

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## HUMAN RIGHTS COUNCIL, 10<sup>TH</sup> SPECIAL SESSION 'THE IMPACT OF THE GLOBAL ECONOMIC AND FINANCIAL CRISES ON THE UNIVERSAL REALISATION AND EFFECTIVE ENJOYMENT OF HUMAN RIGHTS' 20 AND 23 FEBRUARY 2009

Overview .....	1
Debate .....	1
Outcome .....	2

### Overview

On 20 and 23 February the Human Rights Council (the Council) convened its 10<sup>th</sup> special session to debate the impact of the world financial and economic crises on human rights. The Council heard presentations from a significant number of experts, including UN agencies and for the first time a member of a treaty body.

The session was convened at the request of Brazil and Egypt (on behalf of the African Group). Despite their efforts in the days before the session to broker an agreement on an outcome of the session, the Council failed to reach consensus. The divergent approaches to the issue became clear during the debate that generally divided developing and developed countries. Most developing countries as well as China and the Russian Federation underlined the need for international assistance in addressing the crises and argued that international financial institutions should be reformed. Developed countries on the other hand highlighted the role and responsibility of governments in protecting and respecting human rights and that the crises only made this responsibility more acute.

The resolution was adopted by a vote called for by Germany, on behalf of the European Union (EU). 34 States voted in favour, while EU members and aligned countries,<sup>1</sup> Canada, Switzerland, Republic of Korea, Japan and Mexico abstained. This was a disappointing outcome as many States during the debate had highlighted the need for a strong and unified message from the Council.

### Debate

The special session was called by Egypt (on behalf of the African Group) and Brazil and was supported by 26 members of the Council. Fittingly, the session coincided with the World Day of Social Justice.

It was well attended by States, NGOs and UN agencies. The International Labour Organisation, the World Trade Organisation, the International Organisation for Migration, the UN Conference on Trade and Development and the World Health Organisation as well as the Independent Expert on the effects of foreign debt, the Independent

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<sup>1</sup> Bosnia and Herzegovina, France, Germany, Italy, Netherlands, Slovakia, Slovenia, Ukraine, and UK.

Expert on extreme poverty and a member of the Committee on the Elimination of Racial Discrimination all made presentations to the session. It was welcome to see the active engagement of UN agencies in the Council's work and an important first contribution by the treaty bodies. Only a small number of NGOs took part in the debate, perhaps as a result of the late notice of the convening of the session.

The President of the Council in his opening remarks underlined that the weaker economies of developing countries would be more adversely affected by the crises, and especially the poorest populations. Addressing the human rights impact of the crises would be the most challenging according to him. The President stated that there was value at looking at the crises through a 'moral lens' and stressed that global challenges require global responses. A solution to the crises could not be found without incorporating human rights policy measures.

The High Commissioner for Human Rights, Ms Navanethem Pillay stressed that the crises have a deep impact on those already most vulnerable in society. She said that any responses to the crises should not undermine programmes for the poor or other social programmes. She argued that a human rights framework provides the appropriate context and legal ground for developing responses and stressed that human rights obligations are not suspended in times of crises. Ms Pillay stated that the crises would have a particularly negative impact on migrant workers, could give rise to xenophobia, and expose women and girls to risk. She also noted that the impact of the crises would be felt disproportionately by developing countries and that international cooperation may become inevitable. Interestingly, she used the context of the special session to underline that private actors have a responsibility to not violate human rights.

All States seemed to agree that any response to the financial and economic crises must take into consideration human rights. They generally echoed the statements of the President and the High Commissioner for Human Rights by affirming that developing countries and the most vulnerable in society would be most adversely affected by the crises. However, States did not express common views on what the Council should do in response to the crises or on the human rights issues that arise as a result. There was no shared understanding of the 'human rights dimensions' of the crises.

Most developing countries together with China and the Russian Federation focused on the impact on the enjoyment of economic, social and cultural rights. These countries argued that the response should focus on reforming global financial institutions to ensure greater participation of developing countries. They also underlined the need for developed countries to fulfil their aid commitments to developing countries. Several countries argued that the Council should give priority to ensuring the right to development. Many countries expressed concern about increased xenophobia and discrimination, in particular against migrants, as a result of the crises.

Developed countries, including members of the European Union, Canada and Switzerland underlined that States have the primary responsibility to respect and protect human rights and that the crises should in no way provide an excuse for not fulfilling these obligations. They highlighted that the crises will not only have an impact on economic, social and cultural rights but also on civil and political rights. At the same time, many of these States pledged that they would fulfil their commitments, and provide development assistance at the same level as before the crises. Several developed countries argued that the Council should not debate international financial and trade regulation, as these issues fall outside its mandate and are being addressed elsewhere.

## Outcome

Many States underlined the need for a consensual outcome of the special session and for the Council to send a strong message to the international community. Despite several informal consultations to negotiate agreement on the draft resolution presented by Egypt and Brazil, a consensus had not been reached 15 minutes before the end of the session. Following further consultations by the President lasting more than 30 minutes an agreement had still not been reached. The Council then suspended its session until Monday 23 February. Egypt underlined that the resolution would be adopted on Monday 23 February without any changes to the text.

When the Council reconvened, Chile proposed an amendment to the text emphasising that States' human rights obligations are not diminished as a result of the crises. The meeting was then suspended for further informal consultations that led to agreement with the main sponsors on this amendment.

The resolution underlines the need to 'broaden the participation of developing countries in international economic decision-making and norm-setting'. It also calls on all States to refrain from reducing official development assistance and international funding and from imposing protectionist measures; to note that the crises does not diminish their responsibilities to respect human rights; and to ensure that those at risk and the most vulnerable are assisted and protected in a non-discriminatory manner. As probably the most tangible point, the resolution recommends that the High Commissioner for Human Rights be invited to participate in a high level conference on the world economic and financial crises to be held in the General Assembly in June 2009. Further, it invites special procedures and the treaty bodies to consider within their respective mandates the impacts of the crises on the realisation of human rights. Finally, the Council decided to be seized of this issue and the implementation of its resolution.

Before the vote, Germany (on behalf of the EU members of the Council) explained its position on the resolution. It reiterated its view that human rights obligations rest firmly with States and that respect for human rights is even more important in times of crisis. Germany explained that it had wished to address the human rights dimension of the financial and economic crises more profoundly during the special session. It noted that the resolution was too focused on international trade and development issues. Finally, it stated that it did not accept that the crises posed a direct threat to human rights and that any measures taken to address the crises should not erode human rights. Germany called for a vote and explained that it would abstain for the above reasons.

Canada, Switzerland and Japan explained that they would abstain for similar reasons. Canada stated that the resolution did not adequately underline the role of governments in human rights protection and that the resolution had failed to strike the appropriate balance between national and international responsibilities for human rights. Both Canada and Switzerland stated that the Council had exceeded its mandate in addressing issues beyond human rights and by addressing recommendations to the treaty bodies, which should remain independent.

The resolution was adopted by vote with 31 in favour and 14 abstentions (Zambia and Gabon were absent at the time of the vote). After the vote, Brazil explained that it had supported the special session because it believed that the Council has a mandate to discuss all issues related to prevention of human rights violations and promotion of human rights, and not to shame those responsible for the crises. Egypt welcomed the outcome of the special session as one that 'the poor of the world would be happy with' as the Council was sending them a message that it cared.

Notably, Mexico explained that it had abstained from the vote and regretted that consensus had not been found as a result of 'a lack of will on all sides'. It noted that it had made efforts to improve the human rights aspect of the resolution.

The President, in closing the session, underlined the importance of the paragraph in the resolution that had been amended by Chile to make it clear that human rights obligations of States are not diminished as a result of the crises. He also welcomed that the Council had decided to be seized of the impact of the economic and financial crises on human rights. It is to be hoped that the continued consideration of this issue will develop a common understanding of the human rights dimension of the economic crisis.

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