

SEVENTH ANNUAL MEETING



THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

... a partnership for human rights in our region

ASSOCIATE MEMBERSHIP

Discussion Paper & Applications

1. Office of the Commissioner for Children, Tasmania, Australia
2. Office of the Commissioner for Children, New Zealand

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1. PURPOSE

The Forum has received applications from institutions for ‘Associate Membership’ (attached). In April 2002, following discussion of this issue, Forum Councillors requested that the secretariat prepare a background paper on the category of ‘associate membership’ for their consideration.

2. BACKGROUND

Rule 11 of the constitution of the Asia Pacific Forum of National Human Rights Institutions details the procedure for applications for membership to the Forum.¹ In summary, the constitution provides for three categories of membership of the Forum.

- (i) In the first category, *Full Members* of the Forum shall be national institutions which, in the opinion of the Forum councillors, meet the Paris Principles.²
- (ii) The second category of *Candidate Members* relates to those institutions which apply for membership and which can theoretically comply with the Paris Principles, but currently do not do so. Admission as a candidate member requires a commitment from the institution that active steps will be taken to meet the Paris Principles. A candidate member can become a full member of the Forum by applying for membership once it complies with the Paris Principles.³
- (iii) The third category of *Associate Members* relates to those institutions which do not comply with the Paris Principles and are unlikely to do so within a reasonable period.⁴

All decisions on membership – whether a decision to admit or reject new full members, candidate members or associate members – rests with the Forum councillors.⁵ Forum Councillors need not give any reason for rejecting an application.⁶ In addition Forum Councillors may, at their discretion, defer consideration of an application for membership till the next meeting of the Council.⁷

¹ Rule 11.1, Constitution of the Asia Pacific Forum of National Human Rights Institutions, www.asiapacificforum.net. See also Appendix 1 of this paper.

² For the text of the Paris Principles see the UN General Assembly Resolution A/RES/48/134 of 20 December 1993 which can be located at www.nhri.net/GApdf.htm. See also Appendix 2 of this paper.

³ Rule 11.2, Constitution of the Asia Pacific Forum of National Human Rights Institutions

⁴ Rule 11.3

⁵ See Rules 11.1(d)(1); 11.2(f)(1) and 11.3(i)(1)

⁶ See Rules 11.1(d)(3); 11.2(f)(3) and 11.3(i)(3)

⁷ Id

The rules of the Forum Constitution also provide for a review of a member institutions' compliance with the Paris Principles⁸ (and hence the possibility that a member institution may move between categories – for example between candidate and full member status).⁹

Finally rule 12 of the Constitution provides for the resignation¹⁰ and expulsion¹¹ of a member institution.

3. DISTINCTIONS BETWEEN THE CATEGORIES OF MEMBERSHIP

The major distinctions between the categories of membership relate to an institution's ability to participate in the Forum's decision-making process and the priority they are accorded in participating in Forum activities.

3.1 Full Members

National human rights institutions in the Asia Pacific region that are compliant with the Paris Principles can be admitted as full members of the Forum. Full member institutions of the Forum are the key actors and decision-makers. Once admitted as a full member, an institution can:

1. nominate a representative to participate on the Forum Council. The Council is the key decision-making body of the Forum;
2. nominate a jurist to sit on the Forum's Advisory Council of Jurists; and
3. participate, as of right, in all Forum activities.

Full member institutions are also accorded priority in all Forum activities (eg financial assistance, requests for technical cooperation, participation in training etc).¹²

3.2 Candidate Members

Subject to the approval of Forum Councillors, candidate members are able to participate in virtually all of the Forum activities – such as, for example, our annual meetings, regional workshops and training programs. However candidate members are not able to vote or take part in the decision-making processes of the Forum. Candidate members cannot, therefore, nominate a representative to sit on the Forum's governing Council or a jurist to sit on the Forum's Advisory Council of Jurists.

⁸ Rule 11.4

⁹ Rule 11.5

¹⁰ Rule 12.1

¹¹ Rule 12.2

¹² A minor qualification to this general rule needs to be made because in some instances the Forum does not have discretion over the use of funds that have been specifically 'targeted' by donors to specific institutions.

In developing the Forum's Constitution, Forum members were of the view that an applicant national human rights institution would be accorded candidate membership if it was largely in compliance with the Paris Principles and could move towards compliance within a reasonable time.¹³

A significant feature of this category is that candidate members need to make a commitment to the Forum Council that they will work towards compliance with the Paris Principles. It is envisaged that this commitment may, for example, include the development and implementation of an institutional strengthening program in cooperation with the Forum. If a candidate member institution then subsequently became compliant with the Paris Principles it could apply for full membership status.¹⁴

Candidate member institutions are accorded priority over Associate members or observers in Forum activities (eg financial assistance, requests for technical cooperation, participation in training etc).

3.3 Associate Members

Human rights institutions in the Asia Pacific region that are **not** compliant and are unlikely to become compliant with the Paris Principles within a reasonable period may apply to become associate members of the Forum. It should be noted that, unlike the rules relating to full and candidate membership, the Forum's Constitution does not place a restriction on the applicant institution that it need be a 'national' institution.

Associate members can participate in Forum activities – such as, for example, our annual meetings, workshops and training programs. However associate members are not able to vote or take part in the decision-making processes of the Forum. Associate members cannot, therefore, nominate a representative to sit on the Forum's governing Council or a jurist to sit on the Advisory Council of Jurists. Associate members will also not be given preference in the allocation of available resources over full or candidate members.

4. PROMOTING AN INCLUSIVE PROCESS & MINIMUM STANDARDS

Forum member institutions have determined that the operation of the Forum should be as 'inclusive' as possible to assist the Forum in meeting its mission of protecting and promoting "the human rights of peoples of the region."¹⁵ For this reason Forum member institutions have consistently welcomed the participation of non-compliant institutions, international agencies, governments and non-governmental organisations in Forum activities.¹⁶ The development and subsequent adoption by the Forum of the *Kandy*

¹³ Rule 11.2(e)

¹⁴ Rule 11.2

¹⁵ APF mission statement, as approved at the Sixth Annual Meeting of the Asia Pacific Forum, Colombo, Sri Lanka, 2001.

¹⁶ See, for example, the decision of Forum members to be an inclusive organisation as contained in the Larakia Declaration, www.asiapacificforum.net/about/meetings/a1_3_2.html

Declaration on cooperative working relationships with non-governmental organisations is a practical example of this approach.¹⁷

At the same time, however, with regard to applications for membership to the Forum, member institutions have determined that the minimum standards contained in the Paris Principles are the foundation for the Forum's work. The Forum therefore plays an important 'gatekeeper' role in the region in promoting the minimum standards contained in the Paris Principles. The categories of Forum membership reflect this role. For example, only national human rights institutions that are compliant with the Paris Principles – and therefore meet the minimum standards – can become full members of the Forum. The distinction between *full member* and *candidate member* institutions – and the resulting obligation placed upon *candidate members* to work towards full compliance with the Paris Principles – is another clear example of the Forum's role in promoting the Paris Principles and upholding minimum standards.

In considering an application for either full or candidate membership, the Forum Council therefore have a clear set of criteria on which to make their assessment – the minimum standards contained in the Paris Principles. Applicant institutions are therefore requested to submit information with their application for membership to the Forum Council about how the institution complies with the Paris Principles. A copy of the application form and the information requested by the Forum Council is at Appendix 3 of this paper. The application form used by the Forum is also consistent with that used by the International Coordinating Committee of National Institutions (ICC). The ICC does, however, use a different range of categories in its assessment of an institution's compliance with the Paris Principles.¹⁸

In determining applications for either full or candidate membership the Forum Councillors therefore follow a relatively straight-forward process. If an applicant institution, in the opinion of the Forum Councillors, complies with the Paris Principles then it can be admitted as a full member. If it does not, but potentially could within a reasonable time and agrees to work with the Forum Council to do so, then the institution will be accorded candidate membership.

With regard to determining applications for associate member, however, the process is less straight-forward. Given that institutions that that will apply for this status of membership are unlikely to become compliant with the Paris Principles within a reasonable time (or indeed they may even never be able to become compliant) the policy objective of upholding and promoting the minimum standards contained in the Paris Principles does not apply.

The rationale for the inclusion of this category of membership in the Forum's Constitution was to provide Forum Councillors with the flexibility of granting a formal recognition to institutions which – despite their non-compliance with the Paris Principles – Councillors believed would assist the Forum to meet its mission.

¹⁷ www.asiapacificforum.net/about/meetings/a1_3_4.html

¹⁸ For a copy of the ICC's accreditation process see www.nhri.net/pdf/ICCProcedureEng2002.pdf

Given the wide range of institutions that may potentially lodge applications with the Forum seeking associate membership, Forum Councillors at their meeting in April 2002, requested that the Secretariat prepare a discussion paper on this topic for their consideration.

5. ASSESSING APPLICATIONS FOR ASSOCIATE MEMBERSHIP

This paper does not purport to be a comprehensive analysis of the issue of associate membership. In the view of the secretariat each individual application will undoubtedly raise particular or specific issues which will need to be considered on a case-by-case basis by the Forum Council. This paper does, however, seek to highlight the main issues which may arise in the consideration and determination of applications for associate membership by the Forum Council.

5.1 Forum Council Powers – Flexibility v Guidance

The first point to stress is that the determination of applications for associate membership is entirely one for the Forum Council. The Council can accept, reject or defer applications for associate membership without providing any reasons for their decision.

This unfettered decision-making power provides the Forum Council with a wide degree of flexibility.

Theoretically, therefore, if the Forum received two applications for associate membership from two substantially similar institutions and Forum councillors determined that it would be in the interests of the Forum to admit only one of these institutions as an associate member then it would be entirely within the powers of the Forum Constitution to do so.

This scenario would, however, no doubt cause the unsuccessful applicant to ask the Forum Council to point to the particular reason for its rejection. The Council would, of course, be under no legal obligation to do so under the rules of the Forum's Constitution – however in the interests of procedural fairness and good governance the Forum Council may wish to consider providing reasons to the unsuccessful applicant. The provision of reasons would serve at least three purposes:

- Firstly, it would enable the applicant to see the extent to which the information they had provided had been understood and taken into account in the decision-making process. This, in turn, would provide a foundation for the acceptability of the decision by the applicant and the broader international community.
- Secondly, the giving of reasons promotes accountability and imposes on the decision-makers an intellectual discipline; and
- Thirdly, providing reasons enables other institutions, practitioners and members of the broader international community to ascertain the basis upon which similar applications will probably be decided in the future.

In determining how they may wish to exercise their power under the Forum Constitution, Forum Councillors may wish to consider whether they want to develop, and make public, criteria that they will use in assessing applications for associate membership. If this were the view of the Council it may be necessary to view these criteria as guidelines only – rather than rules binding the Council – and their development as a continuing and ongoing process rather than a once only ‘set and forget’ process. This would enable the Council to take into account the potentially wide range of specific issues that may arise in determining applications from an equally wide range of differing institutions established in a variety of domestic jurisdictions.

While certainly not exhaustive the following issues highlight a range of possible issues and scenarios that Councillors may need to consider in determining applications from institutions for associate membership.

5.2 Applications from ‘Non-National’ Institutions

Institutions seeking associate membership of the Forum will often be ‘non-national’ institutions. The fact that an institution is not ‘national’ precludes it from either full or candidate membership because it can never comply with the Paris Principles. Non-national institutions will therefore only ever potentially be eligible for associate membership of the Forum.

In determining whether to accept a non-national institution as an associate member of the Forum there are a number of scenarios which Forum Councillors should, in particular, consider:

5.2.1 National and state-based institutions

The first scenario relates to those States in the region which have a ‘federated’ government structure – with both national and multiple state or local governments (e.g Australia, India, Malaysia etc). In these jurisdictions it quite possible that a human rights institution exists at the national level and, at the same time, a number of state-based institutions also exist.

In India, for example, the National Human Rights Commission of India is the ‘national’ body established in compliance with the Paris Principles. In addition, there are at least an additional 12 state-based human rights institutions.¹⁹ A similar situation occurs in Australia. These state-based institutions may or may not have a formal relationship with the national institution. In addition they often have a narrower mandate than the national body.

¹⁹ These institutions exist in the Indian states of Assam, Chhatisgarh, Himachal Pradesh, Jammu & Kashmir, Kerala, Madhya Pradesh, Maharashtra, Manipur, Punjab, Rajasthan, Tamil Nadu and West Bengal. See [www. http://nhrc.nic.in/](http://nhrc.nic.in/) The National Commission is advocating that all Indian States create a human rights commission.

5.2.2 *State-based institutions only*

The second scenario relates to the federated jurisdictions – but one in which no national institution exists but there is one (or potentially more) state-based institution. An example of this situation is the Hong Kong Equal Opportunities Commission established in the Hong Kong Special Administrative Region of the People’s Republic of China (PRC). No corresponding ‘national’ institution, established in compliance with the Paris Principles, exists in the PRC.²⁰

5.2.3 *Specialist v Generalist Institutions*

The Forum may receive applications for associate membership from a number of different types of institutions from the same jurisdiction. Often these institutions may not comply with the Paris Principles because they have restricted mandates. For example in one jurisdiction there may be separate ‘specialist’ institutions for women, children, people with disabilities, ethnic minorities and so on. An Ombudsmen institution may also exist, concurrently, with these institutions. These jurisdictions may, in addition, have a ‘generalist’ national human rights commission that may already be a full member of the Forum. All (or combinations) of these institutions, may, or may not, have a formal relationship with each other.

For example, the Forum has received a request for associate membership from the Office of the Commissioner for Children from one State in Australia.²¹ This is only one of a number of specialist children institutions in various state jurisdictions in Australia.

Forum Councillors, particularly those from ‘federated’ jurisdictions, may wish to consider the implications of accepting applications from state-based institutions. One possible concern is the potential for the associate membership category to be dominated by institutions from federated states.

5.3 Applications from Multiple National Institutions

At the national level or in unitary states, Forum Councillors may have to consider a similar situation as that outlined in paragraph 5.2.3 regarding generalist and specialist national institutions.

Two scenarios come to mind. The first is a possibly unique situation that currently exists in Sweden.²² In this jurisdiction there are a number of specialist human rights institutions (called Ombudsmen) with responsibility for specific issues.²³ No corresponding

²⁰ Though there are institutions in the PRC at the national level, such as the State Ethnic Affairs Commission, which potentially could be established in compliance with the Paris Principles.

²¹ The application is from the Office of the Commissioner for Children from the state of Tasmania and it can be found in full at section 7 of this paper.

²² I am not aware of any comparable situation in the Asia Pacific – however it may occur in the future.

²³ There are Swedish Ombudsmen for Women, Ethnicity, Disability and Sexuality. There are (in addition to those specified above) Ombudsmen to deal with consumer complaints; to oversee fair competitive practices in

generalist institution exists. The ICC has determined that only one institution can represent a State at a time. In response the various Swedish institutions have decided to 'elect' one of their institutions on a rotating basis to represent their collective views at the ICC and other international fora.

The second scenario is when one jurisdiction has a generalist institution and one or more specialist institutions. An example of this situation in a unitary state would be New Zealand. This jurisdiction currently has a generalist Human Rights Commission which is a full member of the Forum and an Office of the Commissioner for Children which has recently applied for associate membership of the Forum. In addition, until recently, there was also a Race Relations Office with a Race Relations Conciliator.²⁴ An example in a federated state is India. This jurisdiction has a generalist human rights commission which is also a full member of the Forum and three separate national commissions for (i) minorities, (ii) scheduled castes and tribes and (iii) women.²⁵

5.4 Financial Implications

All decisions concerning membership – whether full, candidate or associate – will have a financial impact on the Forum.

With regard to associate members, given the limited funds of the Forum, it is unlikely that the Forum will be able to offer financial assistance to enable the participation of associate member institutions in Forum activities. This would probably result in only those associate members who were better resourced being able to attend and participate. Again, as with the issue of federated states, this may lead to the over-representation of the better resourced associate member institutions from particular States.

Nonetheless, even without proving financial assistance to enable participation, there will be additional financial costs to the Forum with the admission of each associate member. For example the secretariat will need to liaise, provide information and advisory services, provide meeting papers etc.

Clearly financial considerations cannot be the determinative factor in the Forum Council's assessment of applications for membership. However Forum Councillors may wish to make it clear to applicant institutions that due to the Forum's limited resources priority will be directed towards full and candidate member institutions. As such, associate member institutions should expect that their participation in Forum activities will be at their own expense.

the market; and to deal with complaints against the press. These last three institutions are outside the scope of this paper.

²⁴ This Office has now been fully incorporated into the New Zealand Human Rights Commission.

²⁵ However it should be noted that the Chairpersons of all three Commissions are also members of the National Human Rights Commission of India.

5.5 Other Approaches?

As has been previously stated it has been the intention of the Forum Council that the Forum be an 'inclusive' organisation. One aspect of this is the membership process. However membership is certainly not the only way – or indeed the most effective way – for the Forum to promote an inclusive approach.

For example, the Forum encourages governments, non-governmental organisations and international and/or regional institutions to participate in Forum activities as 'observers'. Indeed it would be reasonable to assume that the vast majority of possible applicants for associate membership would have originally participated in a Forum activity as an 'observer'. If they then subsequently lodged an application for associate membership but were rejected, they could continue to participate as 'observers'. Non-membership of the Forum does not, therefore, mean that institutions will be excluded.

In addition, Rule 16 of the Forum Constitution provides the Forum Councillors with a power to (among other things) (i) establish, (ii) set terms of reference and (iii) appoint individuals to one or more Advisory Committees. Under this power the Forum Councillors could decide to establish advisory committees on particular issues and to invite specialists to participate. Where relevant, these individuals could be drawn from both observer and associate member institutions.

5.6 Draft Criteria for Assessment

If Forum Councillors decide that they wish to develop criteria to guide their assessment of applications for associate membership, the following summary of the main issues may be of assistance in the determination of such criteria.

It should once again be stressed, however, that the secretariat believes that due to the potential diversity of applications for associate membership, any assessment criteria should be viewed as being non-binding. It is important that each application for associate membership be assessed on a case by case basis and, as a result, that the criteria be regularly reviewed and updated.

ISSUES TO BE CONSIDERED

Forum Councillors may wish to consider utilising these points in determining possible criteria.

- (I) Should applications for associate membership be accepted from institutions that have either a 'broad' or a 'specialised' mandate? Or should they be restricted to only those institutions with a broad mandate?

For example, if only institutions with a broad mandate were accepted then specialised institutions – such as, for example, for women, children, people with disabilities etc – whether at the national or state/local level, would not be

eligible for associate membership. This would mean that the current applicants for associate membership from the Commissioners for Children from New Zealand and Australia would be rejected.

Alternatively, if Forum Councillors determined that the breath of the mandate of an applicant was not a crucial issue then specialist institutions such as the Commissioners for Children could be considered for associate membership.

- (II) Should the Forum adopt an approach similar to that of the ICC and only allow one institution to represent a nation State?

If Forum Councillors adopted this position that this would mean that no applications for associate membership could be considered once either a full or candidate member institution was accepted into the Forum. For example, if this approach was adopted no further applications could be considered from any of the States of the current 9 full Forum members.

Alternatively, Forum Councillors could reject this approach and decide that multiple applications should be considered from one nation State. In this instance Forum Councillors may wish to further consider whether to draw a distinction between applicants from unitary and federated states.

- (III) Forum Councillors may wish to consider whether to adopt a range of alternate approaches as outlined in paragraph 5.5 above.

6. RECOMMENDATIONS

The Forum Secretariat recommends:

- That Forum Councillors consider and discuss the issues raised in this paper prior to any decisions being taken on applications for associate membership from non-Paris Principles compliant institutions.

7. COMMISSIONER FOR CHILDREN, TASMANIA, AUSTRALIA

7.1 Background

Australia is a federated state with six states and two territories. The Office of the Commissioner for Children (OCC) is a state office of the Tasmania government – one of the six states.

The OCC has applied for Associate Membership of the Forum in accordance with s11.3 of the Forum Constitution.

The OCC is established under Part 9 of the *Children, Young Persons and their Families Act 1997* (Tasmania) (the Act) which came into force in July 2000.

The OCC is comprised of one member (the Commissioner for Children) who is an appointee of the Governor (of Tasmania) under Schedule 1 of the Act. The role of the Commissioner is assisted by a 'Children and Young Person's Advisory Council'. The OCC employs two full time staff officers and a number of volunteers.

The written application from the OCC has been provided in the prescribed format addressing each section within the UN General Assembly *Principles relating to the Status of National Institutions* (more commonly known as the 'Paris Principles').

7.2 Analysis

In support of its application for Associate Membership of the Forum, the OCC has submitted the following information which is attached with this paper:

- Application for membership
- APF membership application grid
- Written application which addresses the criteria outlined in the Paris Principles
- Background information paper
- 2001 Annual Report

A review of this material by the Forum Secretariat confirms that the OCC is a legislative body established in one state of a federated governmental structure. The organisation has adopted a 'rights based' approach to the care and protection of children utilising the Convention on the Rights of the Child as its guiding principle.

7.3 Recommendation

Forum Councillors will need to determine their approach to the assessment of applications for associate membership prior to their consideration of this application.

8. COMMISSIONER FOR CHILDREN, NEW ZEALAND

8.1 Background

New Zealand is a unitary state. The Commissioner for Children (CFC) of New Zealand has applied for Associate Membership of the Forum in accordance with s11.3 of the Forum Constitution.

The CFC was established in 1989 to promote the development of policies and services to protect the interests, rights and welfare of children aged to 18 years. The CFC is established under the *Children, Young Persons and Their Families Act 1989*. The legislation provides the Commissioner with a number of specified functions as well as the general brief of advocacy relating to the promotion of children's interests.

The written application from the CFC is in the prescribed form addressing each section within the UN General Assembly *Principles relating to the Status of National Institutions* (more commonly known as the 'Paris Principles').

8.2 Analysis

In support of its application for Associate Membership of the Forum, the CFC has submitted the following information which is attached with this paper:

- Application for membership form
- APF Membership Application grid
- CV of the Commissioner
- Children, Young Persons and Their Families Act 1989 (available from secretariat)
- Background briefing paper
- Purchase agreement between the Commissioner and the Minister for Social Services and Employment (available from secretariat)
- 2000 and 2001 Annual Reports
- Various educational materials and investigative reports (available from secretariat)

A review of this material by the Forum Secretariat confirms that the CFC is a legislative body established in a unitary state. The organisation has adopted a 'rights based' approach to the care and protection of children utilising the Convention on the Rights of the Child as its guiding principle.

8.3 Recommendation

Forum Councillors will need to determine their approach to the assessment of applications for associate membership prior to their consideration of this application.

9. APPENDIX 1 – MEMBERSHIP RULES

CONSTITUTION OF THE ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS

RULES RELATING TO MEMBERSHIP OF THE FORUM

11 Membership

11.1 Full members

(a) Qualifications of full members

Each full member must be a national human rights institution in the Asia Pacific region which in the opinion of the Forum councillors complies with the Paris Principles.

(b) Initial members

The initial members are:

- (1) Human Rights and Equal Opportunity Commission of Australia;
- (2) National Human Rights Commission of India;
- (3) Indonesian National Commission on Human Rights;
- (4) Human Rights Commission of New Zealand;
- (5) Commission on Human Rights of the Philippines;
- (6) Human Rights Commission of Sri Lanka;
- (7) Fiji Human Rights Commission; and
- (8) Human Rights Commission of Nepal.

(c) Status

The initial members are full members.

(d) Admission of further full members

- (1) The Forum councillors may admit any institution, meeting the qualifications set out in rule 11.1, to full membership of the Forum.
- (2) Every applicant for full membership (except the initial members) must be proposed by one and seconded by another full member. The application for full membership must be:
 - (A) made in writing and signed by the applicant and its proposer and seconder; and
 - (B) in the form prescribed by the Forum councillors.

(3) Subject to rule 11.1(d)(4), at the next meeting of the Forum councillors after the receipt of an application for membership, the Forum councillors must consider the application and decide whether to admit or reject the admission of the applicant. The Forum councillors need not give any reason for rejecting an application.

(4) The Forum councillors may, at their discretion, defer the consideration of an application for full membership.

11.2 Candidate members

(e) Qualifications of candidate members

Each candidate member must be a national human rights institution in the Asia Pacific region which in the opinion of the Forum councillors could comply with the Paris Principles within a reasonable period but does not do so at the time of the application for membership and which commits, in a form acceptable to the Forum councillors, to take active steps towards compliance with the Paris Principles within a reasonable period.

(f) Admission of candidate members

(1) The Forum councillors may admit any institution meeting the qualifications set out in rule 11.2(a) to candidate membership of the Forum.

(2) Every applicant for candidate membership must be proposed by one full member and seconded by another full member. The application for candidate membership must be:

- (A) made in writing and signed by the applicant and its proposer and seconder; and
- (B) in the form prescribed by the Forum councillors.

(3) Subject to rule 11.2(b)(4), at the next meeting of the Forum councillors after the receipt of an application for candidate membership, the Forum councillors must consider the application and decide whether to admit or reject the admission of the applicant. The Forum councillors need not give any reason for rejecting an application.

(4) The Forum councillors may, at their discretion, defer the consideration of an application for candidate membership.

(g) Rights of candidate members

Candidate members have no voting rights.

11.3 Associate members

(h) Characteristic of associate members

Each associate member must be a human rights institution in the Asia Pacific region which, in the opinion of the Forum councillors, does not comply with and is unlikely to comply with the Paris Principles within a reasonable period.

(i) Admission of associate members

(1) The Forum councillors may admit any institution, having the characteristic set out in rule 11.3(a), to associate membership of the Forum.

(2) Every applicant for associate membership must be proposed by one full member and seconded by another full member. The application for associate membership must be:

(A) made in writing and signed by the applicant and its proposer and seconder; and

(B) in the form prescribed by the Forum councillors.

(3) Subject to rule 11.3(b)(4), at the next meeting of the Forum councillors after the receipt of an application for associate membership, the Forum councillors must consider the application and decide whether to admit or reject the admission of the applicant. The Forum councillors need not give any reason for rejecting an application.

(4) The Forum councillors may, at their discretion, defer the consideration of an application for associate membership.

(j) Rights of associate members

Associate members have no voting rights.

11.4 Review of compliance by full members with the Paris Principles

(k) Occasion for review

(1) The Forum councillors may, on their own motion and at any time, decide to review the compliance of a full member with the Paris Principles.

(2) A full member must notify the Forum if there has been any change to the constitutional and/or legislative base or administration of the institution which materially impacts upon its compliance with, or ability to comply with, the Paris Principles.

(l) Review

(1) Following a decision to review under rule 11.4(a)(1) or receipt of a notification under rule 11.4(a)(2), the Forum councillors must meet to consider whether the institution complies with the Paris Principles.

(2) If the Forum councillors decide that the institution does not so comply, they may decide to propose a resolution under rule 12.2 to expel the member.

11.5 Review of commitment by candidate members to comply with the Paris Principles

(m) Occasion for review

(1) The Forum councillors may, on their own motion and at any time, decide to review the commitment of a candidate member to take active steps to comply with the Paris Principles within a reasonable period.

(2) A candidate member must notify the Forum if there has been any change to the constitutional and/or legislative base or administration of the institution which materially impacts upon its commitment or ability to take those active steps to comply with the Paris Principles within a reasonable period.

(n) Review

(1) Following a decision to review under rule 11.5(a)(1) or receipt of a notification under rule 11.5(a)(2), the Forum councillors must meet to consider whether the institution is taking active steps to comply with the Paris Principles.

(2) If the Forum councillors decide that the institution is not taking those active steps, they may decide to propose a resolution under rule 12.2 to expel the member

12 When membership ceases

12.1 Resignation and other events

An institution immediately ceases to be a member if the institution:

(o) resigns as a member by giving written notice to the Forum; or

(p) becomes insolvent or makes any arrangement or composition with its creditors or if a liquidator, receiver or other external administrator is appointed in respect of the institution; or

(q) is expelled under rule 12.2.

12.2 Expulsion

(r) The Forum councillors may by resolution expel a member from the Forum if;

(1) in their absolute discretion, they decide it is not in the interests of the Forum for the institution to remain a member; or

(2) under rules 11.4(l)(2) or 11.5(n)(2) they decide to propose a resolution under this rule.

(s) If the Forum councillors intend to propose a resolution under rule 12.2(r), at least one month before the meeting at which the resolution is to be proposed, they must give the member written notice:

(1) stating the date, place and time of the meeting;

(2) setting out the intended resolution and the grounds on which it is based; and

(3) informing the member, candidate member or associate member that a representative of the member, candidate member or associate member may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.

10.APPENDIX 2 – PARIS PRINCIPLES

PRINCIPLES RELATING TO THE STATUS OF NATIONAL INSTITUTIONS

Competence and responsibilities

'Paris Principles'

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
 - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
 - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
 - (ii) Any situation of violation of human rights which it decides to take up;
 - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
 - (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;
 - (b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
 - (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
 - (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

- (e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;
- (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;
- (g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

4. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:
 - (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;
 - (b) Trends in philosophical or religious thought;
 - (c) Universities and qualified experts;
 - (d) Parliament;
 - (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).
5. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.
6. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

- (a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;
- (b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- (c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

- (d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;
- (e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
- (f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions);
- (g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-judicial competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

- (a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;
- (b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;
- (c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
- (d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

11.APPENDIX 3 – APPLICATION FOR MEMBERSHIP

APPLICATION FOR MEMBERSHIP



Nomination Form

THE ASIA PACIFIC FORUM

APPLICANT		
Organisation Name		
Organisation Address		
Name:	.....	Date
Title:	.....	-- / -- / --
Signature:	.....
PROPOSER		
Organisation Name		
Organisation Address		
Name:	.....	Date
Title:	.....	-- / -- / --
Signature:	.....
SECONDER		
Organisation Name		
Organisation Address		
Name:	.....	Date
Title:	.....	-- / -- / --
Signature:	.....

<p>ACCOUNTABILITY</p> <ul style="list-style-type: none"> • What is the nature of the institution's accountability?: <p>Executive (Prime Minister/Head of State/King, etc.....)</p> <p>Legislative.....</p> <p>Other (specify)</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<p>[Indicate line of accountability and how the institution is accountable]</p>	<p>[Provide the relevant provision or other relevant documentation]</p>
<p>PROTECTION & PROMOTION FUNCTIONS</p> <ul style="list-style-type: none"> • Are these functions of protection & promotion specifically defined in law?..... 	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>[If yes explain where defined and what those functions are, if no, give reasons]</p>	<p>[Provide the relevant section/article or other relevant evidence]</p>
<p>RESPONSIBILITY</p> <ul style="list-style-type: none"> • Does the institution have responsibility to: <p>Submit opinions, reports & recommendations to government/parliament on any matter concerning protection/promotion of human rights and without prior authorization?.....</p> <p>Promote consistency between domestic legislation and international human rights instruments?.....</p> <p>Encourage ratification of such instruments in co-operation with the UN and regional & national institutions?.....</p> <p>Contribute independently of government to UN reporting?.....</p> <p>Conduct research & education programs on human rights?.....</p> <p>Increase public awareness of human rights issues?.....</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	<p>[In each of these subcategories of responsibility;</p> <p>if yes please provide an indication of where these roles are articulated and expand on them, if no, please describe current responsibilities]</p>	<p>[Please provide evidence of responsibilities preferably through founding document</p> <p>or otherwise as required including reports and recommendations, interactions with government & UN, examples of education programs as well as public relations/media plans]</p>
<p>INDEPENDENCE</p> <ul style="list-style-type: none"> • Is the independence of the institution guaranteed by: 		<p>[Describe how the independence of the institution is guaranteed]</p>	<p>[Provide copies of the relevant provisions or regulations ensuring]</p>

<p>Pluralist composition?.....</p> <p>Appointment & dismissal process established by law with fixed term & renewable?.....</p> <p>Financial autonomy derived from stable, adequate funding?.....</p> <p>Legal & operational autonomy through separate legislation, infrastructure, staff & resources?.....</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	<p>& the relationships it has with government. If any of these criteria are not currently met, explain why]</p>	<p>independence including membership details, budgetary documentation, location and resourcing information]</p>
<p>METHOD OF OPERATION</p> <p>• Is the institution free to:</p> <p>Meet regularly & as required?.....</p> <p>Review any matter within own jurisdiction on referral from government, by individual complaint or suo moto?.....</p> <p>Hear any person & obtain any information related to a matter within jurisdiction?.....</p> <p>Make public its findings & recommendations (eg through annual report)?.....</p> <p>Establish local & regional sections?.....</p> <p>Maintain consultation with other bodies (eg NGOs) when carrying out its functions?.....</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	<p>[Describe in detail how the institution operates in relation to its mandate]</p>	<p>[Provide copies of minutes of meetings, provisions relating to powers to obtain information and collect evidence, annual reports and geographical branches]</p>
<p>ADDITIONAL CRITERIA - INSTITUTIONS WITH QUASI-JUDICIAL COMPETENCE</p> <p>• Is the institution competent to:</p>		<p>[Explain in detail any complaint handling</p>	<p>[Provide evidence of quasi-judicial</p>

<p>Potentially hear individual complaints?.....</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>function of the institution including nature of complaints and methods of resolution]</p>	<p>competence through founding document if applicable. Provide evidence of complaint load & any relevant statistics on volume, type and method & success in resolution. Provide any public information document/brochures/contact details ensuring accessibility]</p>
<p>Potentially seek settlement through conciliation or binding decisions, with confidentiality?.....</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<p>Inform the complainant of their rights & remedies and ensure the process is accessible?.....</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<p>Potentially make recommendations to competent authorities, make enforceable decisions or refer to specialised tribunal?.....</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No		