



OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS



**Summary record of the 17th meeting : . 14/06/2005.  
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**Convention Abbreviation:** CMW

COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT  
WORKERS AND MEMBERS OF THEIR FAMILIES

Second session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais Wilson, Geneva,  
on Thursday, 28 April 2005, at 3 p.m

Chairperson: Mr. KARIYAWASAM

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ORGANIZATIONAL AND OTHER MATTERS (continued)

The meeting was called to order at 3.15 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

1. The CHAIRPERSON invited the Committee to resume its debate on the informal paper, which had been amended according to Mr. El-Borai's proposals, setting out the proposed topic for the day of general discussion to be held during the next session, namely the protection of the rights of migrant workers as a tool to enhance development. In establishing whether all the relevant points were reflected adequately in the text, the Committee should focus on concepts rather than words. The various points could be gradually fleshed out and the secretariat could make the necessary editorial changes.

2. Depending on the interest generated by the discussion and the expected number of participants, the Committee might wish to consider devoting one and a half days to the event. If a large number of participants wished to take the floor, one day might be insufficient. NGOs, intergovernmental organizations and specialized agencies would be invited to participate. The Committee should also decide whether invitations should be extended to all permanent missions in Geneva and to the European Union and observers such as the League of Arab States, or only to States Members of the United Nations and the European Union.

3. Ms. EDELENBOS (Secretary of the Committee) said that the experience of other committees had shown that one day was sufficient. A day of general discussion normally opened with a plenary

meeting, after which the participants split into two groups, which each examined one sub-topic and met again in plenary at the end of the day. Even if invited, not all States Members of the United Nations would necessarily participate, and one day should suffice. Those who wished to participate in the general discussion could submit written statements in advance. Given the Committee's workload for the December session, it would be difficult to devote more than one day to the event.

4. The CHAIRPERSON said that, if two working groups were to be formed, the Committee should decide on the topics to be discussed. Should that not be possible during the current session, it might wish to entrust the secretariat with that task.

5. Ms. EDELENBOS (Secretary of the Committee) said that it was not necessary for the Committee to adopt the final version of the text on the general discussion at the current point in time. An exchange of views on the Chairperson's draft and on additional elements other members might wish to include was sufficient. The secretariat could then prepare a draft, which would be approximately two pages long, to be submitted to Committee members for comments and approval. The final version would then be sent to participants along with the invitations.

6. Mr. EL JAMRI said that he had some reservations about the use of the word "irregular" in the amended version of the Chairperson's paper. There was no consensus among Committee members on the meaning of that word. It carried a notion of illegality and was more commonly used by States than by NGOs or migrants themselves. It would be preferable to refer to "so-called irregular migrants" or "so-called irregular migration". In France, there was a category of undocumented migrants who were classified as being ineligible either for deportation or for regularization and who were thus in some way outside the law. One day should certainly be adequate for the day of general discussion, provided that two, or even three, working groups were set up. The Committee members should not be regarded as mere guests at the day of general discussion, but should be actively involved in the preparatory process so that they could give advice on the direction the discussions should take. Invitations should be extended to a wide range of actors; participants should include not only representatives of States, but also expert advisers.

7. Ms. EDELENBOS (Secretary of the Committee) said that the term "irregular and clandestine migration" was a short version of the phrase "illegal or clandestine movements ... of migrant workers in irregular situations", which was contained in the Convention.

8. On a practical point, she pointed out that the Palais Wilson had only two meeting rooms. Should the Committee wish to set up three working groups, the day of general discussion would have to be held at the Palais des Nations. The secretariat could enquire about possible arrangements in that case.

9. Mr. GAKWANDI said that the Office of the United Nations High Commissioner for Refugees generally used the term "refugees in an irregular situation", probably to avoid referring to illegality. They were in fact refugees whose status had not been regularized.

10. Although the Chairperson had suggested that the secretariat could draft the final version of the informal paper on the general discussion, it might be preferable to request the preparation of a new text that took account of Committee members' views. The Chairperson could then be consulted on the new text. Once the content had been agreed, the new version could be sent by e-mail to all Committee members, who could communicate any additional comments to the secretariat and the Chairperson.

The Chairperson and the secretariat could then finalize the text together.

11. The CHAIRPERSON endorsed that proposal, which he thought would also suit the secretariat.

12. Mr. CARRIÓN-MENA said that the paper under consideration did not tie the Committee down and would provide an excellent reference document to stimulate debate, although the term "abusive conditions" seemed to be redundant. NGOs could make a valuable contribution to the general discussion and should be encouraged to submit relevant material, irrespective of whether or not they attended.

13. The CHAIRPERSON suggested that the members of the Committee should think about what type of document they wished to see emerge from the general discussion, and in particular about whether it was necessary for the Committee to prepare a report. Once the written contributions from the various parties had been received, the Committee or the secretariat might be in a better position to ascertain what results could reasonably be expected from the discussion.

14. Mr. ALBA said that it might be useful to use the day of general discussion as a basis for drafting a general comment that could offer clarifications and dispel misconceptions about the Convention. One of the Committee's priorities should be to make a contribution to the General Assembly's high-level dialogue on international migration and development, which was due to be held in 2006. The document under consideration should therefore make clear reference to the possible formulation of a general comment on the scope of the Convention in the light of certain basic interpretations. The second paragraph should be deleted. The first paragraph clearly established the Committee's main purpose, namely the protection of the rights of migrant workers, as the conceptual framework for the debate. The second paragraph, on the other hand, referred to a variety of issues that were already addressed by many other bodies, and weakened the substance of the first paragraph.

15. Mr. GAKWANDI said that, in conformity with International Labour Organization (ILO) and World Health Organization (WHO) practice, the day of general discussion should take up one full day and could start with an opening statement by an expert. There should be no obligation for all participants to take the floor. The general discussion should result in the drafting of a summary report and conclusions compiled in a single document to be submitted to the United Nations General Assembly as a contribution to the high-level dialogue, as well as to other bodies. To do more than that would be unwise.

16. The CHAIRPERSON said that the Committee should limit itself to preparing a summary report and recommendations; the formulation of conclusions would require a more in-depth study. The recommendations could later be used as a basis for a general comment.

17. Mr. EL-BORAI said that the Committee should be even less ambitious than the Chairperson had suggested, and should limit itself to a simple declaration. If it was decided to summarize the general discussion and States that were not parties to the Convention were invited, the Committee might be forced to include in the summary report arguments against the ratification of the Convention. Before deciding whether a summary report, observations, recommendations or conclusions should be formulated, it would perhaps be useful to have a list of the invitees.

18. The CHAIRPERSON stressed that the document containing the outcome of the general discussion

would be prepared by the Committee, not by participants. Otherwise, States that were not parties to the Convention might try to negotiate the content of the document and thwart its adoption. It would be useful to learn of other committees' practice in that regard.

19. Ms. EDELENBOS (Secretary of the Committee) said that the day of general discussion could lead to the formulation of two separate documents. The first, which would be drafted by the secretariat, would contain a summary of the discussions of the two working groups and reflect the views of all participants. Its sole purpose would be to provide information on the substance of the debate for the public and all interested parties that had not been present. The second document would be produced by the Committee itself and would contain its views on the written contributions and the statements made by participants in the working groups. It could take the shape of conclusions and recommendations or even a general comment.

20. It should be borne in mind that the purpose of a day of general discussion was a spontaneous exchange of views, rather than the presentation of lengthy statements. Participants could submit statements in written form in advance. They would be distributed to all other participants and to the members of the Committee, but would be used as background material only. One or two Committee members should be appointed to chair each working group. It would also be useful to invite experts, subject to the availability of resources.

21. The CHAIRPERSON concurred with the secretariat's suggestions concerning the outcome documents for the general discussion. It was essential to foster interactive dialogue between the participants, who would include representatives of intergovernmental and non-governmental organizations, specialized agencies and permanent missions of States parties and other States.

22. Mr. BRILLANTES stressed that the Committee should be careful not to lose sight of its main objective, namely, to dispel misunderstandings and misconceptions about the Convention. Even if the ultimate goal was to make a useful contribution to the high-level dialogue in 2006, the day of general discussion should be seen as an opportunity to promote the Convention itself and disseminate its provisions.

23. The CHAIRPERSON said that focusing on the contribution of the protection of the rights of migrant workers to development would be more constructive, and thus preferable to adopting a defensive approach. However, the Committee should indeed keep sight of its initial objective, which was to dispel misconceptions about the Convention, especially when deciding on the topics for the working groups.

24. He read out the letter he proposed to send to the members of the Global Commission on International Migration on behalf of the Committee. The letter described the Committee's concerns, reaffirmed its view that the issue of migrant workers should be considered from a human rights perspective, and ended with an appeal to the Global Commission to include a positive reference to the Convention in its final report.

25. The proposed text was adopted, subject to minor editorial changes.

The meeting rose at 4.40 p.m.

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