

COUNCIL MONITOR

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OVERVIEW

HUMAN RIGHTS COUNCIL, 7TH SPECIAL SESSION 'THE NEGATIVE IMPACT ON THE REALIZATION OF THE RIGHT TO FOOD OF THE WORSENING OF THE WORLD FOOD CRISIS, CAUSED *INTER ALIA* BY THE SOARING FOOD PRICES' 22 MAY 2008, GENEVA

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Overview

The Human Rights Council (the Council) convened its 7th special session on 22 May 2008 in Geneva. This meeting was called for by Cuba to discuss 'the negative impact on the realization of the right to food of the worsening of the world food crisis, caused *inter alia* by the soaring food prices'.

This meeting was notable in several respects. First and foremost, this was the first special session addressing a thematic issue, as opposed to a country situation. Furthermore, the dedication of the first thematic special session to the right to food reflects an advancement in the Council's treatment of economic, social and cultural rights. Second, Cuba's call for this special session was supported by an unprecedented number of States,¹ including an overwhelming majority of the Council (41 out of 47 members). The number and range of States that took the floor was impressive. Third, there was a conscious effort by some States to define the role of the Council in mainstreaming a human rights approach in the response of the United Nations (UN) to the current world food crisis. This has interesting implications for the institutional development of this body.

¹ Cuba's initiative was co-sponsored by a total of 91 States.

At the same time, there were two areas in which the Council's action was unsatisfactory. The first of these was the weakness of the actual content and outcome of the session.² The majority of States that took the floor merely reiterated the fundamental importance of the right to food, gave its take on the causes and impacts of the current world food crisis, and urged concerted international action. Moreover, although the narrow focus and undemanding provisions may have allowed for the resolution to be adopted by consensus, the Council missed an opportunity to declare its position on the world food crisis and assert its role within the UN's response to it. The other disappointment was the poor time management by the President of the Council, Ambassador Doru-Romulus Costea, and its consequence for non-governmental organisations (NGOs). In brief, NGOs were only given the floor at the end of the session, after the resolution had been adopted by the Council.

Background to the session

The call for a special session of the Council to address the global food crisis originated from Mr Olivier de Schutter, the recently appointed Special Rapporteur on the right to food. In a background note released on 2 May 2008,³ Mr de Schutter placed the crisis in the context of the right to food and highlighted its causes, consequences, and the policy responses that had been taken thus far. He noted the complete absence of a human rights dimension from the debates thus far, and called upon the Council 'to convene in a special session, in order to explore the steps which should be taken to respond [to] the current situation, consistent with the right to adequate food'. Many of the points raised by Mr de Schutter in his background note were echoed during the special session.

On 8 May 2008, Cuba, a staunch supporter of the mandate of the Special Rapporteur on the right to food, took the initiative to call for the special session. It accompanied this call with a brief draft resolution. Cuba's proposal was widely supported, as was its draft resolution. In the week preceding the special session, the Cuban delegation held two informal consultations on the draft, during which numerous additional clauses were proposed.

Overview of the proceedings

The Council welcomed three guests at the special session – Ms Louise Arbour, UN High Commissioner for Human Rights, Mr de Schutter, and Mr Eibe Riedle, a member of the Committee on Economic, Social and Cultural Rights representing this body at this session. These three speakers reminded States of their legal obligation to provide access to adequate food and stressed the need for international cooperation to achieve this goal. They encouraged States to take two types of action – urgent emergency assistance to address the immediate crisis and longer-term measures to ensure the protection of the right to food.

The majority of States gave their view on the causes of the world food crisis, emphasising different elements or combinations thereof. Trade distortions, climate change, biofuels, and the high price of oil were most commonly raised. At the same time, some delegations pointed out that although the soaring food prices are unprecedented, the actual causes of the crisis are not new. The national and international impacts of the world food crisis were also touched upon, with States expressing concern about the political unrest caused by its, as well as the regression in the attainment of Millennium Development Goal 1.⁴ In discussing responses to the crisis, three clear points were raised. First, States reiterated Mr de Schutter's call for the integration of a

² Oral statements can be accessed on the OHCHR extranet at <http://portal.ohchr.org> (fill out the form on www.ohchr.org/english/bodies/hrcouncil/form.htm to receive user name and password). An audiovisual archive of all public meetings of the Council ('webcast') is available at www.un.org/webcast/unhrc/index.asp. *Resolution A/HRC/S-7/L.1/Rev.1*, 22 May 2008, is also available on the extranet.

³ Available at www2.ohchr.org/english/issues/food/docs/SRRTFnotefoodcrisis.pdf.

⁴ The eradication of extreme poverty and hunger, and in particular the objective of halving the proportion of people who suffer from hunger by 2015.

human rights perspective in the UN response to the crisis. Second, States emphasised the necessity of international cooperation and assistance. Finally, the necessity to prioritise needs of the most vulnerable in society was repeated throughout the session. States gave examples of national and regional efforts to combat the soaring food prices. A number of delegations took this opportunity to call upon Myanmar to allow unhindered access to humanitarian aid.⁵

The importance accorded to this special session was reflected in the scale of the participation. The sheer number of delegations that took the floor on this occasion was impressive – 41 member States, 32 observer States, eight international organisations, five UN bodies, and 13 NGOs. The range of speakers was also notable, with the participation of many States that do not often make statements at the Council.⁶ Given this number and range of participants, one would have hoped to see more substantive contributions.

At the same time, there were some noteworthy developments during this special session. This was the first time that Mr de Schutter addressed the Council since he assumed his mandate of Special Rapporteur on the right to food. It was also the first time that the Bolivarian Alternative for the People of Our America (ALBA) made a statement as a group.⁷ An interesting point was that the Organization of the Islamic Conference (OIC) made two separate statements, one by Pakistan on behalf of the group, and another by a representative of the organisation.

NGO participation

From the beginning of the session, the President of the Council appealed to speakers to keep their statements within the time allocated to them (5 minutes for members, 3 minutes for observers). Nevertheless, by the end of the morning, it was apparent that time was running short. Given the frustration of certain States about the slow progress of the discussions and the logistical difficulties involved in re-convening the following morning, 15 minutes before the scheduled end of the session, the President proposed that the Council proceed to discussing and adopting the draft resolution, and that the remaining speakers – the NGOs – be given the floor thereafter. This suggestion was accepted without any objections. Thus, by the time the NGOs were given the floor half an hour later, the Council had already adopted a resolution, interpretation was no longer available, and State delegations were leaving the room.

The statements by the NGOs, made in English, Spanish, and French, presented the multiple causes of the world food crisis, reminded States of their obligations with respect to the right to food, and urged effective action. Amnesty International and Indian Movement Tupaj Amaru expressed their regret about the modalities that had been adopted at this session with regard to NGO participation. The latter argued that these modalities violated Council regulations.

Resolution A/HRC/S-7/Rev.1

Resolution A/HRC/S-7/Rev.1, drafted by Cuba, was co-sponsored by 78 States, including 28 Council members. The final resolution reflects proposals that were made during the informal consultations held by Cuba prior to the special session.

The original draft resolution contained five operative clauses, concerned mainly with the participation of all relevant stakeholders, including the Special Rapporteur on the right to food, in the *High-level Meeting on World Food Security and the Challenges of Climate Change and Bioenergy*, organised by the Food and

⁵ Slovenia (on behalf of the European Union), United Kingdom, Netherlands, Canada, New Zealand. Amnesty International also mentioned this in its statement.

⁶ For instance, Holy See, Iceland, Maldives, Congo-Brazzaville, Madagascar.

⁷ Venezuela spoke on behalf of this grouping, which consists of Cuba, Venezuela, Nicaragua, Bolivia, and Dominica.

Agriculture Organization (FAO).⁸ The final draft submitted to the Council at the special session maintains a lot of emphasis on the FAO meeting, but expands upon the clauses in the original draft, and most significantly, includes specific reference to State obligations.⁹

Cuba presented its resolution as an ‘opportune response of this body [the Council] to a tragedy of global proportions’, and praised the first special session on a thematic issue as a success. Canada, the only State to make a statement explaining its vote before the vote, criticised the resolution for its disproportionate emphasis on international cooperation rather than on State obligations. It also expressed its disappointment that neither reference to safe and unhindered access to humanitarian aid nor language on non-discrimination were included. Canada nevertheless refrained from blocking the consensus on the resolution, and *Resolution A/HRC/S-7/Rev.1* was adopted without a vote.

Although the final version of the resolution is more satisfactory than the original version, it is far from the vision contained in the institution-building package, which stipulates that ‘A special session should...be results-oriented and geared to achieving practical outcomes, the implementation of which can be monitored and reported on at the following regular session of the Council for possible follow-up decision’.¹⁰ The resolution would have benefited from a clear definition of the role of the Council and its own mechanisms in the UN response to the world food crisis. For instance, a point that was repeatedly raised by States and other stakeholders during the session was the need to mainstream a human rights perspective into the UN response to the world food crisis. With respect to this, the resolution merely ‘*Invites* the FAO to extend an invitation to the High Commissioner for Human Rights and to the Special Rapporteur on the right to food to attend and actively participate’ in the FAO conference in June.¹¹ Moreover, the aforementioned paragraphs on State obligations in relation to the right to food are vague and repetitive of provisions contained in other resolutions. In addition to the rejected Canadian proposals, the resolution would have benefited from, *inter alia*, a greater emphasis on longer-term measures, highlighting the relationship between the right to food and other human rights, and addressing the causes of the food crisis.

The follow-up to this special session will take place during the 8th session of the Council, at noon on 6 June 2008.¹² During this meeting, Mr de Schutter is expected to give an update on his participation in the FAO conference.

⁸ This conference was to take place in Rome from 3 to 5 June 2008. For more information, see www.fao.org/foodclimate.

⁹ Operative paragraph 3 ‘*Calls upon States...*to take all necessary measures to ensure the realization of the right to food as an essential human rights objective’, and paragraph 4 ‘*Stresses* that States have a primary obligation to make their best efforts to meet the vital food needs of their own population’. The latter paragraph goes on to give examples of measures to achieve this.

¹⁰ Para 128, Human Rights Council *Resolution 5/1*, 18 June 2007.

¹¹ During the special session, a representative of the Food and Agriculture Organization warmly welcomed these two individuals to the High-Level Conference.

¹² For the latest programme of work, see www2.ohchr.org/english/bodies/hrcouncil/8session/index.htm.

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