanda in 1994. The Council must face reality and protect the people of Darfur.

67. Mr. TALIBOV (Azerbaijan) said that, quite apart from the dubious nature of some the information on which the report was based, and notwithstanding any differences of opinion that might exist concerning the notion of assessment, at the fourth special session Council members had agreed that the High-Level Mission's physical presence in Darfur was essential for the fulfilment of its mandate. However helpful the various contacts made and discussions held in various places outside the Sudan might have seemed to some members of the Mission, they were no substitute for information that could have been gathered on the spot.

68. At the fourth special session there had been a general feeling that a consensual decision could set the stage for a new culture of collegiality in the Council's deliberations and decision-shaping. It was to be hoped that everyone still believed there was a realistic chance of avoiding a split in the membership, which would jeopardize the Council's credibility, and of avoiding outcomes that might seriously undermine the Council's work on other important issues, including institution-building.

69. Whatever decision was taken by the Council, he trusted that all members realized what was at stake: it was of paramount importance that the Council's action should not aggravate the situation on the ground. Council recommendations would have a real impact on that situation only if there was genuine cooperation from the Government of the Sudan and other stakeholders. That Government's willingness to cooperate with the United Nations and its different mechanisms in the past could not be ignored. He agreed with the representative of Germany that the Council had achieved much with respect to Darfur and that it should pursue its efforts. For the sake of the Council's future and for the people of Darfur, it was essential to preserve the spirit that had prevailed during the adoption of decision S-4/101.

70. Mr. HIMANEN (Finland) said that the inclusive process which had led to the consensual adoption of decision S-4/101 and the outcome of that process were crucial to the Council's credibility. Although, regrettably, the High-Level Mission had had no access to the Sudan, it had been able to fulfil its mandate and produce its report. It was to be hoped that the spirit of consensus and cooperation that had prevailed at the fourth special session would return, because the serious human rights situation in Darfur required credible and efficient action from the Council.

71. Mr. RAPACKI (Poland) said that the Council had achieved tangible results at its fourth special session. At that time the Council had been confident that the High-Level Mission would be able to complete its task without hindrance. It was therefore disappointing that the Mission had been unable to enter Sudanese territory. He supported the Mission's decision to carry on with its duties in view of the gravity of the situation in Darfur. On the basis of objective and well-founded information gathered in neighbouring countries, from international organizations and other sources, the Mission had produced a report which clearly confirmed the extremely serious nature of the situation in Darfur.

72. The Mission's report contained a number of specific recommendations which required urgent implementation. In addition, it referred to a series of previous recommendations relating to the Sudan which had been issued by other United Nations bodies. Unfortunately, few of those recommendations had been followed. The Council should seize the opportunity to address that problem, since implementation was of key importance.

73. As cooperation was a crucial element of an effective Human Rights Council and vital for the implementation of its decisions, the Sudanese authorities and all States must collaborate with the Council and implement its decisions. In addition, the objective report submitted by the High-Level Mission must be followed up. The special procedures, acting under the guidance of the Special Rapporteur on the situation of human rights in the Sudan, had a leading role to play in that context. The Council could not remain silent as the situation deteriorated.

74. The doubts cast on the credibility of the report were incomprehensible. An opportunity to take real action on a dramatic human rights and humanitarian situation had presented itself. Rather than becoming embroiled in a procedural debate, the Council should focus on vigorous follow-up measures. It was necessary to remember that the information contained in the report largely corroborated that previously acquired from other sources. No one appeared to question the gravity of the situation; it therefore seemed inappropriate to devote the current debate to procedural issues.

75. It was time to act, as the Council's credibility and legitimacy were at stake. What was even more important, however, was the tragic situation of innocent people who had been abandoned by those who were responsible for their protection. When reaching a decision, it was essential for the Council to remember the victims of the conflict and their dreadful fate. Council members should rise above political differences when human life was being threatened and make every possible effort to alleviate the plight of the people of Darfur.

76. Mr. CORMIER (Canada) said that the High-Level Mission and its report (A/HRC/4/80) remained valid, despite the regrettable denial of visas to Mission members. The fourth special session and its outcome had illustrated the spirit that could animate the Council when it was faced with a genuine human rights crisis. All Council members ought to reflect on their responsibility for the victims of Darfur and move on to following up the recommendations of the report: it was time for the Council to act.

77. In Darfur rampant violence, particularly sexual and gender-based violence, continued unabated, and the safe and timely delivery of humanitarian assistance was increasingly compromised by all parties to the conflict. The lawlessness permeating Darfur was dismaying: all parties must halt the violence immediately.

78. He commended the High-Level Mission's focus on protection and its decision to use the concept of responsibility to protect as a framework for its analysis. The primary responsibility of States to protect their own population and of the international community to protect people in countries where the Government was unwilling or unable to do so was fundamental to that concept. Unfortunately, the Mission's report demonstrated not only the inability of the Sudanese Government to protect its own population, but also the obstacles which still impeded international efforts for peace, including the hindrances encountered by African Union peacekeepers on the ground in Darfur.

79. The report highlighted a number of positive measures which the Government, other parties to the conflict, the international community and the Council could take to deal with the situation. While the Government of the Sudan should abide by its obligations under international human rights and humanitarian law, everyone needed to do better to help the people of Darfur. The first step that should be taken to enhance the legal and physical protection of civilians in Darfur and uphold their human rights was to follow up on the sound recommendations set out in the Mission's report as well as other existing recommendations.

80. Moreover, immediate action should be taken on the recommendation to establish a dedicated procedure or mechanism to monitor the human rights situation in Darfur and to report regularly to the Council. The mechanism should be based in Darfur and have the capacity and mandate to visit the whole region. The Government of the Sudan should establish the independent human rights commission called for in the Comprehensive Peace Agreement.

81. The conflicting views on the report clearly showed that the Mission had found itself in a no-win situation. The people in Darfur, however, were not interested in technicalities. The failure of the Sudanese Government to cooperate with the Mission, as it had agreed to do in December 2006, should not stop the Council from helping the people of Darfur, for the Council's credibility was at stake. Failure to do so would send an unfortunate message to both the perpetrators and the victims of human rights violations everywhere.

82. Mr. LY (Senegal) said that everything possible should be done to guarantee the Council's effectiveness and credibility. To that end, notwithstanding certain doubts about the status of the High-Level Mission's report, that document should be regarded as valid. The Council's reaction to the report should bolster the common determination displayed at the fourth special session to improve the human rights situation in Darfur and to achieve a lasting peace for the well-being of the Sudanese people.

83. While his own Government's position should not be interpreted as being hostile to the Sudan, Senegal took the view that, in order to meet the security challenge, the international community must provide greater support for the African Union Mission in the Sudan.

84. Mr. LOULICHKI (Morocco) said that the African States had supported the request to hold a special session on the situation in Darfur because they regarded such a meeting as an indication of a common will to work together in a spirit of cooperation to serve the purposes for which the Council had been created. They had particularly appreciated the Sudanese Government's pledge that it would do all it could to ensure the High-Level Mission's success.

85. Differences of opinion on the way the Mission had been carried out and on its findings should not undermine the Council's determination to look to the future, restore dialogue and cooperation and act in the spirit of consensus that imbued decision S-4/101. If the only product of the current meeting was recrimination and divergence, Council members would not have lived up to their obligations and would have done nothing to improve the situation in Darfur. Wisdom and reason called for the swift rebuilding of the consensus achieved in December 2006 so that the process of institution-building might be completed and the Council's fundamental objective might be achieved.

86. Mr. GUEVARA (Mexico) welcomed the High-Level Mission's report and said that it was worrying that the Mission had been unable to visit the Sudan. All States were under an obligation to respect the Council's decisions. The refusal to allow the Mission to enter the country must not prevent the Council from considering the information contained in its report. According to the precedents set by the Special Committee against Apartheid, reports to United Nations bodies should be debated notwithstanding any procedural quibbles.

87. A genuine debate under General Assembly resolution 60/251 should be conducted with a view to finding the most beneficial ways of ensuring peoples' enjoyment of human rights and States' full cooperation. He therefore called on all States Members of the United Nations, including Israel and the Sudan, to cooperate fully in the implementation of the Council's decisions.

88. Mr. GODET (Switzerland) said that the High-Level Mission's report confirmed the information received from many reliable sources. The humanitarian and human rights situation in Darfur was grave. It was therefore the Council's responsibility to follow up the report immediately with a credible and coherent response to the violations of the human rights of the civilian population, especially of its most vulnerable members, namely women and children. Recalling the statement made by the President of the Swiss Confederation during the high-level segment, he said that the Council must take action on the report and the recommendations contained in it.

89. He therefore asked the High Commissioner whether the mechanism that would be established to monitor the human rights situation in Darfur might include the Council's special procedures. He also wished to know what thematic mandates were most concerned by that situation.

90. Mr. ABDULLA (Bahrain) said that his Government had reservations about the report under consideration. First, the title was a misnomer because, according to paragraph 4 of decision S-4/101, the High-Level Mission should have comprised five highly qualified persons, yet one member of the Mission had resigned and another had refused to go to Chad because a visit to that country was not covered by the Mission's terms of reference. Secondly, the Mission had gone to Ethiopia and Chad even though those two country visits had not been on the Mission's programme of work. Thirdly, the principle of equal geographical distribution had not been respected when the members of the Mission had been selected.

91. The decision adopted by consensus at the Council's fourth special session had been welcomed by the Sudan and some regional groups. That had been a positive development when one compared it to the reactions to the decisions and resolutions adopted at previous special sessions. As the Council's objective was to promote and protect human rights in Darfur, it was necessary to create the conditions for the full implementation of the Council's decision by taking into consideration the cooperation showed by the Government of the Sudan. Council members should work together in a constructive manner, and his Government was ready to cooperate with the Council in order to protect human rights in Darfur and elsewhere in the world.

92. Mr. CHERIF (Tunisia) said that his Government had hoped that the High-Level Mission would be able to go to Darfur to assess the human rights situation on the spot, in keeping with

decision S-4/101, whose adoption by consensus had been a positive step in the Council's work. At the present stage it hoped that the flaws in the composition of the Mission would be corrected.

93. The Council required reliable impartial information that was devoid of politicization or selectivity. High priority must be attached to the protection of human rights in Darfur. To that end, the Council must make every effort to facilitate cooperation with the Sudan. The delegation of the Sudan had continued to express its readiness to respond positively to the Council in an effort to improve the human rights situation in Darfur. For its part, the Tunisian Government was committed to compliance with the Council's decisions and resolutions and called on all present to adopt a forward-looking approach to the human rights situation in Darfur in the belief that the Council would be able to pursue its efforts constructively on the basis of consensus.

94. Mr. FLORÊNCIO (Brazil) said that the underlying cultural, social and environmental causes of the complex situation in Darfur must be taken into account. Decision S-4/101 had been a landmark in the Council's short history; the consensus achieved on that decision had demonstrated that the Council could give human rights considerations precedence over those of a political nature. The High-Level Mission's report must be debated by the Council, as it was the natural outcome of decision S-4/101. As a matter of principle, the Council should not refuse to consider any report, since that would set a serious and unfortunate precedent that would call the Council's credibility into question.

95. In February 2007 the Group of Latin American and Caribbean States had expressed its full support for allowing the President to appoint the members of the High-Level Mission. His Government had also been in favour of convening the fourth special session because it believed that the grave and urgent human rights situation in Darfur deserved the Council's full and careful attention. It was prepared to work hard on such an important issue, as there was room for further dialogue and cooperation within the Council.

The meeting rose at 1 p.m.