

General Assembly

Distr.
LIMITED
A/HRC/13/L.5
18 March 2010
Original: ENGLISH

HUMAN RIGHTS COUNCIL

Eleventh session

Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Austria^{*}, Belarus^{*}, Bolivia (Plurinational State of), Bosnia and
Herzegovina, Brazil, Chile, Colombia^{*}, Costa Rica^{*}, Croatia^{*},
Cyprus^{*}, Dominican Republic^{*}, Egypt,
Finland^{*}, France, Germany^{*}, Honduras, Hungary, Italy,
Kenya^{*}, Liechtenstein^{*}, Lithuania^{*}, Maldives^{*},
Malta^{*}, Morocco^{*}, Netherlands, Niger^{*},
Paraguay^{*}, Peru^{*}, Portugal^{*}, Romania^{*}, Slovakia, Slovenia, Spain^{*},
Thailand^{*}, Uganda^{*}, Ukraine, United Republic of Tanzania^{*},
Uruguay, Zimbabwe^{*}: draft resolution**

**13/... Open-ended Working Group on an optional protocol to the Convention
on the Rights of the Child to provide a communications procedure**

The Human Rights Council,

Recalling Human Rights Council resolution 11/1 of 17 June 2009 on the Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child to provide a communications procedure,

Recalling also General Assembly resolution 64/146 of 18 December 2009 on the rights of the child,

Bearing in mind paragraph 33 (p) of General Assembly resolution 64/146, in which the Assembly called upon States to ensure that child-sensitive procedures were made available to children and their representatives so that children had access to means of facilitating effective remedies for any breaches of any of their rights arising from the Convention on the Rights of the Child through independent advice, advocacy and complaint procedures, including justice mechanisms, and that their views were heard when they were involved or their interests were concerned in judicial or

* Non-member State of the Human Rights Council.

administrative procedures in a manner consistent with the procedural rules of national law,

Noting with interest general comment No. 5 (2003) of the Committee on the Rights of the Child, in which the Committee emphasized that children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights, and general comment No. 12 (2009), in which the Committee stated that the right of all children to be heard and taken seriously constitutes one of the fundamental values of the Convention on the Rights of the Child,

Recalling the view of the Committee on the Rights of the Child, expressed by its Chairperson in her oral report to the General Assembly at its sixty-third session, that the development of a communications procedure for the Convention on the Rights of the Child would significantly contribute to the overall protection of children's rights,

1. *Takes note* of the report on its first session, held in Geneva from 16 to 18 December 2009, of the Open-ended Working Group established under Human Rights Council resolution 11/1 to explore the possibility of elaborating an optional protocol to the Convention on the Rights of the Child to provide a communications procedure complementary to the reporting procedure under the Convention (A/HRC/13/43);

2. *Decides* to extend the mandate of the Open-ended Working Group until the seventeenth session of the Council, and also decides that the Open-ended Working Group shall meet for up to 10 working days and report to the Council not later than at its seventeenth session;

3. *Also decides* to mandate the Open-ended Working Group to elaborate an optional protocol to the Convention on the Rights of the Child to provide a communications procedure and, in this regard, requests the Chairperson of the Open-ended Working Group to prepare a proposal for a draft optional protocol, taking into account the views expressed and inputs provided during the first session of the Working Group in December 2009 and giving due regard to the views of the Committee on the Rights of the Child and, where appropriate, to the views of relevant United Nations special procedures and other experts, to be circulated by September 2010 in all the official languages of the United Nations, with the proposal for the draft optional protocol to be used as a basis for the forthcoming negotiations;

4. *Further decides* to invite a representative of the Committee on the Rights of the Child to participate in the Open-ended Working Group as a resource person and, where appropriate, relevant United Nations special procedures and other relevant independent experts;

5. *Requests* the Office of the United Nations High Commissioner for Human Rights to update and publish the report of the Secretary-General on the comparative summary of existing communications and inquiry procedures and practices under international human rights instruments and under the United Nations system, published on 22 November 2004 (E/CN.4/2005/WG.23/2), and to present that report to the Council at its fifteenth session;

6. *Requests* the Secretary-General and the Office of the High Commissioner to

continue to provide the Open-ended Working Group with the assistance necessary for the fulfilment of its mandate, in accordance with General Assembly resolution 64/245 of 24 December 2009 on special subjects relating to the proposed programme budget for the biennium 2010–2011.