INTERNATIONAL COORDINATING COMMITTEE
OF NATIONAL INSITUTIONS FOR
THE PROMOTION AND PROTECTION OF HUMAN RIGHTS
18th Session, Santa Cruz, 27th October 2006

Report and Recommendations of the Sub-Committee on Accreditation

1. BACKGROUND

1.1 In accordance with the Rules of Procedure of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC), the Sub-Committee on Accreditation (the Sub-Committee) has the mandate to consider and review applications for accreditation received by the National Institutions Unit of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its capacity as the ICC Secretariat, and to make recommendations to the ICC members with regard to the compliance of applicant institutions with the Paris Principles.

1.2 In accordance with the Sub-Committee Rules of Procedure, the Sub-Committee is composed of representatives of each region: the national institutions of Canada for the Americas (Chair), Denmark for Europe, the Republic of Korea for Asia Pacific and Nigeria for Africa. The Sub-Committee convened from the 23rd to 26th October 2006. OHCHR participated as a permanent observer and in its capacity as ICC Secretariat.

1.3 Pursuant to article 3 (c) of the ICC Rules of Procedure, the Sub-Committee considered applications for re-accreditation from: Argentina, Australia, Cameroon, Canada, Costa Rica, India, Mexico, New Zealand and Panama. At the request of the French Commission, the Sub-Committee agreed to defer consideration of their re-accreditation application to the next session, due to the fact that the bill to amend the enabling legislation of the Commission is currently being negotiated.

1.4 Pursuant to article 3 (c) of the ICC Rules of Procedure, the Sub-Committee also considered new applications for accreditation from Armenia, Azerbaijan, Egypt, Madagascar, Northern Ireland (UK), Puerto Rico, Qatar, Tanzania and Zambia.

1.5 Pursuant to article 3 (g) of the ICC Rules of Procedure, the Sub-Committee considered the accreditation status of the national institutions of Nigeria and Nepal.

1.6 In accordance with the Paris Principles and the ICC Sub-Committee Rules of Procedure, the different classifications for accreditation used by the Committee are:

A: Compliance with the Paris Principles;

A(R): Accreditation with reserve – granted where insufficient documentation is submitted to confer A status;

B: Observer Status - Not fully in compliance with the Paris Principles or insufficient information provided to make a determination;

C: Non-compliant with the Paris Principles.

1.7 After considering all applications, the Sub-Committee presents this report for consideration of the members of the ICC at its 18th session. The report provides the recommendations of the Sub-Committee related to individual applications in sections 2, 3 and 4.

1.8 For the first time, the Sub-Committee has made General Observations in relation to accreditation. These General Observations have been formulated on common or important interpretative issues and are intended to be guiding observations for members on the application process or for the implementation of the Paris Principles. These are set out in section 6 of this report. The list of general observations is not exhaustive and will continue to evolve as the Sub-Committee further reviews other applications.

1.9 The Sub-Committee would like to acknowledge the high degree of support and professionalism of the staff of the ICC Secretariat which has been essential for the Sub-Committee to conduct its activities.

1.10 In accordance with the ICC Rules of Procedure, the Sub-Committee encourages all accredited national institutions to advise the ICC at the first available opportunity of any change in their circumstances that would impair their ability to meet the standards and obligations of the Paris Principles.

2. SPECIFIC RECOMMENDATIONS - RE-ACCREDITATION APPLICATIONS

2.1 Argentina: Defensoría del Pueblo de la Nación Argentina

Recommendation: The Sub-Committee recommends that the Defensoria be accredited **status A**.

2.2 Australia: Human Rights and Equal Opportunity Commission

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A**. The Sub-Committee further recommends that consideration be given to reviewing the Commission's existing budget to ensure that, as set out in section 8(1) of the enabling legislation, the Commission consists of the President and five Commissioners listed in that law. The Sub-Committee also encourages that consideration be given to the removal of the provision allowing the Minister to convene the Commission on the basis that it could potentially compromise the independence of the Commission.

2.3 Cameroon: National Commission on Human Rights and Freedoms

Recommendation: The Sub-Committee recommends that the Commission be accredited **status B**. In this regard, the Sub-Committee notes the following:

a) Under article 15(2) of the Commission's enabling legislation, government department representatives appointed as Commissioners under section 6(1) are entitled to a vote, which is contrary to the Paris Principles;
b) The Sub-Committee requires additional information to confirm that stable and adequate funding is being provided to the Commission;
c) The Sub-Committee requires additional information regarding recent activities of the Commission. It is noted that the most recent Annual Report provided is from 2003;
d) The Sub-Committee notes that while Commissioners have been selected they have not yet commenced in this role and requests that, when Commissioners commence their work, that confirmation of such be provided.

2.4 Canada: Human Rights Commission

The Sub-Committee reviewed this application in the absence of the Canadian representatives of the Sub-Committee.

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A**. The Sub-Committee also refers the Commission to the General Observations of the Sub-Committee on ensuring pluralism and on the selection and appointment of the governing body.

2.5 Costa Rica: Defensoría de los Habitantes de Costa Rica

Recommendation: The Sub-Committee recommends that the Defensoria be accredited **status A**. The Sub-Committee also refers the Defensoria to the General Observation on ensuring pluralism.

2.6 India: National Human Rights Commission

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A**. The Sub-Committee further recommends that consideration be given to strengthening the consultation processes regarding the selection and appointment of the Secretary General and staff under section 11(1) of the enabling law of the Commission in order to strengthen the independence of the staff appointed.

2.7 Mexico: Comisión Nacional de los Derechos Humanos de Mexico

Recommendation: The Sub-Committee recommends that the Comisión be accredited **status A**.

2.8 New Zealand: New Zealand Human Rights Commission

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A**. The Sub-Committee also refers the Commission to the General Observations of the Sub-Committee on ensuring pluralism and on the selection and appointment of the governing body.

2.9 Panama: Defensoría del Pueblo de Panama

Recommendation: The Sub-Committee recommends that the Defensoría be accredited **status A**. The Sub-Committee notes that according to the 2004-2005 Annual Report, the budget of the Defensoría has recently been reduced by 20%. The Sub-Committee encourages the Defensoría to advise the ICC should its funding adversely affect the ability to operate in accordance with the Paris Principles.

3. SPECIFIC RECOMMENDATIONS – NEW ACCREDITATION APPLICATIONS

3.1 Armenia: Human Rights Defender of Armenia

Recommendation: The Sub-Committee recommends that the Defender be accredited **status A**.

3.2 Azerbaijan: Human Rights Commissioner (Ombudsman)

Recommendation: The Sub-Committee recommends that the Commissioner be accredited **status A**. The Sub-Committee further notes that the promotional and educational functions of the Commissioner are found in the regulation and recommends that consideration be given to entrenching these functions in the enabling legislation. The Sub-Committee refers the Commissioner to the General Observation on the selection and appointment of the governing body.

3.3 Egypt: National Council for Human Rights

Recommendation: The Sub-Committee recommends that the Council be accredited **status A**. The Sub-Committee also encourages consideration of the removal of the provision allowing the President to convene the Commission on the basis that it could potentially compromise the independence of the Commission. The recommendation for A status is based on the Sub-Committee's understanding that the work of the Committee of Five is in an advisory capacity only and that the Committee does not review and study individual complaints prior to their referral to the concerned authorities. The Sub-Committee refers the Council to the General Observation on government representatives on National Institutions.

3.4 Madagascar: Commission Nationale des Droits de l'Homme de Madagascar

Recommendation: The Sub-Committee recommends that the Commission be accredited **status C** on the basis that the information provided by the Commission does not change the previous decision taken by the ICC at its April 2006 session.

3.5 Northern Ireland (UK): Northern Ireland Human Rights Commission

Recommendation: After reviewing the application, the Sub-Committee considers that the Northern Ireland Commission is established and functions in accordance with the requirements described in the Paris Principles but recommends that the ICC defines the term 'national' for the purposes of determining the accreditation status.

3.6 Puerto Rico: Commonwealth of Puerto Rico Ombudsman

Recommendation: The Sub-Committee determined that not all documents submitted by the Ombudsman were before it. The Sub-Committee was therefore unable to assess whether the establishment and functioning of the Ombudsman is in accordance with the requirements described in the Paris Principles. The Sub-Committee recommends that the ICC defines the term 'national' for the purposes of determining the accreditation status of the Ombudsman.

3.7 Qatar: National Human Rights Committee of Qatar

Recommendation: The Sub-Committee recommends that the Committee be accredited **status B**. In this regard, the Sub-Committee notes the following:

a) The amended Decree Law and the By-Laws of the Committee were not provided in the application;
b) Under article 6 of the Committee's enabling legislation, government department representatives appointed as Committee members under article 3 are entitled to a vote and may form a majority of the Committee, both of which are contrary to the Paris Principles;
c) It is not clear that the Paris Principle requiring adequate funding by the State is met; and
d) The Sub-Committee refers to the need to ensure pluralism in the selection and appointment process of Committee members, particularly in relation to the civil society members.

3.8 Tanzania: Commission for Human Rights and Good Governance

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A**. The Sub-Committee notes that the constitutional power of the President to issue directives to the Commission on issues of national interest under article 130(3) of the Constitution has not been invoked but suggests that consideration be given to limiting the scope of this power as prescribed by the law.

3.9 Zambia: Human Rights Commission of Zambia

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A** and encourages the Commission to advise the ICC should the funding of the Commission adversely affect its ability to operate in accordance with the Paris Principles.

4. SPECIFIC RECOMMENDATIONS – SPECIAL REVIEWS

4.1 Nepal: National Human Rights Commission

Pursuant to article 3(g) of the ICC Rules of Procedure, prior to the April 2006 session the ICC Chair requested that the accreditation status of Nepal be reviewed. At the April 2006 session, the Sub-Committee recommended that the current accreditation status of A be reviewed at the next meeting of the Sub-Committee and that the Nepal Human Rights Commission provide documentation to demonstrate its continued compliance with the Paris Principles, specifically with respect to the appointment process related to the Secretary General.

Recommendation: The Sub-Committee recommends that the accreditation status of the Commission **remain under review**. The Sub-Committee also recommends that the Commission provide to the next ICC session, a copy of its new Human Rights Act; confirmation that the Law has been passed; and confirmation of and information on the appointment process of the Commissioners and the Secretary-General. This information should be provided to the ICC Secretariat by 20 December 2006 and any updated information by 9 March 2007.

4.2 Nigeria: Human Rights Commission

Pursuant to section 3(g) of the ICC Rules, the Sub-Committee was requested by the ICC Chair to consider the accreditation status of Nigeria in view of the recall in June 2006 of the Executive-Secretary.

The Sub-Committee reviewed material provided by the ICC Secretariat and heard oral representations by the Nigerian representative who indicated, among other things, that the Commission has continued to address relevant human rights matters with respect to the Government since the recall of the Executive-Secretary. The Nigerian representative has committed to providing documentation to support her representations. The Sub-Committee then deliberated on the issue in the absence of the Nigerian representative.

Recommendation: The Sub-Committee recommends that Nigeria's **A status remain unchanged** because the Sub-Committee does not have sufficient grounds to conclude that the independence of the Commission has been adversely impacted by the recall of the Executive-Secretary. The Sub-Committee further recommends that the Commission report back to the ICC at the conclusion of the investigation of this matter or prior to the next ICC session, whichever is earliest.

5. OTHER MATTERS

5.1 El Salvador: Procuraduria para la Defensa de los Derechos Humanos

Pursuant to the recommendation of the Sub-Committee in April 2006, the Sub-Committee had the opportunity to review additional information provided by the Procuraduria with respect to its appointment process, which confirms that civil society is involved in the appointment process of deputies and thanks them for this information.

6. GENERAL OBSERVATIONS

6.1 Application processes: With the growing interest in establishing National Institutions, and the introduction of the five-yearly re-accreditation process, the volume of applications to be considered by the Sub-Committee has increased dramatically. In the interest of ensuring an efficient and effective accreditation process, the Sub-Committee emphasises the following requirements:

a) Deadlines for applications will be strictly enforced;
b) Where the deadline for a re-accreditation application is not met, the Sub-Committee will recommend that the accreditation status of the National Institution be suspended until the application is considered at the next meeting;
c) The Sub-Committee will make assessments on the basis of the documentation provided. Incomplete applications may affect the recommendation on the accreditation status of the National Institution;
d) Applicants should provide documentation in its official or published form (for example, published laws and published annual reports) and not secondary analytical documents;
e) Documents must be submitted in both hard copy and electronically;
f) All application related documentation should be sent to the ICC Secretariat at OHCHR at the following address: National Institutions Unit, OHCHR, CH-1211 Geneva 10, Switzerland and by email to: nationalinstitutions@ohchr.org; and
g) It is the responsibility of the applicant to ensue that correspondence and application materials have been received by the ICC Secretariat.

6.2 Limitation of power of National Institutions due to national security: The Sub-Committee notes that the scope of the mandate of many National Institutions is restricted for national security reasons. While this tendency is not inherently contrary to the Paris Principles, it is noted that consideration must be given to ensuring that such restriction is not unreasonably or arbitrarily applied and is exercised under due process.

6.3 Ensuring pluralism: The Sub-Committee notes there are diverse models of ensuring the requirement of pluralism set out in the Paris Principles. However, the Sub-Committee emphasises the importance of National Institutions to maintain consistent relationships with civil society and notes that this will be taken into consideration in the assessment of accreditation applications.

The Sub-Committee observes that there are different ways in which pluralism may be achieved through the composition of the National Institution, for example:

a) Members of the governing body represent different segments of society as referred to in the Paris Principles;
b) Pluralism through the appointment procedures of the governing body of the National Institution, for example, where diverse societal groups suggest or recommend candidates;
c) Pluralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or
d) Pluralism through diverse staff representing the different societal groups within the society.

The Sub-Committee further emphasises that the principle of pluralism includes ensuring the meaningful participation of women in the National Institution.

6.4 **Selection and appointment of the governing body:** The Sub-Committee notes the critical importance of the selection and appointment process of the governing body in ensuring the pluralism and independence of the National Institution. In particular, the Sub-Committee emphasises the following factors:

a) A transparent process
b) Broad consultation throughout the selection and appointment process
c) Advertising vacancies broadly
d) Maximising the number of potential candidates from a wide range of societal groups
e) Selecting members to serve in their own individual capacity rather than on behalf of the organization they represent.

6.5 **Encouraging ratification or accession to international human rights instruments**: The Sub-Committee interprets that the function of encouraging ratification or accession to international human rights instruments, set out in the Paris Principles, is a key function of a National Institution. The Sub-Committee therefore encourages the entrenchment of this function in the enabling legislation of the National Institution to ensure the best protection of human rights within that country.

6.6 **Government representatives on National Institutions**: The Sub-Committee understands that the Paris Principles require that Government representatives on governing or advisory bodies of National Institutions do not have decision making or voting capacity.