

Human Rights Council adopts text on human rights in Belarus, renews mandate of Independent Expert on Somalia

Human Rights Council HRC/11/95
AFTERNOON 17 June 2011

Council Names Special Procedure Mandate Holders, Adopts Text on Migrants and Asylum Seekers Fleeing from North Africa, Concludes Seventeenth Session

The Human Rights Council this afternoon adopted seven texts. The Council condemned the human rights violations occurring before, during and in the aftermath of the presidential elections of 19 December 2010 in Belarus. It also renewed the mandate of the Independent Expert on the situation of human rights in Somalia for a period of one year. Other texts dealt with migrants and asylum seekers fleeing from events in North Africa; the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights; human rights in the context of peaceful protests; establishment of the office of the President of the Human Rights Council; and follow-up on a resolution on the Universal Periodic Review. The Council also adopted the list of candidates for Special Procedures mandate holders as proposed by the President of the Human Rights Council before closing its seventeenth regular session.

Regarding the situation of human rights in Belarus, the Council condemned the human rights violations occurring before, during and in the aftermath of the presidential elections of 19 December 2010, including the use of violence against, arbitrary arrest, detention and the politically motivated conviction of opposition candidates, their supporters, journalists and human rights defenders, as well as the abuses of due process rights, including the right to a fair trial for those involved in the demonstrations of 19 December. It called upon the Government of Belarus to cooperate fully with all the mechanisms of the Human Rights Council and to permit access to visit the country as well as all information necessary to allow the fulfilment of the mandate.

Concerning assistance to Somalia in the field of human rights, the Council decided to renew the mandate of the Independent Expert on the situation of human rights in Somalia for a period of one year, from September 2011. The Council also requested the Independent Expert to evaluate the sufficiency and effectiveness of the technical assistance provided to Somalia for implementing the accepted recommendations, and to submit a comprehensive report thereon to the Human Rights Council at its eighteenth and nineteenth sessions.

Following is the list of Special Procedures mandate holders which was adopted: as Special Rapporteur on the human rights of migrants, Francois Crépeau (Canada/France), as Independent Expert on minority issues Rita Izsak (Hungary), as Independent Expert on human rights and international solidarity Virginia Dandan (Philippines), as Special Rapporteur on the promotion and protection of human rights while countering terrorism Ben Emmerson (United Kingdom), and as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran Ahmed Shaheed (Maldives). The candidates for members of the Working Group on the use of mercenaries as a means of impeding the exercise of peoples to self-determination were Anton Ferrel Katz (South Africa), Patricia Arias (Chile), Elzbieta Karska (Poland).

With regard to the appointment of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, the President said that the draft resolution L.17 adopted yesterday 16 June had established a Working Group on the issue of human rights and transnational corporation and other business enterprises. It was understood that the establishment of this Working Group did not further the mandate of the Special Representative of the Secretary-General which would come to an end on 25 July 2011. The candidatures for this Working Group would be considered by the Consultative Group which would make recommendations to the incoming President before the eighteenth session of the Human Rights Council in September 2011.

Among the other texts adopted by the Council, concerning migrants and asylum seekers fleeing from events in North Africa, the Council emphasized that, in a spirit of solidarity and burden-sharing, countries of destination should deal with the arrival of these persons in a humane and dignified manner, in accordance with their

of thousands of migrants and asylum-seekers in non-seaworthy boats in a humane way and in compliance with their international obligations. It also requested the United Nations High Commissioner for Human Rights to pay particular attention to the situation of migrants and asylum-seekers fleeing North Africa and to report to the Human Rights Council at its eighteenth session and to provide updates thereon.

With regards to the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, the Council requested the United Nations High Commissioner for Human Rights to prepare a comprehensive study on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, in particular economic, social and cultural rights, and to submit a report thereon to the Human Rights Council at its nineteenth session.

With regards to human rights in the context of peaceful protests, the Council decided to convene, within existing resources, at its eighteenth session, a panel discussion on the promotion and protection of human rights in the context of peaceful protests, with a particular focus on the ways and means to improve the protection of these rights in such contexts in line with international human rights law.

Concerning the establishment of the office of the President of the Human Rights Council, the Council decided to establish an office of the President within existing resources to support the President in the fulfillment of his or her tasks and enhance efficiency and institutional memory in this regard.

With regards to follow up to the Human Rights Council Resolution 16/21 with regard to the Universal Periodic Review, the Council extended the duration of the review to three hours and thirty minutes for each country in the Working Group and requested the Secretariat to revise the terms of reference of the Voluntary Fund for participation in the Universal Periodic Review.

Mexico on behalf of Switzerland and Nigeria, Morocco, Switzerland, Nigeria on behalf of the African Group, Hungary on behalf of the European Group, introduced draft resolutions.

Speaking in general comments were Cuba, Nigeria, Hungary on behalf of the European Union, Maldives, Brazil, and Ukraine.

Speaking in explanations of the vote before or after the vote were Japan, Hungary on behalf of the European Union, United States, Switzerland, Argentina on behalf of Brazil, Chile, Guatemala and Uruguay, Cuba, Nigeria on behalf of the African Group, Norway, Russian Federation, Mexico, China, Sri Lanka, Bolivia, Belarus, Egypt and Algeria.

Belarus and Somalia spoke as concerned countries.

At the end of the meeting, Norway as Rapporteur presented the draft report of the seventeenth session, which was adopted ad referendum. Also making other statements were Nigeria on behalf of the African Group, the International Service for Human Rights, Amnesty International and Canadian HIV/AIDS Legal Network.

The eighteenth regular session of the Council will be held from 12 to 30 September 2011.

Action on Decisions Under the Agenda Item on Organizational and Procedural Matters

Action on Decision on Establishment of the Office of the President of the Human Rights Council

In a decision (A/HRC/17/L.7/Rev.1) regarding the establishment of the Office of the President of the Human Rights Council, adopted without a vote as orally revised, the Council decides to establish an office of the President within existing resources to support the President in the fulfillment of his or her tasks and enhance efficiency and institutional memory in this regard; further decides that the staff of the Office shall be under the direction and supervision of the President, and should serve for a one year term on a renewable basis; strongly encourages the incoming President of the Human Rights Council to retain one or more staff members from the preceding office in the interest of enhancing institutional memory and reinforcing continuity; and decides that the Office of the President should be operational no later than the seventh cycle of the Human Rights Council.

JUAN JOSE GOMEZ CAMACHO (Mexico), introducing the draft decision L.7/Rev. on behalf of the co-sponsors Nigeria and Switzerland, noted that the co-sponsors were firmly committed to the provision of the necessary human resources for the establishment of the office of the President of the Human Rights Council. Mexico noted that the draft decision represented a further step in the institutionalization of the office of the President. It stressed that the office of the President needed predictable, professional and impartial support. The resolution described the make up and modalities of the office of the President. The resolution was a descriptive text which brought together the various recommendations. The co-sponsors expressed deep appreciation to all delegations for their firm support and valuable contribution during the process. Mexico

further drew attention to the oral revisions to the text which it noted was in circulation in the room containing minor modifications.

MARK CASSAYRE (United States), speaking in an explanation of the vote before the vote on L.7 Rev.1, said the United States was concerned that the three offices created by the draft resolution were not fully designated and defined, the budget considerations had not been clarified, and the President could be left without sufficient legal advice. This could result in a situation where the President had extra staff but not the required legal advice. The United States was happy to join the consensus in supporting the draft resolution.

Action on Decision on Follow up to the Human Rights Council Resolution 16/21 with regard to the Universal Periodic Review

In a decision (A/HRC/17/L.29) regarding follow up to the Human Rights Council Resolution 16/21 with regard to the Universal Periodic Review, adopted without a vote as orally revised, the Council adopted the order of the review in the Working Group on the Universal Periodic Review and the general guidelines for the preparation of information under the Universal Periodic Review. The Council further extended the duration of the review to three hours and thirty minutes for each country in the Working Group and requested the Secretariat to revise the terms of reference of the Voluntary Fund for participation in the Universal Periodic Review and to provide an annual written update to the Human Rights Council starting from its eighteenth session on the operations of the funds and the resources available to it.

OMAR HILALE (Morocco), introducing draft decision L.29, said that in March 2007 the Council provided the mandate to decide on five issues with regard to the Universal Periodic Review. A compromise was reached on the basis of open consultations, taking care of concerns expressed by all delegations and regional groups, including those concerning the order of examinations during the first and second cycles, budgetary implications and workload. The draft decision respected the principles of the Universal Periodical Review as included in the institution-building package and previous resolutions, including equal treatment of States and the methods for establishing the list of speakers. Concerning the issue of funding and voluntary contributions for the Universal Periodical Review, following resolution 16/21 of 25 March 2011, the draft decision called upon the Secretariat to review the terms of reference for the allocation of funds and called upon the Secretary-General of the United Nations to set up a board of trustees, according to the principle of equitable geographical representation. The General Assembly would discuss this afternoon the status of the Council and in this context, the draft decision positively reflected on the work of the Council, in particular, as it endeavoured to improve the human rights conditions on the ground.

RODOLFO REYES RODRIGUEZ (Cuba), speaking in a general comment on resolution L.29, thanked Morocco for the excellent work which was done to complete the resolution. Cuba noted that it wanted to receive some assurances regarding the documents on the budgetary implication as they were not distributed. It stated that it would like to know whether there were persons available to continue to backstop the work at Universal Periodic Review. Cuba asked for assurances that this would be within existing resources and that there would not need to be a reallocation of resources from elsewhere in the budget to support the Universal Periodic Review. Further it noted that the Office of the President needed to have the same human resources or staff covering the activities that it had today. In a second intervention by way of further explanation, Cuba said that there was a problem of making a decision on the resolution before the PBI had been considered. Cuba noted that there was not time to deal with the PBI; that parties needed to have information before them before a decision on the PBI as they needed to be clear on what basis decisions were being taken. Cuba proposed that the decision on the PBI be postponed until there was clarity on the documents regarding the budgetary implications. Cuba was concerned about the Council losing control over spending and cited the experience of the former Human Rights Commission, where staff were sometimes required to work until late, sometimes until midnight. Cuba proposed to enter into a discussion about this issue, as the Human Rights Council needed to engage or it would not be able to continue to work. If there were to be serious developments on the Universal Periodic Review, there needed to be enough staff.

OSITADINMA ANAEDU (Nigeria), speaking in a general comment, commended the work done on draft decision L.29. Concerning its provisions for the extension of the duration of the Universal Periodical Review, Nigeria suggested substituting the current wording "shall" with "could" in order to provide for flexibility in the context of budgetary constraints.

ANDRAS DEKANY (Hungary), speaking on behalf of the European Union in a general comment on resolution L.29, asked for more time to think about the intervention of Cuba and the change in the text suggested by Nigeria. The European Union noted that more time was needed to consult with delegations to work out an understanding.

IRUTHISHAM ADAM (Maldives), speaking in a general comment on L.29, on behalf of Small Island States, said the Maldives required a clarification. The Maldives inquired as to the implications for delegations without a mission in Geneva. The Maldives asked whether delegations would have to stay for four days in Geneva during their Universal Periodic Review. The Maldives stressed that this would be difficult for Small Island States due to substantial financial burdens incurred. Staying for

four days in Geneva would pose an enormous cost for Small Island States.

KENICHI SUGANUMA (Japan), speaking in an explanation of the vote after the vote, expressed the appreciation of Japan for the work of the core group working on draft resolution L.7/Rev. 1. Japan had contributed to debates aimed at making the Council more efficient and recognised the important role played by the President of the Council. Japan noted that while many States struggled to contribute to the costs of the work of the Council and the United Nations, neither the necessity nor the terms of reference for each staff member included in the draft resolution were sufficiently clarified. Japan reiterated that an effort should be made to keep any additional costs within the existing budget and urged the Secretariat to work to this end.

Action on Resolutions under the Agenda Item on the Promotion and Protection of All Human Rights

Action on Resolution on the Promotion of Human Rights in the Context of Peaceful Protests

In a decision (A/HRC/17/L.4/Rev.1) regarding the promotion and protection of human rights in the context of peaceful protests, adopted without a vote as orally revised, the Council decides to convene, within existing resources, at its eighteenth session, a panel discussion on the promotion and protection of human rights in the context of peaceful protests, with a particular focus on the ways and means to improve the protection of these rights in such contexts in line with international human rights law; requests the Office of the United Nations High Commissioner for Human Rights to liaise with relevant special procedures, States and other stakeholders, including relevant United Nations bodies and agencies, with a view to ensuring their participation in the panel discussion; and also requests the Office of the High Commissioner to prepare a report on the outcome of the panel discussion in the form of a summary.

JURGLAUBER (Switzerland), introducing resolution L.4 Rev.1, said that there were oral revisions to the resolution which had been distributed in the room. The text was procedural and was intended to decide on the holding of a panel on the subject of the resolution in September. Governments had an interest in allowing the right to freedom of assembly and association. In all regions of the world, people exercised their right to freedom of assembly, expression and association in a peaceful manner. The Office of the High Commissioner for Human Rights would be entrusted with preparing the panel and Switzerland remained convinced that the panel would bring together diverse perspectives, legal interpretations, best practices and that it could not but enrich the discussions within the Human Rights Council on the phenomenon.

Action on Resolution on Migrants and Asylum Seekers Fleeing from Events in North Africa

In a resolution (A/HRC/17/L.13) regarding migrants and asylum seekers fleeing from events in North Africa, adopted by a vote of 32 in favour, 14 against, and no abstentions as orally revised, the Council expresses its alarm at the continuing vulnerable situation, seen in recent events, of migrants and asylum-seekers who have suffered untold hardship and, in some cases, even death as they attempt to flee North Africa; also expresses its alarm at the fact that, after having been compelled to make dangerous journeys, including in crowded and unsafe boats, the above-mentioned migrants are subjected to life-threatening exclusion, detention, rejection and xenophobia; emphasizes that, in a spirit of solidarity and burden-sharing, countries of destination should deal with the arrival of thousands of migrants and asylum-seekers in non-seaworthy boats in a humane way and in compliance with their international obligations; and requests the United Nations High Commissioner for Human rights to pay particular attention to the situation of migrants and asylum-seekers fleeing North Africa described in the present resolution, to report to the Human Rights Council at its eighteenth session and to provide updates thereon.

The result of the vote was as follows:

In favour (32): Angola; Argentina; Bahrain; Bangladesh; Brazil; Burkina Faso; Cameroon; Chile; China; Cuba; Djibouti; Ecuador; Gabon; Ghana; Guatemala; Jordan; Kyrgyzstan; Malaysia; Maldives; Mauritania; Mauritius; Mexico; Nigeria; Pakistan; Qatar; Russian Federation; Saudi Arabia; Senegal; Thailand; Uganda; Uruguay and Zambia.

Against (14): Belgium; France; Hungary; Japan; Norway; Poland; Republic of Korea; Republic of Moldova; Slovakia; Spain; Switzerland; Ukraine; United Kingdom and United States.

Abstentions (0):

OSITADINMA ANAEDU (Nigeria), introducing draft resolution L.13, said the African Group recognized that due to the recent crisis situation in North Africa, migrants had suffered great hardship. Migrants were fleeing, not flowing out of North Africa. People were running away because their lives were at risk. Other root causes for migration did not apply in this case. This resolution had been difficult to establish. Nigeria thanked all partners for their efforts in developing the draft resolution. The information emanating from North Africa was such that while neighboring countries did quite a lot in accommodating migrants, there were substantial difficulties in traveling from North Africa. Some people had even died at sea. Nigeria took note that

some countries did provide assistance through their offices of migration or other mechanisms. The hardship suffered by migrants should be investigated in order to clarify the problems that arose and ensure this situation was not repeated. Nigeria believed that the Special Rapporteur, working with the High Commissioner, would be able to provide information about how to deal with such a situation in the future. The African Group would appreciate if the draft resolution would be approved by consensus.

MARIA NAZARETH FARANI AZEVEDO (Brazil), speaking in a general comment, indicated that according to the United Nations High Commissioner for Refugees, many migrants had perished while fleeing violence in North Africa. Brazil indicated that draft resolution L.13 reflected the needs of migrants seeking to fulfil their economic and social rights, and hoped that the draft resolution would contribute to the improvement of this situation and prevent further deaths of migrants, currently referred to as refugees and asylum seekers.

ANDRAS DEKANY (Hungary), speaking on behalf of the European Union in an explanation of the vote before the vote, noted that the European Union had assisted greatly with the humanitarian effort in Libya. From the outset the European Union had been at the forefront of humanitarian response. The European Union had been active in repatriating third country nationals. This had been vital in reducing the stress on neighboring countries. The draft text was circulated late. The European Union had engaged in a constructive spirit on the text, while retaining a specific focus that would address the issue at stake in a more balanced and legally accurate manner, notably when referring to issues related to refugee law and law of the sea. It noted that this was particularly true with regard to PP7 and operative paragraphs, which introduced new language that was not consistent with public international law. The resolution did not capture the multi-dimensional aspects of the problem. There was no reference to the overall human rights situation in the region, and therefore the root causes of the plight of migrants. The resolution did not refer to the responsibility of criminal traffickers and continued to characterize the situation in an unbalanced way. The European Union and its Member States had continued to observe the principle of non-refoulement. Not a single refugee had been subjected to refoulement. The European Union called for a vote and noted that it would vote against the resolution.

EILEEN CHAMBERLAIN (United States), speaking in an explanation of the vote before the vote on L. 13, said the United States shared concern for the migrants and asylum seekers fleeing the violence in Libya. A resolution requiring countries to recognize their obligations under international law and support victims of violence and migrants from Libya was important. However, this resolution assigned the sole responsibility to countries of destination and avoided reference to the root causes of the problem. The draft resolution used language that misconstrued State obligations and responsibilities regarding those migrants and asylum seekers. The sponsors had delayed introduction of the draft resolution, thus allowing only a restricted period to review and provide comments on the draft resolution. The United States regretted that the manner the resolution was developed belied its importance and sent the wrong message to the Gaddafi forces.

Action on Resolution on the Negative Impact of the Non-repatriation of Funds of Illicit Origin to the Countries of Origin on the Enjoyment of Human Rights

In a resolution (A/HRC/17/L.26) regarding the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, adopted by a vote of 32 in favour, 2 against, and 12 abstentions as orally revised, the Council expresses grave concern about cases of corruption that involve vast quantities of assets, which may constitute a substantial proportion of the resources of States, the deprivation of which threatens the political stability and sustainable development of those States; recognizes the urgent need to repatriate such illicit funds to the countries of origin without any conditionalities; and requests the United Nations High Commissioner for Human Rights to prepare a comprehensive study on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, in particular economic, social and cultural rights, and to submit a report thereon to the Human Rights Council at its nineteenth session.

The result of the vote was as follows:

In favour (32): Angola; Argentina; Bahrain; Bangladesh; Brazil; Burkina Faso; Cameroon; Chile; China; Cuba; Djibouti; Ecuador; Gabon; Ghana; Guatemala; Jordan; Kyrgyzstan; Malaysia; Maldives; Mauritania; Mauritius; Mexico; Nigeria; Pakistan; Qatar; Russian Federation; Saudi Arabia; Senegal; Thailand; Uganda; Uruguay and Zambia.

Against (2): Japan and United States.

Abstentions (12): Belgium; France; Hungary; Norway; Poland; Republic of Korea; Republic of Moldova; Slovakia; Spain; Switzerland; Ukraine and United Kingdom.

OSITADINMA ANAEDU (Nigeria), speaking on behalf of the African Group and introducing draft resolution L. 26, said that the recovery of stolen assets was a fundamental principle of the United Nations Convention against Corruption and that the international community had recognised the negative impacts on countries and populations deprived of the billions of dollars diverted by illicit transfers. The draft resolution expressed concern at the problems posed by corrupt practices and the transfers of funds of illicit origin. It requested the United Nations High Commissioner for Human Rights to prepare a comprehensive study on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, in particular economic, social and cultural rights and to submit a report to the Council at its nineteenth session.

EILEEN CHAMBERLAIN (United States), speaking in an explanation of the vote before the vote on resolution L.29, said that it regretted that the Council had chosen to devote its limited time and resources to a discussion on the return of assets acquired by corruption. It noted that two strong and respected bodies already existed to deal with these issues within the UN and internationally. They were the UN Commission on Crime Prevention and Criminal Justice, which was the relevant UN body that dealt with crime and corruption related issues; and the UN Convention Against Corruption Conference of the States Parties, a body that had specific international expertise to address the issue of return of assets of illicit origin and the impact of asset recovery efforts. The United States also noted the UN General Assembly had opined on the issues, recognizing the work of the Commission and Conference. The UN Secretariat had a highly respected and specialized body - the UN Office on Drugs and Crime - that worked daily on these important issues. These issues were governed by an international legal instrument: the United Nations Convention Against Corruption. The Council lacked the expertise to implement the resolution and it was not the proper forum for dealing with issues of return of assets acquired illicitly. The text represented a significant step backward. Further, the text was not provided in a timely manner and there had not been sufficient time for delegations and governments to fully consider the text on this highly technical issue.

JURGLAUBER (Switzerland), speaking in an explanation of the vote before the vote on L.2, said Switzerland was active in restoring illicit funds and was, in fact, the most active country in the world in this regard. Switzerland believed the issue was best left to bodies of experts to conduct negotiations, discuss and come up with effective solutions to combat corruption. Switzerland found it difficult to discuss the subject in the Human Rights Council as corruption had been discussed more in depth in bodies such as the Convention against Corruption, which Switzerland firmly supported. Comments that would have made the text more balanced had not been incorporated. The resolution did not take into account the complexity of corruption. Switzerland would vote against the draft resolution.

ANDRAS DEKANY (Hungary), speaking on behalf of the European Union in an explanation of the vote before the vote, regretted the lack of time available to carry out consultations on draft resolution L.26 and indicated that the United Nations Convention against Corruption, and the Commission on Crime Prevention and Criminal Justice of the United Nations Economic and Social Council, were the appropriate fora in which Governments could work together against the root causes of corruption and organised crime. Hungary further noted the work of the United Nations Office on Drugs and Organised Crime to this end. The draft resolution did not address the issue of transfer of funds of illicit origins from a global perspective and its impact on human rights; rather, it focused exclusively on the return of funds of illicit origin, offering an incomplete approach to the problem and ignoring its roots causes, in particular, corruption and organised crime.

SEBASTIAN ROSALES (Argentina), in an explanation of the vote before the vote on resolution L.26 on behalf of Argentina, Brazil, Chile, Guatemala and Uruguay, said that they were grateful to Nigeria for submitting the draft. They would have preferred to have more time to consider the text, but that despite this they would support the resolution. The UN Convention against Corruption required States parties to cooperate pursuant to article 51. A draft resolution strengthening cooperation on the negative effects of illicit financial flows was welcome. The essential operative paragraph of the resolution was operative paragraph 3 which called on the Commission within the context of the General Assembly to adopt a number of resolutions on the issue the most recent was res. 64/237. The countries noted that this would be the first resolution on the subject in the Council. The resolution would be useful to see what the Council could do on this subject as well as other bodies.

RODOLFO REYES RODRIGUEZ (Cuba), speaking in an explanation of the vote before the vote on L.26, was struck that some delegations doubted the relevancy of the draft resolution. This was not a matter of corruption or transnational crime. This was a human rights related matter. The right of people to access to their natural resources was a human right firmly enshrined in human rights instruments under the right to self-determination, which had existed as a recognized human right since the 1960s. Cuba was upset that the Governments of the North were defending thieves who had money belonging to the people of the countries of the South. These wealthy countries did not allocate 0.7 per cent of Gross Domestic Product to assist developing countries, but were accomplices of those who stole from the people of South, preventing the exercise of the right to development. It was, of course, difficult to demand a return of the money as it had been lost in the financial crisis and housing bubble. This money had been used to bail out the banks. To say this was not a relevant issue for the Human Rights Council

was unrealistic.

OSITADINMA ANAEDU (Nigeria), speaking on behalf of the African Group in an explanation of the vote after the vote, referred to the issue of migrants fleeing current events in North Africa and indicated that it was curious that the European Union claimed this to be a polarising issue. The African Group asked how the European Union could object to fact and information-finding on the behavioural patterns of certain European countries on the issue of migrants and asylum seekers fleeing violence. Concerning, draft resolution L. 26 on the negative impact of the non-repatriation of funds of illicit origin, enough time had been spent by the European and African representatives on the draft resolution and while the United Nations Convention against Corruption provided some mechanisms available to this end, these had not been successful in bringing the funds back to their countries of origin, except in the cases of voluntary initiatives such as in the case of Switzerland. Finally, Nigeria indicated that the denial of restitution of funds to the countries of origin would translate into denials of access to health, education and other human rights to which the Council had been discussing.

BENTE ANGELL-HANSEN (Norway), speaking in an explanation of the vote after the vote on L.26, said that Norway regretted that it was not possible to get consensus language on the specific protection of pregnant women and women facing sexual violence. Norway noted that pregnant women were more likely to be subject to sexual violence. Norway had been among those that strongly supported the inclusion in the resolution of the protection of women facing sexual violence. This went to the heart of equal rights and protection for all. Norway deplored that lesbian and transgender women were subjected to so-called corrective rapes. It was sorry that there was no more time to discuss migrants and asylum seekers from North Africa facing violence.

Action on Resolution under the Agenda Item on Human Rights Situations that Require the Council's Attention

Action on Resolution on the Human Rights Situation in Belarus

In a resolution (A/HRC/17/L.20/Rev. 1) regarding the situation of human rights in Belarus, adopted by a vote of 21 in favour, 5 against, and 19 abstentions as orally revised, the Council condemns the human rights violations occurring before, during and in the aftermath of the presidential elections of 19 December 2010, including the use of violence against, arbitrary arrest, detention and the politically motivated conviction of opposition candidates, their supporters, journalists and human rights defenders, as well as the abuses of due process rights, including the right to a fair trials for those involved in the demonstrations of 19 December; urges the Government of Belarus to end politically motivated persecution and harassment of opposition leaders, representatives of civil society, human rights defenders, lawyers, independent media, students and those defending them; requests the United Nations High Commissioner for Human Rights to monitor the human rights situation in Belarus and to present her oral report to the Human Rights Council at its eighteenth session and present a comprehensive report on the human rights situation in Belarus in an interactive dialogue at its twentieth session; encourages relevant thematic Special Procedures to pay particular attention to human rights situation in Belarus and to contribute to the report of the High Commissioner with recommendations on how to redress the human rights situation in Belarus to be presented at the twentieth session of the Human Rights Council; calls upon the Government of Belarus to cooperate fully with all the mechanisms of the Human Rights Council and to permit access to visit the country as well as all information necessary to allow the fulfilment of the mandate; and decides to consider further appropriate steps to be taken at its twentieth session.

The result of the vote was as follows:

In favour (21): Argentina; Belgium; Brazil; Chile; France; Gabon; Hungary; Japan; Jordan; Maldives; Mauritius; Norway; Poland; Republic of Korea; Slovakia; Spain; Switzerland; United Kingdom; United States; Uruguay and Zambia.

Against (5): China; Cuba; Ecuador; Nigeria and Russian Federation.

Abstentions (19): Angola; Bahrain; Bangladesh; Burkina Faso; Cameroon; Djibouti; Ghana; Guatemala; Kyrgyzstan; Malaysia; Mauritania; Mexico; Pakistan; Qatar; Republic of Moldova; Saudi Arabia; Senegal; Thailand and Uganda.

ANDRAS DEKANY (Hungary), introducing draft resolution L.20 Rev.1 with oral amendments on behalf of the European Union, said the resolution had been tabled to encourage Belarus to cooperate and improve human rights in the country. Over the years, the European Union had expressed serious concern about the human rights situation in Belarus. For a long time, the European Union had engaged Belarus to improve human rights. Unfortunately, no positive results had been reached. There had been a serious deterioration of the human rights situation and serious breaches of human rights since 19 December 2010. The European Union urged Belarus to respect international commitments in the frameworks of the Organization for Security and Cooperation in Europe and the United Nations. The European Union also urged Belarus to accept full and permanent monitoring of human rights by independent organs and bodies. After carefully listing to partners on various options, the European Union decided to introduce this resolution. The European Union continued to urge the Government of Belarus inter

European Union decided to introduce this resolution. The European Union continued to urge the Government of Belarus, inter alia, to end human rights violations and protect fundamental human rights. The aim of the resolution was to assure public monitoring of the human rights situation and thus allow the Council to engage with Belarus over the long term. The mechanism would encourage Belarus to show its will to engage with the international community and take the necessary measures to protect the human rights of its people. Oral revisions were circulating in the room and had been sent to missions the previous day. Hungary hoped the resolution would be adopted with the broad support of the Council.

MYKOLA MAIMESKUL (Ukraine), speaking in a general comment, said that all States had an obligation to promote and protect human rights and fundamental freedoms and expressed concern about the human rights situation in Belarus and the reports of human rights violations related to the 19 December 2010 presidential elections, including alleged arbitrary detentions of opposition leaders and representatives of civil societies. Ukraine expressed itself in favour of a renewal of active cooperation between Belarus and European institutions and called upon the Government to take measures to protect and ensure respect for the rights to freedom of expression and assembly, and to release all those detained in connection with the December demonstrations in order to create the basis for the resumption of political dialogue between Belarus and the international community. Finally, Ukraine called upon the Government to fully cooperate with all the mechanisms of the Human Rights Council, the Office of the High Commissioner of Human Rights and the human rights treaty bodies, to improve the human rights standards and guarantee fundamental freedom in its country.

MIKHAIL KHVOSTOV (Belarus), speaking as a concerned country, said that it was obvious that the resolution put forward by the European Union had nothing to do with the concern for human rights in Belarus but was an attempt to pull the Human Rights Council into reviewing the failed coup d'état scenario at the Presidential elections of December 2010. Belarus had already established the level of responsibility of the organisers and participants in the assault on the House of Government. Also, Belarus cooperated actively with the Human Rights Council and its thematic mechanisms, demonstrating openness and readiness for dialogue, but in disregard thereof, the European Union deliberately ignored the real situation in Belarus. The resolution masked the intention of the European Union to impose on the Human Rights Council its own ideas of the situation in Belarus and to legitimise the unilateral sanctions it used against the people of Belarus. Belarus supported a genuine and equal dialogue on human rights and said that it could not accept a selective discussion of country-specific situations for exclusively political motives. Belarus also totally rejected any interference in its internal affairs and exertion of pressure under the pretext of human rights protection and appealed to the Members of the Council not to support the resolution and to vote against it.

VALERY LOSHCININ (Russian Federation), speaking in an explanation of the vote before the vote on L.20 Rev.1, said the Russian Federation was convinced that the practice of adopting country resolutions was counterproductive. The resolution on Belarus was another example of unilateral and politicized approaches to human rights issues which did not augment cooperation among States but brought the Council back to the politicization of the former Commission. No country was free from human rights problems, but addressing human rights situations needed be done on an equal basis and with mutual respect. This was the role of the Universal Periodic Review. This was a situation where some countries, which were far from spotless in their human rights record, were imposing resolutions and lessons on human rights and democracy on other countries. This led to politicization and confrontation and was counterproductive. The draft resolution was being proposed without the accord of the concerned country. Russian Federation called for a vote, would vote against the draft resolution and called for all other countries to join it in this position.

RODOLFO REYES RODRIGUEZ (Cuba), speaking in an explanation of the vote before the vote, said it was hard to understand this resolution, there was an allegation of irregularities in the elections but Cuba noted that the election of President Bush also had such irregularities and nothing was heard about it in the Council. In Guantanamo Bay there were people being arbitrarily detained without evidence of them having committed an offence. There was a recent chapter of barbarian acts including members of the European Union. Yet there was no resolution on any member country of the European Union, only on Belarus. Cuba noted that the title of the resolution should be changed to the promotion of a change in regime in Belarus because it seemed that it was driven by the European Union's economic interests, particularly in the banking sector. Cuba noted that it seemed that the European Union was interested in changing the banking system in Belarus and opening it up to privatization as was being done elsewhere. The resolution smacked of imperial arrogance of the European Union. This resolution was a last straw attempt on the credibility of the Council in the treatment of human rights. Further the country mandates were being used to guillotine the free determination of people. Cuba would vote against this resolution. The members of the Council were slipping back to what had discredited the previous Council.

JUAN JOSE GOMEZ CAMACHO (Mexico), speaking in an explanation of the vote before the vote, said that Mexico's position on draft resolution L. 20/Rev.1 should not be interpreted as one of indifference or indulgence with regards to the current situation in Belarus. Mexico expressed concern about the alleged violations of human rights after the elections on 19 December 2010, including arbitrary detentions and mistreatment of detainees, as well as restrictions to the media and the

Internet. Mexico was concerned by the lack of democratic space and subsequent limitations to the enjoyment of human rights and fundamental freedoms in Belarus. The Council, however, must preserve a constructive environment and avoid the polarisation of its work. Mexico acknowledged the efforts of the European Union to incorporate Mexico's concerns on the draft resolution, but regretted that the modifications were not completely satisfactory.

XIA JINGGE, (China), speaking in explanation of the vote before the vote on L.20 Rev.1, said a constructive dialogue was necessary to resolve human rights issues. China hoped the Council could conduct itself in a fair, objective and constructive manner. The draft resolution clearly went against this spirit. Politicizing human rights issues, applying pressure and pursuing confrontation only complicated such problems and did not contribute to finding solutions. China was concerned that the history of Human Rights Council was repeating itself. China hoped the international community could look at the human rights situation in Belarus without bias. Holding dialogue and providing assistance in cooperation with the Government of Belarus was constructive and beneficial to the protection and promotion of human rights. China did not support the draft resolution and would vote against it.

OSITADINMA ANAEDU (Nigeria), speaking on behalf of the African Group in an explanation of the vote after the vote on human rights situations that require the Council's attention, said that the African Group was concerned about the human rights situation in Belarus. The cooperation of the country concerned was essential for the success of any mandate. Politicising was counter-productive.

Action on Resolution under the Agenda Item on Technical Assistance and Capacity-Building

Action on Resolution on Assistance to Somalia in the Field of Human Rights

In a resolution (A/HRC/17/L.14) regarding assistance to Somalia in the field of human rights, adopted without a vote, the Council decides to renew the mandate of the Independent Expert on the situation of human rights in Somalia for a period of one year, from September 2011; requests the Independent Expert to evaluate the sufficiency and effectiveness of the technical assistance provided to Somalia for implementing the accepted recommendations, and to submit a comprehensive report thereon to the Human Rights Council at its eighteenth and nineteenth sessions; and requests the Secretary-General and the Office of the High Commissioner to provide the Independent Expert with all the human, technical and financial assistance necessary to carry out his or her mandate.

OSITADINMA ANAEDU (Nigeria), introducing draft resolution L.14, said Nigeria took into consideration the situation of Somalia. The friends of Somalia should be commended for trying to find consensus on this draft resolution. It had been necessary to reconcile the resolutions previously adopted in support of Somalia that had never been implemented. It had been recognized that Somalia had cooperated with Human Rights Council and the High Commissioner to the extent possible in order to promote and protect human rights. The efforts made by the Somalia Ambassador to benefit his country were commendable. Nigeria commended the Office of the High Commissioner of Human Rights in coming half way in accepting shortcomings in addressing the issues in Somalia. It was of grave necessity for the conditions in Somalia to improve and the efforts of the Council were not in vain. Somalis undertook efforts that were commendable but were constrained due to the lack of resources and thus Nigeria called for support for Somalia. Nigeria called for all parties to support the draft resolution.

YUSUF MOHAMED ISMAIL (Somalia), speaking as a concerned country on draft resolution L.14, said the resolution further extended Somalia's commitment to work with the Human Rights Council across all regional groups in the spirit of multilateralism. The resolution extended the mandate of the Independent Expert; paved the way for the realisation of tangible technical cooperation in the field of institutional capacity building focused on prevention; and laid the foundation for the implementation of Universal Periodical Review recommendation. Somalia was committed to the follow-up of these recommendations at the national and sub-national levels, for these constituted the kind of roadmap Somalia had sought in order to prioritize among its many challenges. Somalia acknowledged the work of the Independent Expert and called upon the Council to extend his mandate and welcomed the pledge by the United Nations High Commissioner for Human Rights to fulfil Somalia's request for the deployment of a high-level technical mission to Nairobi and Somalia.

SEBASTIAN ROSALES (Argentina), speaking in an explanation of the vote after the vote on resolution L.26, said that only States were responsible for the protection of human rights, and they were the only ones to which obligations were addressed.

Appointment of Special Procedures Mandate Holders

SIHASAK PHUANGKETKEOW, President of the Human Rights Council, said that the list of candidates for the appointment of Special Procedures mandate holders had been circulated on 16 June. The President said that he had prepared the list on the basis of recommendations of the Consultative Group and had also held extensive consultations with regional groups, non-

governmental organizations and other stakeholders. The final list of candidates was as followed: as Special Rapporteur on the human rights of migrants, Francois Crépeau (Canada/France), as Independent Expert on minority issues Rita Izsak (Hungary), as Independent Expert on human rights and international solidarity Virginia Dandan (Philippines), as Special Rapporteur on the promotion and protection of human rights while countering terrorism Ben Emmerson (United Kingdom), and as Special Rapporteur on the situation of human rights in the Islamic Republic of Iran Ahmed Shaheed (Maldives). The candidates for members of the Working Group on the use of mercenaries as a means of impeding the exercise of peoples to self-determination were Anton Ferrel Katz (South Africa), Patricia Arias (Chile), Elzbieta Karska (Poland).

With regard to the appointment of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, the President said that draft resolution L.17 adopted on 16 June had established a Working Group on the issue of human rights and transnational corporations and other business enterprises. It was understood that the establishment of this Working Group did not further the mandate of the Special Representative of the Secretary-General which would come to an end on 25 July 2011. The candidatures for this Working Group would be considered by the Consultative Group which would make recommendations to the incoming President before the eighteenth session of the Human Rights Council in September 2011.

The Council then endorsed the list of candidates for Special Procedures mandate-holders as proposed by the President of the Human Rights Council.

Statements in Explanation of the Vote after the Vote after the Conclusion of Taking Action on all Draft Resolutions and Decisions

KSHENUKA SENEWIRATNE (Sri Lanka), speaking in an explanation of the vote after the vote after conclusion of taking action on draft resolutions, said, regarding the resolution on Belarus, that resolutions should be developed in consultation with the concerned country. The capacity building needs of the State concerned should be taken into consideration. This Council should adhere to objectivity, non-selectivity and engagement in supporting States. Resolutions should not culminate in double standards and politicization. The Council should seek to engage in dialogue with States in the promotion and protection of human rights.

MAYSA URENA MENACHO (Bolivia), in an explanation of the vote after the vote on L.17, acknowledged that responsibility for respect for human rights involving transnational corporations - whether public or private - within its territory was the responsibility of the State. It regretted that Bolivia's recommendations on this issue were not taken into account. Bolivia had received information that during the gathering of information for the Guiding Principles, some civil society organizations were ruled out of the process. As a result, Bolivia had not been able to endorse the resolution as it regarded the Guidelines as biased because they gave privileged treatment to the rights of corporations. The international community should continue to work for the progress of human rights with respect to transnational corporations. Bolivia hoped that it would be possible to have a binding agreement that entailed obligations for transnational corporations. However it noted that the image of the Council was at stake because of this resolution and requested that this statement be included in the records.

MIKHAIL KHVOSTOV (Belarus), in an explanation of the vote after the vote, condemned the adoption of resolution L.20/Rev.1. The resolution was politicised and the vote showed it lacked an overall support from the Council. The resolution was intended to bring pressure on Belarus and would not be successful, as historical examples from the former Commission of Human Rights and politicised country mandates showed. The resolution undermined the principles of non-selective consideration of human rights situations and deliberately prevented the United Nations High Commissioner for Human Rights from operating independently. Belarus indicated that this resolution set a dangerous precedent for the Council, the Universal Periodical Review procedures and the Office of the United Nations High Commissioner for Human Rights and, as such, it constituted a step backwards in the protection of human rights. Belarus intended to fulfil its human rights obligations, interacting with the relevant international organs including the Office of the United Nations High Commissioner for Human Rights.

WAELETTIYA (Egypt), in explanation of the vote after the vote regarding the adoption of resolution L.6, acknowledged that the main co-sponsor had held extensive consultations. Egypt had highlighted concerns about an extensive number of paragraphs and had submitted revisions. Egypt wanted to emphasize its commitment to assuring the rights of women and girls but co-sponsors of the resolution had adopted an approach that adhered to their point of view. Egypt believed that resolutions should be of universal ownership, not only the ownership of co-sponsors. This put into question proponents for effective implementation on the ground. There was an extensive list of steps included in paragraph five which could constitute a challenge to States' ability to fulfill the human rights of women and girls. This went beyond obligations under human rights law. Egypt did not endorse or share the findings of the Special Rapporteur on women and girls and thus was not in a position to support the Special Rapporteur. On resolution L.9 Rev.1, Egypt aligned itself with comments by Bolivia and Nigeria on

to support the Special Rapporteur. On resolution L.9 Rev.1, Egypt aligned itself with comments by Pakistan and Nigeria on behalf of the Organization of Islamic Conference and the African Group respectively. The decisive nature of the issue was reflected in the vote. Sexual orientation was not on par with discrimination based on racism, xenophobia and religion. The Council was divided on this issue. The resolution raised a certain group to a higher standard and thus violated the idea that all people were equal. In many countries around the world national dialogue on this issue had not arrived at a consensus. States had exported an internal issue to an outside body in order to resolve the issue for them. Egypt emphasized its commitment to non-discrimination and condemned of all forms of violence. Egypt supported the resolution on the right to health and access to medicine and thanked the delegation of Brazil for its work on the resolution. Access to medicine contributed to the fulfilment of the right to the highest attainable level of health. There was a role for intellectual rights and protection, but the cost of medicine represented a heavy burden on developing countries' resources.

BOUALEM CHEBIHI (Algeria), speaking in an explanation of the vote after the vote, said that while the work of the Council and the Universal Periodical Review had previously managed to avoid politicisation, during this session the Council had dedicated a week to item four for geopolitical reasons. The journalistic slogan "Arab Spring" had been abused throughout the session to refer to social movements in North Africa for which, regardless of their commonalities, the generalisation was not justified. Algeria noted the adoption of a text on migrants and asylum seekers, who had been denied protection while fleeing conflict and expressed concern regarding the adoption of a resolution seeking to provide protection to minorities on the basis of sexual orientation against the principle of universal application of human rights. Algeria welcomed the panel discussion on terrorism held by the Council during this session.

Presentation of Report by Rapporteur of the Council

BENTE ANGELL-HANSEN (Norway), Rapporteur of the Seventeenth Session of the Council, said that the seventeenth session of the Council had been constructive and the draft report of the session had been made available on the Human Rights Council extranet on 16 June in an advanced unedited version. It contained a procedural description of the work up until and including the thirty-second meeting on Thursday. Further, the rest of the proceedings of Thursday and Friday would be reflected in the final draft report which would also be circulated after the session. The Council then adopted the draft report of the seventeenth session ad referendum.

Other Statements

OSITADINMA ANAEDU (Nigeria), speaking on behalf of the African Group, said the report on the seventeenth session was not in dispute. The Africa Group hoped that all that the group had said was reflected in the final report. With respect to sex orientation, Nigeria had stated clearly, on behalf of the African Union, that all concepts should not be imposed on all countries. Conduct in the private sphere fell outside the human rights framework and concepts related thereto should not be universally applied. The sensitivity of countries should be respected. This was a sensitive notion, as its identification would lead to the creation of new rights and standards that would undermine the human rights framework. It was imperative that the issue of illicit funds be discussed in the Council. The transfer and use of illicit funds led to the denial of the access to education and health, increased poverty and prevented the attainment of the Millennium Development Goals. Accountability and transparency could not be realized without a mechanism for better understanding this issue. The situation of migrants and asylum seekers should be of the highest priority and should be investigated to better understand the issue. Although the African Group commended countries that had provided aid to migrants and asylum seekers from North Africa, they noted that migrants and asylum seekers had been denied access to some European countries.

MICHAEL INEICHEN, of International Service for Human Rights, said in a joint statement that the landmark resolution on human rights and sexual orientation and gender identity represented a long overdue move by the Council to display the leadership in protecting all persons from human rights violations that the world expected. They regretted that the Council had backtracked on previously agreed language in the violence against women resolution and welcomed the renewal of several important Special Procedures mandates and the response of the Council to the unfolding situations in Côte d'Ivoire, Libya and Syria. They lamented that selectivity and double standards had prevented the Council from addressing other urgent situations adequately, such as Sri Lanka and Bahrain, which must be addressed more seriously in order to avoid undermining the Council's credibility.

PATRIZIA SCANELLA, of Amnesty International, hoped that the Council's decision in the context of the Human Rights Council review to establish separate public lists for each special procedure vacancy was accepted as that would simplify the identification of the potential nominees. The Office of the High Commissioner for Human Rights should advertise vacancies early and as widely as possible, including through networks most closely associated with the individual special procedure mandates and it should regularly update the public lists. Amnesty International reiterated its call for a consultative group to substantiate all of the recommendations to the President, in particular by describing comprehensively how each candidate met

the general criteria for mandate holders: expertise, experience, independence and impartiality, personal integrity and objectivity.

CORLETT LETLOJANE, of Canadian HIV/Aids Legal Network, in a joint statement with International Commission of Jurists, Action Canada for Population and Development and National Association of Community Legal Centres Inc., extended appreciation to South Africa and other countries of that region that had supported the historical resolution on human rights, sexual orientation and gender identity. Canadian HIV/AIDS Legal Network commended South Africa for its leadership and the open and transparent manner in which South Africa ran consultations on the draft text. Canadian HIV/AIDS Legal Network acknowledged that these were sensitive issues for many and looked forward to constructive dialogue with all members of the Council in this regard. Canadian HIV/AIDS Legal Network welcomed the opportunity to have a United Nations platform on which to engage on these issues and hoped the Council's attention would contribute to a change in social attitudes and perceptions. Canadian HIV/AIDS Legal Network regretted the removal of the reference to women, who were vulnerable to sexuality-related violence, in the session's resolution on violence against women.

For use of the information media; not an official record