



THE REPRESENTATIVE  
OF THE  
UNITED STATES OF AMERICA  
TO THE  
UNITED NATIONS

August 30, 2005

Dear Colleague:

I want to share with you the U.S. vision and key concepts for the creation of a UN human rights mechanism that can effectively address the most serious human rights situations. We must undertake reform of the UN's human rights bodies, particularly the discredited UN Commission on Human Rights (CHR), as a key aspect of overall United Nations reform. The United States supports the creation of a UN Human Rights Council to replace the CHR and to serve as the UN's primary body charged with promoting and protecting human rights.

The United States believes that the CHR has made valuable contributions to the protection and promotion of human rights. We must focus on those aspects of the CHR's mandate that are effective, in particular its capacity to examine information relevant to gross violations of human rights and fundamental freedoms. The United Nations should be equipped with UN machinery that can more effectively enhance UN Member States' ability to implement their human rights commitments, both by providing cooperation, assistance, and support to Member States and by addressing urgent or continuous serious human rights violations with appropriate consideration.

The attached edits to the Outcome Document reflect these key concepts. Let me review our suggested changes to the current draft of the Outcome Document, paragraph by paragraph:

**Para 138 and others**

The change to "support the establishment of," the change here and elsewhere from "shall" to "should," and the change in Para 140 to "facilitate its adoption" make clear that this Outcome Document is not the operative document launching the Human Right Council.

**Para 139 a)**

The Subcommittee's working methods and membership have often raised serious questions in the past. If we are seeking true reform, the problem of redundant or unnecessary entities must be addressed. The US favors abolishing the Subcommittee but, at a minimum, we believe the consultative process identified in Para 140 should be used to determine whether the new Council needs a body of independent experts to supplement its work. We believe these continuing consultations give meaning to this paragraph's assertion that "The Council should assume the mandate of the CHR and

preserve its strengths...” For the same reasons, we support “a” system of special procedures, not necessarily “the” same CHR system.

**Para 139 a) iv**

Our changes reflect the fact that States are only obliged to fulfill obligations under international law. The UDHR is a non-binding document; therefore, as a legal matter, States have no obligations under it.

**Para 139 a) v**

Nothing the Council will do could be more important than addressing urgent or continuous human rights situations around the world. We seek a very explicit mandate for the Council in this regard.

**Para 139 b)**

On size of the Council, the United States agrees with UN Secretary-General Annan that the proposed Human Rights Council should be smaller than CHR. A smaller Council will be more effective and efficient in reacting to serious human rights situations that require swift responses. We maintain that the range of 30-50 countries proposed in the Outcome Document is not acceptable, as a Council of 50 is not a meaningful reduction in size. We favor a Council no larger than 30.

On membership qualifications, we agree with UN Secretary-General Annan that the Council should be a “society of the committed” whose members “should have a solid record of commitment to the highest human rights standards.” Without improving the quality of membership in the new Council, it will face many of the same problems experienced in CHR where, as SYG Annan has said, “States have sought membership (in) the Commission not to strengthen human rights but to protect themselves against criticism or to criticize others. As a result,” the SYG continues, “a credibility deficit has developed, which casts a shadow on the reputation of the United Nations system as a whole.” The US agrees that the issue of membership is at the heart of CHR’s declining credibility and professionalism. It follows that States deemed to be a threat to international peace and security and thus subject to UNSC sanctions are not in a position to make recommendations to the international community about human rights issues. Similarly, States under investigation by a UNSC Commission of Inquiry or other UNSC procedure should not be permitted to serve on the Human Rights Council.

**Para 139 c)**

States voted onto the Council should have a proud record of supporting human rights. We favor a guaranteed peer review for all States elected onto the Council, unless they have undergone a review very recently, “within the past year.” The peer review we support does not duplicate existing UN activities or consume or distract the new Council.

**Para 140**

We favor the addition of “composition” of the Council to add more specificity to the request that the UNGA President conduct consultations with Member States regarding the establishment of the new Council.

My Government and I remain committed to working with you to realize these essential reforms.

Sincerely,

A handwritten signature in black ink that reads "John R. Bolton". The signature is written in a cursive style with a large initial "J" and "B".

John R. Bolton

Enclosure

Paragraphs 138-140  
W/ Edits

## Human Rights Council

138. Pursuant to our commitment to give greater priority to human rights in the work of the UN and to strengthen the human rights machinery of the organization, we endorse the establishment of ~~decide to~~ establish a standing Human Rights Council, as a subsidiary organ of the General Assembly to be based in Geneva, in replacement of the Commission on Human Rights. The General Assembly should ~~all~~ review within 5 years whether the Council should be transformed into a principal organ.

139. The Human Rights Council should~~will~~ have the following mandates, size and composition:

(a). It should~~will~~ be the organ primarily responsible for promoting the universal respect for and, observance and protection of all human rights and fundamental freedoms ~~for all~~, without distinction of any kind and in a fair and equal manner, recognizing their indivisible, inalienable and interrelated character. The Council should ~~all~~ assume the mandate of the Commission on Human Rights and preserve its strengths, including ~~the~~ system of special procedures, and also eliminate redundant or unnecessary entities such as the Subcommittee for the Promotion and Protection of Human Rights. In particular, it should~~will~~:

- i. Serve as a forum for dialogue for thematic issues on all human rights and fundamental freedoms and make recommendations to the General Assembly for the further development of international law in the field of human rights;
- ii. Promote international cooperation to enhance the abilities of Member States to implement human rights commitments and international norms and standards including through the provision of assistance by the Office of the High Commissioner for Human Rights to Member States, at their request through programmes of advisory services, technical cooperation and capacity building;
- iii. Promote effective coordination and the mainstreaming of human rights within the United Nations System, including by making policy recommendations to the General Assembly, the Security Council, the Economic and Social Council and other UN bodies. The Council should also work in close cooperation with regional organizations in the field of human rights;
- iv. Periodically review the fulfillment by all States of all their human rights obligations under international law. in particular under the United Nations Charter and the Universal Declaration of Human Rights. This procedure should~~will~~ not duplicate the reporting procedures being carried out under the human rights treaties;
- v. Address any matters or situations related to the promotion and protection of human rights, specifically those related to ~~including~~ urgent or continuous human

rights situations, and make recommendations thereon to the member States of the UN and provide policy recommendations to the UN system.

(b) -The Council ~~should~~ comprise ~~between 30 to 50~~ members, each serving for a period of three years, to be elected individually and directly by the General Assembly, each by a two thirds majority and should not include any States subject to measures imposed under Article 41 or 42 of the UN Charter or the subject of a UN Security Council Commission of Inquiry or similar UN Security Council investigation of human rights violations. In establishing the membership of the Council, due regard ~~should~~ be given to the principle of equitable geographical distribution and the contribution of member States to the promotion and protection of human rights.

(c) Those elected to the Council should undertake to abide by human rights standard in their respect, protection and promotion of human rights, and ~~should~~ will be evaluated during their term of membership under the review mechanism, unless they have been ~~recently~~ evaluated within the last year before the start of their term in the Council.

(d) The arrangements made by the Economic and Social Council for consultations with non-governmental organizations under article 71 of the Charter should apply to the Council, as well as current practices observed in the Commission on Human Rights.

(e) The Council ~~shall~~ should provide an annual report to the UN General Assembly.

140. We request the President of the General Assembly to conduct consultations with Members States in order to facilitate its adoption during its 60<sup>th</sup> session, before 31 December 2005, of the modalities, functions, procedures and working methods of the Human Rights Council, and transitional arrangements from the Commission to the Council as well as the composition of the proposed Human Rights Council.