

# SEVENTH ANNUAL MEETING



## **THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

... a partnership for human rights in our region

### **CLOSED SESSION REPORT**

**11<sup>th</sup> – 13<sup>th</sup> November 2002  
New Delhi, India**

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## **1. PURPOSE**

This paper has been prepared by the secretariat for the consideration of Forum Councillors at their 'closed session' on Monday 11 November 2002.

## **2. BACKGROUND**

Since the Third Annual Meeting of the Forum held in Jakarta in September 1998, Forum members have met to discuss specific and general business issues at a 'closed session'. This session is open to Forum members, the Forum secretariat and the UN Office of the High Commissioner for Human Rights. The meeting enables Forum Councillors to consider and decide issues in private to promote frank discussion and engagement. National institutions that are applying for membership of the Forum can make a request to Forum Councillors to attend the meeting as observers.

## **3. DRAFT AGENDA**

The Human Rights Commission of Sri Lanka as the Chairperson on the Forum over the last year will assume the chair for the discussion of business items at the closed session.

The first session has been scheduled to run from 8:30am to 12:00 noon for the discussion of a variety of business items. Lunch has been scheduled for one hour from 12:00 noon to 1:00pm. The meeting will recommence at 1:00pm and finish at 5:00pm sharp for the provision of Board training for Forum Councillors. This training will focus on the legal responsibilities and governance arrangements of the Forum Council. All participants will then immediately move to the hotel lobby to be taken by bus to 'Vigyan Bhavan' for the opening ceremony of the Seventh Annual Meeting.

The following agenda items are to be considered by Forum Councillors at the closed session. The (brackets) after the item indicate who will initiate the discussion.

1. Report of Forum Activities (Secretariat)
2. Admission of New Members (Secretariat)
  - Malaysia
  - Republic of Korea
  - Thailand
  - Palestine
  - Associate Membership
3. Discussion regarding the Seventh Annual Meeting (Secretariat)
  - Agenda
  - Concluding Statement

4. Election of four regional representatives to the International Coordinating Committee of National Institutions and one regional representative to the ICC accreditation sub-committee (Secretariat)
5. Report on Forum Transition Issues (Management Sub-Committee)
6. Report on the meeting of Senior Executive Officers (nominated representative from the meeting)
7. Location of the Eight Annual Meeting of the Forum (Secretariat)
8. Election of new Forum Chairperson and Deputy Chairperson (Secretariat)
9. General business

The remainder of this paper provides background on the above agenda items. Under specific items separate papers have been prepared. Forum Councillors may also wish to add additional agenda items to the above list on the day of the meeting.

#### **4. REPORT ON FORUM ACTIVITIES**

A separate report on Forum activities has been prepared for distribution to all participants at the Seventh Annual Meeting. You will find this report in your meeting papers under the 'Open Session' category.

The secretariat will speak to this report in the closed session and invites any comments or questions from Forum Councillors.

#### **5. ADMISSION OF NEW MEMBERS**

Separate papers on applications for membership have previously been prepared and distributed to all Forum Councillors for their consideration.

##### **5.1 Applications for Full Membership**

The Forum has received applications for full membership from the national human rights institutions from Malaysia, South Korea and Thailand. Please refer to the separate paper which details these applications.

Forum Councillors will need to consider these applications and determine whether they should be (i) accepted (ii) rejected or (iii) deferred.

## 5.2 Associate Membership

In April 2002 Forum Councillors requested that the Secretariat prepare a discussion paper on the issue of associate membership for their consideration. This has been completed and distributed to all Forum Councillors.

The Forum has received applications for associate membership from the Commissioners for Children from New Zealand and Tasmania. The Secretariat recommends that Forum Councillors consider the discussion paper prior to examining the individual applications for associate membership.

Forum Councillors will need to consider their general approach to applications for associate membership. With regard to the two applications received, Forum Councillors will need to determine whether they should be (i) accepted (ii) rejected or (iii) deferred.

## 5.3 Palestine

The Secretariat received a late application for membership from the Palestinian Independent Commission for Citizens' Rights. The Secretariat has undertaken an initial examination of this application and requested supplementary information from the Palestinian Commission. At the time of writing of this report the supplementary information has not arrived. If it does arrive prior to the meeting then the Secretariat will distribute its analysis to all Forum Councillors at the meeting. If it does not arrive in time the Secretariat will forward the application to all Forum Councillors at a later date for their consideration.

## 6. DISCUSSION ON SEVENTH ANNUAL MEETING

### 6.1 Agenda

The agenda for the meeting is set out below. Would Forum Councillors please review the agenda and confirm their respective roles as either Chairpersons or participants. These roles have been highlighted in *italics*.

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<b>DAY 1</b>	<b>MONDAY 11 NOVEMBER 2002</b>
	Room: Cocktail Lounge, Level 3
8:30 – 12:00	<b>Closed Session - Forum Councillors</b> <i>Chair – Human Rights Commission of Sri Lanka</i>
12:00 – 1:00	<b>Lunch</b>
1:00 – 5:00	<b>Board Training for Forum Councillors</b>
3:30 – 4.30pm	<b>Registration</b> (for all other delegates)

Room: Pre-Function Area, Level 3

- 5.00pm All delegates meet in hotel lobby – travel by bus to Vigyan Bhavan for the Opening Ceremony
- 6.00pm Delegates seated for commencement of Opening Ceremony
- 6:30pm **Opening Ceremony  
Vigyan Bhavan, New Delhi**
- Keynote Speakers:**
- *Mr Justice J.S. Verma*  
*National Human Rights Commission of India*
  - Shri Atal Bihari Vajpayee  
Prime Minister of India
  - Mr Brian Burdekin  
Special Advisor on National Institution to the UN High  
Commissioner for Human Rights
- 7.30pm Return of delegates to Ashok Hotel
- 8.00pm **Formal Dinner and Cultural Evening**  
Room: Banquet Hall, Level 3
- 10:00pm **End of Day 1**
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**DAY 2**

**TUESDAY 12 NOVEMBER 2002**

Room: Banquet Hall, Level 3

8.30

**Registration**

Room: Pre-Function Area, Level 3

9:00 – 10:30

**Asia Pacific Regional Cooperation**

*Chair: National Human Rights Commission of India*

Mr Brian Burdekin – (15 minutes)  
Office of the High Commissioner for Human Rights

*Mr Godfrey Gunatilleke, Deputy Chairperson - (15 minutes)*  
*Report from Closed Session*  
*Asia Pacific Forum of National Human Rights Institutions*

Representatives – (3 minutes each - 30 minutes)  
Asia Pacific Governments

Representative(s) – (15 minutes)  
Asia Pacific Non Government Organisations

- 10.15 – 10.30 Open Discussion - Question and Answer Session
- 10.30 Morning Tea
- 11.00 **Report on Forum Activities – Members**  
*Chair: Indonesian National Commission on Human Rights*
- 11.00 – 12.15 **Forum Members Reports**  
[5 minute presentations]
1. Australia
  2. Fiji
  3. India
  4. Indonesia
  5. Mongolia
  6. Nepal
  7. New Zealand
  8. Philippines
  9. Sri Lanka
  10. Reports from new member institutions
- 12.15 – 12.30 Open Discussion – Questions and Answer Session
- 12.30 **Lunch**
- 2.00 **Open Discussion Session**  
*Chair: Fiji Human Rights Commission*
- 2.00 – 3.00 Topic 1: Advisory Council of Jurists
- a) Decision on 2003 Reference to the Advisory Council
  - b) Standing Issues – Death Penalty and Child Pornography  
– Report from Forum Members on further developments
- 3.00 - 4.00 Topic 2: Proposed International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities  
– Rosslyn Noonan, New Zealand Human Rights Commission
- 4.00 Afternoon Tea and Conclusion of Day 2
- 4.30 New Delhi Field Visit - Forum Members and Jurists only
- 6.30 Forum Members return to Ashok Hotel

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**The Role of National Human Rights Institutions in the Prevention of Trafficking in Women and Children**

**DAY 3**

**WEDNESDAY 13 NOVEMBER 2002**

Room: Banquet Hall, Level 3

- 9:00                   **International and Regional Approaches**  
*Chair: Australian Human Rights and Equal Opportunity Commission*  
  
Ms Chandni Joshi, Regional Director  
United Nations Development Fund for Women (UNIFEM)
- 9.30 – 10.30       Open Discussion – Questions and Answers
- 10:30               **Morning tea**
- 11:00               **Report from the Meeting of the Advisory Council of Jurists**  
*Chair: Philippines Commission on Human Rights*  
  
Representative, Advisory Council of Jurists
- 11.30 – 12.30     Open Discussion – Questions and Answers
- 12:30               **Lunch**
- 2:00                **National Approaches and Practices**  
*Chair: New Zealand Human Rights Commission*  
  
*Rt. Hon. Mr. Nayan Bahadur Khatri, Chairperson  
National Human Rights Commission of Nepal*  
  
*Justice Smt Sujata V Manohar, Member  
National Human Rights Commission of India*  
  
Smt Jyotsna Chatterjee, Director  
Joint Women's Programme, New Delhi
- 2.30 – 3.30       Open Discussion – Questions and Answers
- 3:30                **Afternoon tea**
- 4:00                **CLOSED SESSION (Forum Councillors)**  
Final Drafting of the Concluding Statement  
Room: Ruby Suite 292, Level 2
- 4:00                **OPEN SESSION: The Work of the National Human Rights Commission of India**
- 5:00                **FINAL CONFERENCE STATEMENT**  
Adoption of Statement of Conclusions and Recommendations  
Room: Banquet Hall, Level 3  
*Chair: National Human Rights Commission of India*
- 6.00pm             End of Seventh Annual Meeting

## **6.2 Concluding Statement**

The finalisation of the Concluding Statement is the responsibility of Forum Councillors. The Councillors can consider proposals for inclusion in the text from both Governments and NGOs – however the final content of the Concluding Statement is exclusively the responsibility of the Forum Councillors to determine.

The Secretariat will take the responsibility for the preparation of a draft concluding statement for the consideration of Forum Councillors. The Secretariat will prepare a draft statement and distribute it to all Forum Councillors on Tuesday evening of 12 November 2002. Given that the Annual Meeting will, at that stage, be only at the halfway mark, the draft statement will of necessity be an incomplete document.

The Secretariat requests that all Forum Councillors provide the Secretariat with any comments they may have on the draft statement at the start of business on Wednesday morning of the 13 November 2002. These comments will then be incorporated into the draft along with any additional decisions made by the Forum Councillors during the course of business on Wednesday.

A second draft will then be distributed to all Forum Councillors for their consideration at 4:00pm on Wednesday. Forum Councillors will discuss this draft in private at a separate room (the 'Ruby Suite' 292 at Level 2). Please note that the agenda of the meeting has allowed Forum Councillors one and a half hours to conclude discussion on the draft and adopt a final statement for the meeting. It is therefore important that all Forum Councillors wishing to participate in this discussion quickly make their way to the Ruby Suite at 4:00pm sharp. Once finalised, the Concluding Statement will be distributed to all participants.

## **6.3 2003 Reference to the Advisory Council of Jurists**

The Secretariat has written to all Forum Councillors to request that they consider a possible reference to be forwarded to the Advisory Council of Jurists in 2003.

The Secretariat would recommend that Forum Councillors consider and determine a reference for 2003. If agreement can be reached on a topic the Secretariat will take responsibility, after the conclusion of the meeting, for drafting specific Terms of Reference on the issue. These will then be circulated to all Forum Councillors for their consideration and approval.

## **7. ELECTION TO THE ICC**

The International Coordinating Committee of National Institutions (ICC) is comprised of 16 representatives – four representatives each from the four regions of Europe, Americas, Africa and the Asia Pacific. Election as a regional representative entails (i) attending the

ICC meeting held in conjunction with the annual meetings of UN Commission on Human Rights (CHR) in Geneva (note – this will be at the institution’s own expense) and (ii) being the overall management steering group for the bi-annual international meeting of national institutions. The next such international meeting is scheduled to occur in 2004.

In addition to electing the four regional representatives, Forum Councillors must also select one of these four representatives to represent the region on the ICC’s accreditation sub-committee. It is the responsibility of this sub-committee to review applications for ICC membership from national institutions and to determine whether these institutions comply with the Paris Principles. This is a significant role in that the acceptance by the ICC of an institution’s compliance with the Paris Principles will determine whether that institution will be formally recognised by the UN as a ‘national institution’ that has the capacity to address the CHR and other UN fora.

The ICC rules of procedure do not set any term of office or any specific rules/criteria for representation beyond each institution having to comply with the Paris Principles. The ICC has determined that the process of election of regional representatives should be decided at the regional level.

The current four regional representatives to the ICC are the institutions from:

- Australia (+ accreditation sub-committee member)
- India (and former chair of the ICC)
- Philippines
- Fiji.

At the Fifth Annual Meeting of the Forum it was agreed that the four regional ICC representatives should:

- reflect the cultural diversity and geographic spread of Asia Pacific region
- be rotated amongst the membership of the Forum with a maximum of two out of the four representatives being replaced at any one time so as to balance continuity with new input.

At the Sixth Annual Meeting last year the New Zealand Human Rights Commission agreed to stand down from one of the four regional ICC positions and the Fiji Human Rights Commission was elected to fill this position. In addition, the Philippines Commission on Human Rights agreed to stand down from the ICC – however, as there were no further Forum institutions seeking to stand for election to the ICC, the Philippines Commission on Human Rights retained its position on the ICC.

At this Seventh Annual Meeting, Forum Councillors will need to determine if any new full member Forum institutions who have been accredited with the ICC wish to nominate for election to the ICC. The new institutions who have been accredited to the ICC and are therefore eligible to stand include the national institutions from Indonesia, Nepal, Sri Lanka and – depending on whether it has been admitted as a full Forum member or not –

Malaysia.<sup>1</sup> As per the earlier decision of Forum Councillors, a maximum of two new institutions can be elected to the ICC. In the interests of balancing continuity with new input, the Fiji Commission (if it so wishes) should remain as one of the four regional ICC delegates.

## **8. REPORT ON FORUM TRANSITION ISSUES**

### **8.1 Incorporation of the Forum**

At the Sixth Annual Meeting of the Forum, held in Colombo, Sri Lanka from 24 to 27 September 2001, Forum members concluded their discussions on the report of the Forum working group appointed at the Fourth and Fifth Annual Meetings to examine issues associated with the legal and governance structure of the Forum (see paragraph 5 of the Concluding Statement of the meeting and the associated reports of the working group tabled at the meeting - [www.asiapacificforum.net](http://www.asiapacificforum.net)). Forum members agreed to:

1. adopt the constitution as amended by the proposal submitted by the National Human Rights Commission of India and unanimously agreed to by all Forum members;
2. ensure that a duly authorised representative from each Forum member institution sign the constitution;
3. nominate a representative to the Forum Council;
4. appoint the legal firm “Freehills” to do all that is necessary for the legal incorporation of the Forum and ensure that the nominated Forum councillors provide their authority for Freehills to act on their behalf.

It was decided that, following the Sixth Annual Meeting, members should be given the opportunity to undertake, if required, any domestic administrative or procedural steps necessary to sign the constitution. In discussions, Members agreed that a period of eight weeks following the Sixth Annual Meeting should be allowed to ensure that this occurred.

In line with the above decisions the Secretariat wrote to all Forum member institutions on 4 December 2001 to request (i) that each institution’s duly authorised representative sign the constitution (ii) that each institution provide details of their nominated Forum Councillor and (iii) that the nominated Forum Councillor sign a “consent to appointment as director and notification of interests” form.

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<sup>1</sup> Note – the Mongolian Commission, while a full member of the Forum, is required to submit its most recent annual report to the ICC to receive full accreditation. It is anticipated that this will occur in April 2003. The Mongolia Commission is therefore not eligible to stand for election to the ICC until this has occurred.

Following the receipt of the above information from all Forum members the Secretariat requested the legal firm 'Freehills' to undertake the actual legal incorporation process. This process was completed on 20 March 2002.

## **8.2 Employment Issues**

Following the Forum's legal incorporation, the Forum in its new legal capacity became the 'employer' of the staff in the Forum secretariat. At the Sixth Annual Meeting of the Forum, Forum members adopted the recommendation of the working group that the current staff of the secretariat be transferred to the new legal organisation. In practical terms this required that the staff of the secretariat had to cease their existing employment relationship with the Australian Human Rights and Equal Opportunity Commission as the host institution and enter into a new employment relationship directly with the Forum.

In the interests of promoting a transparent decision-making process and in avoiding any possible conflicts of interest, the director of the secretariat requested that he and the staff of the secretariat not be placed in the situation of determining their own terms and conditions of employment.

The Director therefore wrote to all Forum Councillors proposing that the terms and conditions of employment for the staff of the secretariat be determined by the Chairperson of the Forum, who was Mr Faisz Musthapha PC, as the then Chairman of the Human Rights Commission of Sri Lanka, in consultation with the Executive Director of the host institution, Ms Diana Temby of the Australian Human Rights and Equal Opportunity Commission. Forum members consented to this proposal.

The Executive Director of the Australian Human Rights and Equal Opportunity Commission agreed to provide the staff of the secretariat with 'leave without pay' from the Australian Commission until 1 July 2002 in the interests of ensuring an orderly transition. The staff of the secretariat subsequently formally resigned from the Australian Commission on 30 June 2002.

The Executive Director of the Australian Commission may wish to supplement the above with a verbal report on these activities to all Forum Councillors.

The Director of the Secretariat also took a period of leave without pay from 1 July 2002 to 23 August 2002 on the birth of his daughter. In his absence Ms Pip Dargan acted in the position.

## **8.3 Administrative Issues**

Following the Forum's legal incorporation, a series of administrative flow-on tasks were undertaken consistent with the Forum's new status. The main administrative tasks included:

- The establishment of separate banking facilities

- Seeking Forum Councillor approval for financial delegations
- Securing business insurance
- Seeking tax deductible status
- Negotiating a Memorandum of Understanding with the Australian Commission for the provision for accommodation; library and administrative services; telephone, computer, light and power etc.

## 8.4 Funding Issues

The Forum secured the following funding:

\$	DONOR
US\$410,000 for 2002	UN Office of the High Commissioner for Human Rights for the following projects: <ul style="list-style-type: none"> <li>• APF7 – 40,000</li> <li>• Promotion – 20,000</li> <li>• ACJ – 30,000</li> <li>• Education Workshop – 50,000</li> <li>• Investigations training – 100,000</li> <li>• Staff exchanges – 70,000</li> </ul>
AUD\$550,000 for 1/7/01 to 30/6/02	AusAID for the core running costs of the Forum
NZ\$100,000 for 1/7/01 to 30/7/02	NZAID for the core running costs of the Forum
AUD\$550,000 for 1/7/02 to 30/6/03	AusAID for core running costs

The Forum has applied for future additional funding from a variety of different donors. The UN Office of the High Commissioner for Human Rights recently confirmed that an amount – up to US\$208,000 – may be available for the following activities in 2003: (i) APF8 – \$50,000 (ii) investigations training - \$100,000 (iii) activities on economic, social and cultural rights - \$58,000. The OHCHR has proposed that the final activity on economic, social and cultural rights be undertaken either in association with the Canadian Human Rights Foundation or alternatively as two separate projects. The Forum is awaiting details from the UN on this proposal. Once received this will be sent to Forum Councillors for their consideration. The outcome of this discussion will determine the final amount of the US\$208,000 provided to the Forum.

In addition to the above, the Forum continues its fundraising development proposals. Discussions are currently underway with the Asia Foundation, the Canadian International Development Agency, the New Zealand Aid Agency, the Swedish International Development Agency and the Brookings Institute.

## 9. REPORT ON MEETING OF SENIOR EXECUTIVE OFFICERS

In order to improve the Forum's capacity to assist national human rights institutions, one specific initiative discussed by Forum Councillors at the Sixth Annual Meeting was a proposal to convene a meeting of the senior executive officers (known, variously, as Secretary-General, General Manager, Executive Director etc) of Forum member institutions. The Concluding Statement of Meeting refers to this initiative in the following words:

*The Forum agreed on the need to provide further support to its member institutions, particularly newly established institutions. The Forum requested that the Secretariat write to all member institutions seeking information on any practical assistance they may wish to seek from the Forum, and, in turn, indicating the expertise and skills that they could provide to the Forum. The Forum calls for the exchange of staff amongst member institutions and requests the Secretariat to seek the necessary funds for this to occur. The Forum also agreed to explore the possibility of **bringing together the senior executive officers** of the member institutions to discuss matters of mutual concern for the effective and efficient functioning of national institutions”<sup>2</sup>*

The Forum responded to this initiative by organising a meeting of senior executive officers of Forum member institutions and applicant institutions which was held on Sunday 10 November 2002 in conjunction with the Seventh Annual Meeting. A separate paper was prepared for this meeting and it is included in your meeting papers.

Participants discussed the possible role and functions of the Senior Executive Group. It is envisaged that a report on this meeting will be made to Forum Councillors by a nominee of the Senior Executive Officer Group.

## 10. LOCATION OF EIGHTH ANNUAL MEETING OF THE FORUM

As Forum Councillors are aware, the Human Rights Commission of Nepal had nominated, and was accepted by Forum Councillors, to host the Seventh Annual Meeting. Unfortunately a combination of domestic factors forced the Nepalese Commission to withdraw its offer. The Secretariat therefore approached the National Human Rights Commission of India to host this meeting. We are extremely grateful for their positive response to this request.

The Nepalese Commission, in informing the Secretariat of their decision to withdraw from hosting the Seventh Annual Meeting, requested that they may be considered as a possible host for the eight annual meeting of the Forum. This request, along with any other offers to host the meeting, will need to be considered by Forum Councillors.

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<sup>2</sup> Paragraph 8, Sixth Annual Meeting Concluding Statement,  
[http://www.asiapacificforum.net/about/meetings/sixth\\_meeting/index.html](http://www.asiapacificforum.net/about/meetings/sixth_meeting/index.html)

## **11.ELECTION OF FORUM CHAIRPERSON & DEPUTY CHAIRPERSONS**

As per the decision of Forum Councillors, the host institution of the annual meeting assumes the role of Chairperson of the Forum until the next annual meeting. The National Human Rights Commission of India, as the host institution of the Seventh Annual Meeting of the Forum, will therefore assume the role of Chairperson.

The Human Rights Commission of Sri Lanka, as the immediate past host institution of the Sixth Annual Meeting of the Forum, therefore assumes the position of the First Deputy Chairperson of the Forum.

The, as yet to be determined, host institution of the Eighth Annual Meeting of the Forum will assume the position of the Second Deputy Chairperson.

## **12.BOARD TRAINING**

Mr Peter Gates will provide training to all Forum Councillors on their legal obligations as Board members and on governance and management issues. Comprehensive training materials will be provided separately to all Forum Councillors.