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IV. FOLLOW-UP ON RECOMMENDATIONS AND OBSERVATIONS ON STATES PARTIES REPORTS

115. At its thirtieth session, in May 2003, the Committee began a routine practice of identifying, at the end of each set of concluding observations, a limited number of recommendations that are of a serious nature and warrant a request for additional information following the dialogue with the State party concerning its periodic report. The Committee identifies conclusions and recommendations regarding the reports of States parties which are serious, can be accomplished in a one-year period, and are protective. The Committee has requested those States parties reviewed since the thirtieth session of the Committee to provide the information sought within one year.

116. In order to assist the Committee in this practice, the Committee established the position of Rapporteur on follow-up to concluding observations under article 19 of the Convention and appointed Ms. Felice Gaer to that position, in accordance with rule 68, paragraph 2, of the rules of procedure.

117. In reporting to the Committee on the results of the follow-up procedure, the Rapporteur has noted its congruence with the aim cited in the preamble to the Convention, which emphasizes the desire of the United Nations “to make more effective the struggle against torture and other cruel, inhuman and degrading treatment or punishment”. With this procedure, the Committee seeks to advance the Convention’s requirement that “each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture” (art. 2, para. 1) and the undertaking “to prevent ... other acts of cruel, inhuman or degrading treatment or punishment ...” (art. 16). She recalled that, in its concluding observations and recommendations, the Committee recommends specific actions designed to enhance each State party’s ability to promptly and effectively implement the measures necessary and appropriate to preventing acts of torture and thereby assists States parties in bringing their law and practice into full compliance with the Convention.

118. The Rapporteur has welcomed the follow-up information provided by six States parties as of 20 May 2005, when its thirty-fourth session concluded, indicating the commitment of the States parties to an ongoing process of dialogue and cooperation aimed at enhancing compliance with the requirements of the Convention. The documentation received will be given a document number and made public. The Rapporteur has assessed the responses received particularly as to whether all of the items designated by the Committee for follow-up (normally between three and five issues) have been addressed, whether the information provided is responsive, and whether further information is required.

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VI. CONSIDERATION OF COMPLAINTS UNDER ARTICLE 22 OF THE CONVENTION

126. Under article 22 of the Convention, individuals who claim to be victims of a violation by a State party of the provisions of the Convention may submit a complaint to the Committee against Torture for consideration, subject to the conditions laid down in that article. Fifty-six out of 151 States that have acceded to or ratified the Convention have declared that they recognize the competence of the Committee to receive and consider complaints under article 22 of the Convention. The list of those States is contained in annex III. No complaint may be considered by the Committee if it concerns a State party to the Convention that has not recognized the Committee's competence under article 22.
127. Consideration of complaints under article 22 of the Convention takes place in closed meetings (art. 22, para. 6). All documents pertaining to the work of the Committee under article 22, i.e. submissions from the parties and other working documents of the Committee, are confidential.
128. Pursuant to rule 107 of the rules of procedure, with a view to reaching a decision on the admissibility of a complaint, the Committee, its working group, or a rapporteur designated under rules 98 or 106, paragraph 3, shall ascertain: that the individual claims to be a victim of a violation by the State party concerned of the provisions of the Convention; that the complaint is not an abuse of the Committee's process or manifestly unfounded; that it is not incompatible with the provisions of the Convention; that the same matter has not been and is not being examined under another procedure of international investigation or settlement; that the complainant has exhausted all available domestic remedies and that the time elapsed since the exhaustion of domestic remedies is not unreasonably prolonged as to render consideration of the claims unduly difficult for the Committee or the State party.
129. Pursuant to rule 109 of the rules of procedure, a complaint shall be transmitted as soon as possible after registration to the State party, requesting a written reply within six months. Unless the Committee, the working group or a rapporteur decide, because of the exceptional nature of the case, to request a reply only in respect of the question of admissibility, the State party shall include in its reply explanations or statements relating both to the admissibility and the merits of the complaint, as well as to any remedy that may have been provided. A State party may apply, within two months, for the complaint to be rejected as inadmissible. The Committee, or the Rapporteur for new complaints and interim measures, may agree or refuse to split consideration of admissibility from that of the merits. Following a separate decision on admissibility, the Committee sets the deadline for submissions on a case-by-case basis. The Committee, its working group or rapporteur(s) may request the State party concerned or the complainant to submit additional written information, clarifications or observations, and shall indicate a time limit for their submission. Within such time limits as indicated by the Committee, its working group or rapporteur(s), the State party or the complainant may be afforded an opportunity to comment on any submission received from the other party. Non-receipt of

submissions or comments should not generally delay the consideration of the complaint. If the State party and/or the complainant is unable to submit the information requested within set deadlines, they are urged to apply for an extension of the deadline. In the absence of such a request, the Committee or its working group may decide to consider the admissibility and/or merits of the complaint on the basis of the information contained in the file. At its thirtieth session, the Committee decided to include a standard paragraph to that effect in any note verbale or letter of transmittal to the State party/complainant, which sets a deadline for comments on submissions of the other party. This paragraph replaces the former practice of sending out reminders that resulted in delays in the examination of complaints in the past.

130. The Committee decides on a complaint in the light of all information made available to it by the complainant and the State party. The findings of the Committee are communicated to the parties (article 22, paragraph 7, of the Convention and rule 112 of the rules of procedure) and are made available to the general public. The text of the Committee's decisions declaring complaints inadmissible under article 22 of the Convention is also made public without disclosing the identity of the complainant, but identifying the State party concerned.
131. Pursuant to rule 115, paragraph 1, of its rules of procedure, the Committee may decide to include in its annual report a summary of the communications examined. The Committee shall also include in its annual report the text of its decisions under article 22, paragraph 7, of the Convention.

A. Pre-sessional working group

132. At its thirty-third session, the Committee's pre-sessional working group met for five days prior to the plenary session to assist the plenary in its work under article 22. The following members participated in the working group: Mr. El-Masry, Mr. Yakovlev, Mr. Prado-Vallejo and Mr. Yu Mengjia. At its thirty-fourth session, a working group which was composed of Mr. El-Masry, Mr. Yakovlev and Mr. Prado-Vallejo met for four days to assist the Committee in discharging its duties under article 22.

B. Interim measures of protection

133. Complainants frequently request preventive protection, particularly in cases concerning imminent expulsion or extradition, and invoke in this connection article 3 of the Convention. Pursuant to rule 108, paragraph 1, at any time after the receipt of a complaint, the Committee, its working group, or the Rapporteur for new complaints and interim measures may transmit to the State party concerned a request that it take such interim measures as the Committee considers necessary to avoid irreparable damage to the victim or victims of the alleged violations. The State party shall be informed that such a request does not imply a determination of the admissibility or the merits of the complaint. The Rapporteur for new complaints and interim measures regularly monitors compliance with the Committee's requests for interim measures. The State party may

inform the Committee that the reasons for the interim measures have lapsed or present arguments why the interim measures should be lifted. The Rapporteur, the Committee or its working group may withdraw the request for interim measures.

134. The Rapporteur for new complaints and interim measures has developed the working methods regarding the withdrawal of requests for interim measures. Where the circumstances suggest that a request for interim measures may be reviewed before the consideration of the merits, a standard sentence should be added to such a request, stating that the request is made on the basis of the information contained in the complainant's submission and may be reviewed, at the initiative of the State party, in the light of information and comments received from the State party and any further comments, if any, from the complainant. Some States parties have adopted the practice of systematically requesting the Rapporteur to withdraw his request for interim measures of protection. The Rapporteur has taken the position that such requests need only be addressed if based on new information which was not available to him when he took his initial decision on interim measures.
135. Also during the period under review, the Committee conceptualized the formal and substantive criteria applied by the Rapporteur for new complaints and interim measures in granting or rejecting requests for interim measures of protection (see CAT/NONE/2004/1/Rev.1). Apart from timely submission of a complainant's request for interim measures of protection under rule 108, paragraph 1, of the Committee's rules of procedure, the basic admissibility criteria set out in article 22, paragraphs 1 to 5, of the Convention, must be met by the complainant for the Rapporteur to act on his or her request. The requirement of exhaustion of domestic remedies can be dispensed with, if the only remedies available to the complainant are without suspensive effect, i.e. remedies that do not automatically stay the execution of an expulsion order, or if there is a risk of immediate deportation of the complainant after the final rejection of his or her asylum application. In such cases, the Rapporteur may request the State party to refrain from deporting a complainant, while his or her complaint is under consideration by the Committee, even before domestic remedies have been exhausted. As for substantive criteria to be applied by the Rapporteur, a complaint must have a substantial likelihood of success on the merits for it to be concluded that the alleged victim would suffer irreparable harm in the event of his or her deportation.

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D. Follow-up activities

150. At its twenty-eighth session, in May 2002, the Committee against Torture revised its rules of procedure and established the function of a Rapporteur for follow-up of decisions on complaints submitted under article 22.

151. The Rapporteur on follow-up submitted an oral report to the Committee at its thirty-third session. The report contained information received since the thirty-second session

from either the complainants or the States parties on the issue of follow-up to a number of decisions in which the Committee had found violations of the Convention. During the consideration of this report, the Committee requested the Special Rapporteur to provide information on follow-up to all decisions in which the Committee had found violations of the Convention, including decisions in which the Committee found violations, prior to the commencement of the Rapporteur's mandate.

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Annex VI

REQUEST FOR EXTENSION OF THE MEETING TIME OF THE COMMITTEE AGAINST TORTURE CONTAINED IN PARAGRAPH 14 OF A/59/44

PROGRAMME BUDGET IMPLICATIONS IN ACCORDANCE WITH RULE 25 OF THE RULES OF PROCEDURE OF THE COMMITTEE AGAINST TORTURE

1. The Committee against Torture requests the General Assembly to authorize the Committee to meet for an additional week per year as of its thirty-seventh session (November 2006).
2. The activities to be carried out relate to: programme 24 Human Rights and Humanitarian Affairs, and conference services; subprogramme 2.
3. Provisions have been made in the 2004-2005 programme budget for travel and per diem costs of the 10 members of the Committee to attend its two annual regular sessions in Geneva one of 15 working days the second of 10 working days, with each preceded by a five-day pre-session working group meeting, as well as for conference services to the Committee and the pre-session working group.
4. Should the General Assembly approve the Committee's request provisions for a total of 10 additional meetings (from 2006) would be required. The additional meetings of the Committee would require interpretation services in the six official languages. Summary records would be provided for the 10 additional meetings of the Committee. The proposed one-week extension would require an additional 50 pages of in-session and 30 pages of post-session documentation in the six languages.
5. Should the General Assembly accept the request made by the Committee against Torture, additional resources estimated at US\$ 25,000 for per diem costs for the members of the Committee in relation to the extension of its November session from 2006 would be required under section 24 of the programme budget for the biennium 2006-2007. Furthermore, additional conference-servicing costs are estimated at US\$ 697,486 from 2006 under section 2; and US\$ 2,520 from 2006 under section 29 E.
6. The above requirements relating to the additional meetings of the Committee and the pre-session working group are enumerated in the table below:

7.

Requirements relating to additional meetings of the Committee and the pre-sessional working group.

	2006 \$
I. Section 24. Human rights: travel, per diem and terminal expenses	25 000
II. Section 2. General Assembly affairs and conference services: meeting servicing, interpretation and documentation	697 486
III. Section 29E. Office of Common Support Services: support services	2 520
Total	725 000

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