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SUMMARY RECORD OF THE 58th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 April 2004, at 3 p.m.

Chairperson: Mr. SMITH (Australia)

CONTENTS

CONSIDERATION OF DRAFT RESOLUTIONS (*continued*)

ORGANIZATION OF THE WORK OF THE SESSION (*continued*)

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The meeting was called to order at 3 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS (*continued*)

CONSIDERATION OF DRAFT RESOLUTIONS RELATING TO AGENDA ITEM 18
(*continued*)

Draft resolution E/CN.4/2004/L.84 (Regional cooperation for the promotion and protection of human rights in the Asian and Pacific region)

1. Mr. AL-THANI (Qatar), introducing the draft resolution, said that it stressed the need for States to develop national human rights plans of action, to devise national strategies for human rights education which were comprehensive, participatory, effective and sustainable and to attach great importance to international cooperation. He hoped that, as in previous years, it would be adopted by consensus.
2. The CHAIRPERSON informed the Commission that there were 13 additional sponsors of the draft resolution, which did not have financial implications.
3. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.87 (National institutions for the promotion and protection of human rights)

4. Mr. THOM (Australia), introducing the draft resolution on behalf of its 72 sponsors, said that in it, the Commission reiterated the importance that independent national institutions played in promoting and protecting human rights in conformity with the Principles relating to the status of national institutions for the protection and promotion of human rights (Paris Principles), welcomed the benefits of participation by independent national institutions, in their own right, in meetings of the Commission and its subsidiary bodies and requested the Secretary-General to report to the sixty-first session on ways and means to enhance the participation of national institutions in the work of the Commission.
5. National human rights institutions were one of the most effective mechanisms available to States to protect and promote the human rights of their citizens. With their capacity to carry out independent investigations and to consider complaints, they helped ensure that internationally recognized human rights became a reality for each individual. It was to be hoped that the use of national human rights institutions would grow around the world, in partnership with Governments, civil society and the Office of the High Commissioner for Human Rights. His delegation hoped that the draft resolution would be adopted by consensus.
6. The CHAIRPERSON informed the Commission that there were 18 additional sponsors. The draft resolution had financial implications, details of which were set out in a text which had been circulated.
7. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.91 (Human rights and special procedures) *and draft amendments to the draft resolution, contained in document E/CN.4/2004/L.112*

8. Mr. SLABY (Observer for the Czech Republic), introducing the draft resolution, said that, bearing in mind the important role played by both special thematic procedures and country-specific procedures, the sponsors had decided to expand the scope of the draft resolution. That move had not been motivated politically and was not meant to give preference to either of the two categories, but rather to contribute to the reform of the special procedures system so that it stood on two pillars. The recommendations contained in the Vienna Declaration and Programme of Work and the recommendations of the Secretary-General set out in the document entitled “Strengthening of the United Nations: an agenda for further change (A/57/387 and Corr.1) had been at the core of the sponsors’ considerations.

9. In the draft resolution, the Commission urged Governments to cooperate with special procedures. It requested the Office of the High Commissioner to provide for the regular exchange of information between special procedures mandate-holders and concerned actors, to cooperate with special procedures mandate-holders and to include in its report to the Commission information on the implementation of the recommendations contained in the draft resolution. It requested the Secretary-General to facilitate cooperation between special procedures mandate-holders and United Nations field presences.

10. His delegation regretted that, despite concessions by the sponsors, the draft resolution was still not acceptable to all. Wishing to show flexibility and to accommodate the remaining concerns of delegations which had difficulties with the draft resolution, he said that the sponsors had made a number of changes to the text in the hope that it could then be adopted by consensus.

11. In the seventh preambular paragraph, the words “as a result of” should be replaced by “due to”. In the tenth preambular paragraph, the words “with satisfaction” should be deleted, and the phrase “avoid unnecessary duplication and overlapping” should be inserted after “bearing in mind the continuous need to”. In the sixteenth preambular paragraph, the phrase “as well as other United Nations rules and regulations applicable to the conduct of experts on missions” should be inserted at the end. In paragraph 2 (b), the word “Considering” should be inserted before “inviting”. In paragraph 5, the words “situation assessments” and “and follow-up to recommendations” should be deleted. In paragraph 6 (d), the word “relevant” should be replaced by “where relevant and appropriate”. In paragraph 9, the phrase “including through media presentations in an appropriate manner” should be deleted. In paragraph 10 (b), the words “as appropriate” should be inserted after “special procedures recommendations”, and the phrase “if the State concerned so agrees” should be replaced by “if the State concerned so requests”. In paragraph 10 (c), the words “to continue” should be inserted before “to prepare”, and the words “and treaty bodies” should be deleted. In paragraph 11, the words “and agencies” should be deleted.

12. The CHAIRPERSON informed the Commission that there were eight additional sponsors. The draft resolution had financial implications, details of which were set out in a text which had been circulated.

13. Mr. FERRER RODRIGUEZ (Cuba), introducing the draft amendment (document E/CN.4/2004/L.112) to the draft resolution, said that, despite the efforts by the draft resolution’s sponsors, it continued to be unacceptable. Whereas in past years the draft resolution had

addressed human rights and thematic procedures, today it dealt with human rights and special procedures. That change in focus, the consequence of which was that States were invited to cooperate with special procedures mandate-holders, ran counter to the wishes of many African and other developing countries, which did not want the Commission to adopt any further draft resolutions on country-specific situations, because they were of a selective, discriminatory and political nature. In view of the oral revisions proposed by the Czech Republic, his delegation proposed as an amendment simply to replace the words “special procedures” by “thematic procedures” in the title and body of the draft resolution, and it withdrew all the other amendments which it had proposed in document E/CN.4/2004/L.112.

14. Mr. UMER (Pakistan), speaking on behalf of the member States of the Organization of the Islamic Conference pointed out that having the draft resolution focus on “special procedures” rather than “thematic procedures” changed its impact considerably and would have serious consequences. Whereas the member States of the Organization of the Islamic Conference fully supported the thematic mechanisms and were prepared to cooperate with them, that was not the case with regard to special procedures mandate-holders. To combine country-specific procedures and thematic procedures under the name of “special procedures” was tantamount to placing the two mechanisms on an equal footing; that was inappropriate. The member States of the Organization of the Islamic Conference therefore supported the amendment proposed by Cuba. If the amendment was adopted, Pakistan could go along with the draft resolution, taking into account the revisions proposed by the Czech Republic.

15. Ms. REES (United Kingdom) said that her delegation had hoped that the draft resolution, which aimed to strengthen, streamline and reform the special procedures mission, could be adopted by consensus. It was a technical resolution on the special procedures system as a whole which did not seek to score political points and enjoyed the support of many countries from all parts of the world. The draft addressed all mandates and stressed the need to give equal priority to political, civil, economic, social and cultural rights. It struck a balance between the need to strengthen the special procedures system and the need to reform it. Her delegation asked for the amendment proposed by Cuba to be put to a vote, but nevertheless expressed the hope that the draft resolution, as revised by the Czech Republic, could be adopted by consensus.

16. Mr. LA Yifan (China) said that his Government advocated a reform of the special procedures and regretted that the procedures for country-specific consideration of human rights situations in agenda item 9 were political in nature, lacked objectivity and penalized the developing countries. Accordingly, China would support the amendment put forward by the Cuban delegation.

17. Mr. KELLER (France), speaking in explanation of vote before the vote, said that France had always supported the work of the special procedures mandate-holders, as shown by the French Government’s standing invitation to them. The special procedures were an essential element of the good functioning of the Commission and, as noted by Kofi Annan in his speech to the Commission, they had an important role to play in the effective implementation of the resolutions which it adopted. The Czech Republic, the main sponsor of the draft resolution, had demonstrated considerable flexibility, taking into account many proposals from all States. The draft resolution was an excellent compromise which improved the effectiveness of all mechanisms and ensured that greater consideration was given to the work of the special procedures, notably with an appeal for a better dissemination of its recommendations. The French

delegation would therefore vote against the draft amendment proposed by the Cuban delegation and in favour of the draft resolution as revised by the Czech Republic.

18. *At the request of the representative of the United Kingdom of Great Britain and Northern Ireland, a recorded vote was taken on the amendment proposed by the Cuban delegation (para. 1 of document E/CN.4/2004/L.112)*

In favour: Bahrain, Bhutan, Burkina Faso, China, Cuba, Egypt, Eritrea, Ethiopia, Gabon, India, Indonesia, Mauritania, Nepal, Nigeria, Pakistan, Qatar, Saudi Arabia, Sierra Leone, Sri Lanka, Sudan, Swaziland, Togo, Uganda, Zimbabwe.

Against: Argentina, Armenia, Australia, Austria, Brazil, Chile, Congo, Costa Rica, Croatia, Dominican Republic, France, Germany, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Mexico, Netherlands, Paraguay, Peru, Republic of Korea, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Russian Federation, South Africa.

19. *The amendment proposed by the Cuban delegation was rejected by 27 votes to 24, with 2 abstentions.*

20. The CHAIRPERSON invited the Commission to take a decision on the draft resolution, as revised by the delegation of the Czech Republic.

Explanations of vote before the vote

21. Mr. FERRER RODRIGUEZ (Cuba) said that, during consultations, the sponsors of the draft resolution had not taken into account the observations made by a number of States which had been concerned about the many problems affecting the functioning of special procedures and the fact that the special procedures mandate-holders sometimes formulated unrealistic or unfounded recommendations from the point of view of international norms or mandates established by the Commission on Human Rights, the Economic and Social Council or the General Assembly. Those States also regretted that the draft resolution aimed to introduce greater interaction between the special procedures mandate-holders and treaty bodies despite their different mandates and that no solution was planned to address the difficulties which special procedures posed. For those reasons, his delegation requested that the draft resolution be put to a vote and would abstain.

22. Ms. ZOLOTOVA (Russian Federation) said that her delegation would vote in favour of the draft resolution, which sought to harmonize the work of the special procedures mandate-holders, because it believed that an effective functioning of the special procedures mechanisms played an important role in strengthening the protection of human rights. However, the Commission should only take measures on situations characterized by flagrant and systematic violations of human rights and when there was an agreement between all the parties concerned.

23. *At the request of the representative of Cuba, a registered vote was taken on the draft resolution, as revised by the representative of the Czech Republic.*

In favour: Argentina, Armenia, Australia, Austria, Bhutan, Brazil, Chile, Congo, Costa Rica, Croatia, Dominican Republic, France, Gabon, Germany, Guatemala, Honduras, Hungary,

India, Ireland, Italy, Japan, Mexico, Nepal, Netherlands, Paraguay, Peru, Republic of Korea, Russian Federation, South Africa, Sri Lanka, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: None.

Abstaining: Bahrain, Burkina Faso, China, Cuba, Egypt, Eritrea, Ethiopia, Indonesia, Mauritania, Nigeria, Pakistan, Qatar, Saudi Arabia, Sierra Leone, Sudan, Swaziland, Togo, Zimbabwe.

24. *The draft resolution, as revised, was adopted by 35 votes to none, with 18 abstentions.*

Draft resolution E/CN/4/2004/L.101 (Protection of United Nations personnel)

25. Mr. DA COSTA PEREIRA (Observer for Portugal), introducing the draft resolution on behalf of its 50 sponsors, said that the draft stressed that the acts of violence against United Nations personnel, such as the attack against the headquarters of the United Nations Assistance Mission in Iraq in Baghdad in August 2003, were in violation of international humanitarian law. The member States of the United Nations must ensure that the perpetrators of such acts were brought to justice in accordance with international law and national law and must end impunity for such acts. The draft again called upon member States to become parties to the Convention on the Safety of United Nations and Associated Personnel, especially those receiving United Nations operations on their territories, and to the Rome Statute of the International Criminal Court, which were particularly relevant legal instruments in that area. The Secretary-General was also requested to take further steps to improve the safeguards for the security and safety of locally recruited United Nations and associated personnel. The United Nations and other humanitarian organizations were requested to strengthen the analysis of threats to their safety and security in order to minimize security risks and to facilitate informed decisions on the maintenance of an effective presence in the field.

26. His delegation thanked all delegations for their spirit of flexibility and cooperation during the negotiations on the draft resolution and expressed the hope that it would be adopted by consensus.

27. Ms. GOROVE (United States of America) thanked the Portuguese delegation for its efforts in introducing the draft resolution, which addressed an issue of pressing concern. However, the United States had reservations about several loosely formulated provisions dealing with international law, and international humanitarian law in particular. Paraphrases used in non-binding instruments had no effect on existing legal obligations, and the United States would comply with its legal obligations as undertaken, and not with paraphrases thereof. In the view of her delegation, the most appropriate body for addressing the actual question of the protection of United Nations personnel was the Security Council.

28. Her delegation was prepared to join the consensus on the draft resolution, but wished to propose two amendments. The first, concerning the ninth preambular paragraph, was to replace the words “Welcoming the inclusion of attacks” by “Noting the inclusion of attacks”, to replace the phrase “noting the role that the Court can play in bringing to justice” by “welcoming all efforts to bring to justice” and to replace the words “as a measure of preventing impunity” by “in an effort to end impunity”. Those changes would broaden and strengthen the scope of the provision, which otherwise would be focused on one institution. Her delegation also proposed

deleting paragraph 2 (b), in which States were called upon to consider becoming party to the Rome Statute of the International Criminal Court, and asked that the proposed changes be considered together as an amendment to the draft resolution.

29. Ms. WHELAN (Ireland) said that the attacks intentionally targeting personnel involved in a humanitarian assistance or peacekeeping mission were clearly defined as war crimes in the Rome Statute of the International Criminal Court. The European Union was convinced that the Court could play an important role in preventing impunity by bringing to justice those responsible for serious violations of human rights and international humanitarian law. Therefore, the European Union asked that the amendments proposed by the United States be put to a vote and would vote against them.

30. *At the request of the representative of Ireland, a registered vote was taken on the two amendments proposed by the delegation of the United States.*

In favour: India, Qatar, Saudi Arabia, United States of America.

Against: Argentina, Armenia, Australia, Austria, Bahrain, Brazil, Burkina Faso, Chile, Congo, Costa Rica, Croatia, Cuba, Dominican Republic, Ethiopia, France, Gabon, Germany, Guatemala, Honduras, Hungary, Indonesia, Ireland, Italy, Japan, Mexico, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Republic of Korea, Russian Federation, Sierra Leone, South Africa, Sudan, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: Bhutan, China, Egypt, Eritrea, Mauritania, Nepal, Sri Lanka, Swaziland, Togo.

31. *The two amendments were rejected by 40 votes to 4, with 9 abstentions.*

32. *The draft resolution as a whole was adopted without a vote.*

Draft resolution E/CN.4/2004/L.102 (Effective implementation of international instruments on human rights)

33. Ms. KENT (Observer for Canada), introducing the draft resolution on behalf of its initial sponsors, which had been joined by Belgium, the Dominican Republic, Japan, Macedonia, Monaco, Paraguay, Peru, Serbia and Montenegro, Ukraine and Zambia, said that it underlined that the treaty body system was central to United Nations efforts to ensure universal respect for and enjoyment of fundamental human rights and the effective implementation of international human rights instruments. It referred to the Secretary-General's report entitled "Strengthening the United Nations: an agenda for further change", which highlighted the need to increase the effectiveness of the treaty bodies. The sponsors had sought to streamline the draft resolution to focus on the adoption of practical measures for strengthening the functioning of the treaty bodies and the implementation of international human rights instruments. The draft resolution welcomed the measures taken by the human rights treaty bodies, States parties and the Secretariat to improve the effectiveness of the treaty body system. It took note of efforts to improve cooperation between treaty bodies by holding inter-committee meetings and meetings with States parties, and it highlighted the importance of assisting States with the implementation of their obligations under the treaties. It encouraged the creative use of information technology and emphasized the need to ensure that the treaty bodies were properly resourced to do their work.

34. Her delegation hoped that, as in past years, the Commission would adopt the draft resolution by consensus.

35. The CHAIRPERSON informed the Commission that there were 10 additional sponsors. The draft resolution had financial implications, details of which had been circulated.

36. The draft resolution was adopted without a vote.

CONSIDERATION OF DRAFT RESOLUTIONS RELATING TO AGENDA ITEM 19

Draft resolution E/CN.4/2004/L.89 (Technical cooperation and advisory services in Cambodia)

37. Mr. ENDO (Japan), introducing the draft resolution, said that the sponsors had tried to make the text as short and focused as possible for two reasons. First, as the draft resolution had been submitted under agenda item 19, it was appropriate to concentrate on the main areas in which the international community could provide assistance and advice. Thus, the text focused mainly on the Khmer Rouge Tribunal and the strengthening of democracy. Second, Cambodia had continued to cooperate with the international community, including the United Nations, in those areas. Those efforts should be duly reflected in the draft, and Cambodia should be encouraged to pursue them further. For that reason, the draft resolution welcomed the progress that Cambodia had made in improving its human rights situation in the past decade.

38. He drew attention to a minor change in paragraph 5 (c), in which the words “in particular” should be deleted. His delegation expressed its gratitude to the Ambassador of Cambodia and to all the delegations that had participated in the consultations on the draft resolution and called upon all members of the Commission to adopt it without a vote, as in previous years.

39. Mr. SOMETH (Observer for Cambodia) said that the draft resolution introduced by Japan was a clear improvement over previous resolutions adopted by the Commission, because it was well focused on technical cooperation needs. He gratefully acknowledged Japan’s efforts to find solutions to Cambodia’s problems and thanked all the other sponsors who were helping his country to rebuild, although their reference to Cambodia’s supposed social problems was totally unjustified. The fact that the question of Cambodia remained on the agenda of the Commission suggested that a number of problems must be addressed in at least three areas, namely, insufficiencies in advisory services in the field and in the dialogue with the Government, lack of support for implementation and follow-up activities, and the country’s institutional weakness. Cambodia remained determined to work to rebuild good social structures from scratch, but it needed the assistance of the international community and therefore asked the Office of the High Commissioner to consider redoubling its efforts to establish results-oriented assistance programmes and to adopt a pragmatic approach.

40. The CHAIRPERSON informed the Commission that there were 25 additional sponsors of the draft resolution, which did not have financial implications.

41. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.92 (Assistance to Somalia in the field of human rights)

42. Mr. SIMONETTI (Italy), introducing the draft resolution, said that more than ten years after the collapse of the central Government, and despite significant changes reflected in the

establishment of some local and regional government structures and an active civil society, Somalia was still facing a complex emergency. Notwithstanding the signing of the Eldoret Agreement, which was an important step towards restoring peace and security in the country, political unrest and armed conflict between factions had resulted in serious violations of human rights and a humanitarian crisis. Today more than ever, Somalia needed the support of the international community and the United Nations to start the reconstruction process and restore basic infrastructures.

43. The aim of the draft resolution was to remind the international community of the fate of the Somali people and to urge all relevant stakeholders to demonstrate solidarity with Somalia. The draft resolution called for a strengthening of the activities of the Office of the High Commissioner for Human Rights in the field, and it recommended that the mandate of the independent expert be extended so that he could continue his excellent work for a further year.

44. The CHAIRPERSON informed the Commission that there were 10 additional sponsors. The draft resolution had financial implications, details of which were set out in a text which had been circulated. He pointed out that Ireland, and not Iceland, should appear in the list of sponsors of the draft.

45. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.95 (Advisory services and technical cooperation in the field of human rights)

46. Ms. ROTH (Germany), introducing the draft resolution on behalf of all its sponsors, said that the programme of technical cooperation and consultative services in human rights aimed to promote the incorporation of international human rights standards into national laws, policies and practices. It also sought to build national and regional capacities and infrastructures for the promotion and protection of all human rights in the context of the pursuit of national development objectives and national human rights programmes. The draft resolution noted that consultative services and technical cooperation constituted one of the most efficient and effective means of promoting and protecting all human rights, democracy and the rule of law. It encouraged efforts systematically to integrate the gender dimension into technical cooperation programmes, which should aim at producing sustainable results through the enhancement of national capacities and the promotion of national institutions. The draft resolution highlighted the importance of coherent long-term and strategic programming, along with systematic monitoring and evaluation of technical cooperation programmes. It also reaffirmed the importance of national ownership of programmes.

47. His delegation hoped that the draft resolution would be adopted by consensus.

48. The CHAIRPERSON informed the Commission that there were 45 additional sponsors. The draft resolution had financial implications, details of which were set out in a text which had been circulated.

49. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.96/Rev.1 (Situation of human rights in Burundi)

50. Mr. MENGA (Congo), introducing the draft resolution on behalf of the African Group, said that it had been negotiated with those concerned by the situation in Burundi. His Government had undertaken a number of initiatives to give effect to the agreements concluded by the parties involved in the process.

51. He drew attention to a slight change in paragraph 9, which would then read: “*Renouvelle son invitation au gouvernement de transition du Burundi à ratifier le Statut de Rome de la Cour pénale internationale*” (“Again called on the transitional Government in Burundi to ratify the Rome Statute of the International Criminal Court”). Stressing the important role played by the various foreign partners, he hoped that the draft resolution would be adopted by consensus.

52. The CHAIRPERSON informed the Commission that there were five additional sponsors. The draft resolution had financial implications, details of which were set out in a text which had been circulated.

53. Ms. GOROVE (United States of America) pointed out that the change proposed by the delegation of the Congo posed a problem, because the United States, not having itself ratified the Rome Statute of the International Criminal Court, was not in a position to call on another country to do so. Her delegation proposed amending the revised paragraph 9 by replacing the words “to ratify” by “to consider ratifying”. She hoped that that amendment could be accepted without a vote.

54. Mr. SOBASHIMA (Japan) said that the situation of human rights in Burundi continued to give cause for concern, and his delegation therefore approved the general spirit of the draft resolution. However, it regretted the proposal to appoint an independent expert to provide backing for the Government of Burundi in its efforts to improve the human rights situation, without consideration of the links between his activities and the work of the local office of the High Commissioner, and it cautioned about the costs of such a decision, given that the resources included in the United Nations ordinary budget were limited. However, in view of the importance of the draft resolution, Japan would not stand in the way of a consensus.

55. Mr. GAHUTU (Observer for Burundi) thanked the sponsors of the draft resolution for taking account of the positive developments in the situation in his country. However, Burundi did not support the amendment to paragraph 9 proposed by the United States, because it had already gone beyond the stage of considering whether to ratify the Statute of Rome and was now moving towards the ratification process.

56. *At the request of the representative of Germany, a registered vote was taken on the amendment proposed by the United States.*

In favour: India, United States of America.

Against: Argentina, Armenia, Australia, Austria, Brazil, Burkina Faso, Chile, China, Congo, Costa Rica, Croatia, Cuba, Dominican Republic, Egypt, Ethiopia, France, Gabon, Germany, Guatemala, Honduras, Hungary, Indonesia, Ireland, Italy, Japan, Mexico, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Russian Federation, Sierra Leone, South Africa, Sudan, Sweden, Togo, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: Bahrain, Bhutan, Eritrea, Mauritania, Nepal, Pakistan, Qatar, Saudi Arabia, Sri Lanka, Swaziland.

57. *The amendment was rejected by 41 votes to 2, with 10 abstentions.*

58. *The draft resolution as a whole was adopted without a vote.*

Draft resolution E/CN.4/2004/98/Rev.1 (Technical cooperation and advisory services in Liberia)

59. Mr. MENGA (Congo), introducing the draft resolution on behalf of the African Group, said that the latter had been very receptive to suggestions by interested countries and that it should thus be possible to adopt the draft resolution by consensus. He stressed the important role played, inter alia, by the United States in the peace efforts, which had led to a ceasefire agreement and an improvement of the situation in the country. He proposed as an amendment to replace paragraph 5 (a) by the following:

(a) *“D’établir, avec l’assistance de la communauté internationale, une capacité nationale pour la promotion et la protection des droits de l’homme*
(To establish, with the assistance of the international community, a national capacity for the protection and promotion of human rights);

(a) *bis De s’engager fermement contre l’impunité et de traduire en justice ceux qui ont la plus haute responsabilité dans les violations graves des droits de la personne au Libéria”* (To make a firm commitment to combat impunity and to bring to justice those responsible at the highest level for the serious violations of human rights in Liberia).

60. The CHAIRPERSON informed the Commission that there were two additional sponsors. The draft resolution had financial implications, details of which had been circulated.

61. *The draft resolution, as revised orally, was adopted without a vote.*

Draft resolution E/CN.4/2004/L.99 (Technical cooperation and advisory services in the Democratic Republic of the Congo)

62. Mr. MENGA (Congo), introducing the draft resolution on behalf of the African Group, said that its main objective was to support the Democratic Republic of the Congo in improving national mechanisms for the promotion and protection of human rights, a path which it had resolutely embarked upon at the end of the war. In accordance with the Global and All-Inclusive Agreement signed on 2 April 2003, the Democratic Republic of the Congo had put into place, in parallel with the Government of National Unity and Transition, five institutions in support of democracy: a national observatory for human rights, an independent electoral commission, a truth and reconciliation commission, a high authority for the media and an ethics and anti-corruption commission. It had also undertaken a far-reaching reform of its judicial system. However, violations of human rights continued to be perpetrated by forces opposed to the peace process. The Democratic Republic of the Congo needed the support of the international community to speed up the process of disarmament, demobilization, repatriation, resettlement and reintegration. The appointment of an independent expert would help it build a State genuinely based on the rule of law. Stressing that the draft resolution was a consensual text which had been the subject of long consultations, he asked that the Commission adopt it without a vote.

63. The CHAIRPERSON informed the Commission that there were 29 additional sponsors. The draft resolution had financial implications, details of which had been circulated.

64. Ms. WHELAN (Ireland) expressed appreciation to the delegation of the Democratic Republic of the Congo and the coordinators of the African Group for the productive and cooperative negotiations which they had conducted. The European Union, which had collaborated closely on the elaboration of the draft resolution, hoped that it would be supported by all the members of the Commission. She noted that her comments had been agreed to by the European Union as a whole, the Acceding States and the Candidate Countries.

65. Ms. GOROVE (United States of America) thanked the African Group for its flexibility, which had made it possible to reach a consensus. It had been her understanding that a compromise had been reached on paragraph 5 (e) with a reference to the Rome Statute, and she asked whether an oral revision had been made on that point.

66. The delegation of the Congo having replied in the negative, she said that she was disappointed that no account had been taken of her delegation's suggestion, which was to replace the words "To cooperate with the International Criminal Court" by "To comply with its obligations as a State party to the Rome Statute of the International Criminal Court, including all of its obligations to cooperate with the Court and with its Article 98 agreement".

67. Mr. MINDUA KESIA-MBE (Observer for the Democratic Republic of the Congo) said that his Government no longer accepted the resolutions submitted under agenda item 9 by non-African States against African countries, because not only were those countries no model in the area of human rights, but they were also very selective in their choice of targets and gave systematic priority to civil and political rights. Believing that human rights must be the subject of international control, he had welcomed the draft resolution submitted by the African Group, although it contained severe criticism of his Government. His delegation had had frank and constructive negotiations on the text with the European Union and the Western Group. The text was balanced and realistic. It drew attention to persistent glaring shortcomings in his country in the area of human rights, but also highlighted the enormous progress made in that regard, which had been recognized by the Special Rapporteur, Ms. Motoc, and had been described by the representative of the Congo in his introduction of the draft resolution and should be encouraged. The merit of the draft resolution was that it moved the Democratic Republic of the Congo from agenda item 9 to agenda item 19. However, the situation of human rights would continue to be monitored, because the draft resolution provided for the appointment of an independent expert and instituted a system for cooperating with United Nations bodies. All communications and monitoring mechanisms would remain in effect, and his Government would continue to cooperate with the office of the High Commissioner in Kinshasa. His delegation called upon the members of the Commission to adopt the draft resolution by consensus.

68. *At the request of the representative of Ireland, a registered vote was taken on the amendment submitted by the United States.*

In favour: United States of America.

Against: Argentina, Armenia, Australia, Austria, Brazil, Burkina Faso, Chile, Congo, Costa Rica, Croatia, Cuba, Dominican Republic, Egypt, Ethiopia, France, Gabon, Germany, Guatemala, Honduras, Hungary, Indonesia, Ireland, Italy, Japan, Mexico, Mauritania, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Russian Federation, Sierra Leone, South Africa, Sudan,

Sweden, Togo, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: Bahrain, Bhutan, China, Eritrea, India, Nepal, Pakistan, Qatar, Saudi Arabia, Sri Lanka, Swaziland.

69. *The amendment was rejected by 41 votes to 1, with 11 abstentions.*

70. *The draft resolution as a whole was adopted without a vote.*

Draft resolution E/CN.4/2004/L.100/Rev.1 (Technical cooperation and advisory services in Chad)

71. Mr. MENGA (Congo), introducing the draft resolution on behalf of the African Group, said that it referred to a number of developments in the socio-political and human rights situation in Chad and took account of the concerns of interested parties. He urged the Commission to adopt it by consensus.

72. The CHAIRPERSON informed the Commission that there were two additional sponsors. The draft resolution had financial implications, details of which had been circulated.

73. Mr. SOBASHIMA (Japan) said that, although he welcomed the draft resolution, which addressed the serious situation in Chad, he was seriously concerned about the proliferation of special rapporteurs and other experts in the Commission. The appointment of an independent expert, the subject of paragraph 6 (a), should have been discussed at greater length, since the use of the Organization's limited resources must be carefully defined. However, his delegation would not stand in the way of the adoption of the draft resolution.

74. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.97 (Assistance to Sierra Leone in the field of human rights)

75. Mr. MENGA (Congo), introducing the draft resolution on behalf of the African Group, said that it was also sponsored by Canada. His delegation welcomed that fruitful sponsorship, which was a practical example of cooperation between regional groups, and it urged the Commission to encourage such initiatives. The draft resolution took into account the particular situation of Sierra Leone, which was emerging from a protracted conflict, and referred to the main developments over the past year, notably the work of the Special Court for Sierra Leone and the conclusion of the activities of the Truth and Reconciliation Commission. Its basic aim was to ask the Office of the High Commissioner and the international community to continue providing technical assistance to Sierra Leone to help it improve the situation of human rights. His delegation hoped that the draft resolution could be adopted by consensus.

76. Ms. VERRIER-FRECHETTE (Observer for Canada) said that the joint submission of the draft resolution was an innovation: it illustrated the results that could be attained through a partnership between members of the Commission and strengthened cooperation between all the parties concerned in ensuring the concrete implementation of the text's proposals, thereby helping to improve the human rights situation in Sierra Leone. Her delegation thanked the Congo and the African Group for their readiness to forge a partnership.

77. Mr. LA Yfan (China) was pleased that the draft resolution on Sierra Leone had been elaborated in cooperation between regional groups, which resulted in a balanced and constructive text which China supported. Given the great difficulties facing it, Sierra Leone must be able to count on the generous aid of the international community.

78. Mr. THORNE (United Kingdom of Great Britain and Northern Ireland) expressed his gratitude to the delegations of the Congo and Canada as well as the members of the African Group for their constructive cooperation. However, his delegation was disappointed that it had proved impossible to make mention in the draft resolution of the important work of the Anti-Corruption Commission, although the Government of Sierra Leone had expressed a willingness to tackle the problem. Eliminating corruption was essential to ensuring sustainable peace in the country and making the most of the international community's commitment. The United Kingdom was proud to be helping rebuild Sierra Leone. It supported the draft resolution, but looked to future draft resolutions on the question to acknowledge the need to address corruption.

79. Mr. FERNANDEZ PALACIO (Cuba) was pleased that the draft resolution on assistance to Sierra Leone was authentically African and thanked Canada for participating in its elaboration. Emerging from a terrible armed conflict, Sierra Leone needed aid and solidarity not only in the area of human rights but also in all aspects of political, social and economic life, in particular health care, education and training. Such assistance should be provided without conditions or blackmail of any kind. The corruption to which the United Kingdom had ambiguously referred had been imported from abroad by the former colonial Powers, and the Government of Sierra Leone was doing everything it could to combat the problem. The Cuban delegation would thus support the draft resolution as introduced by the African Group.

80. Mr. ROWE (Sierra Leone) said that the main objective of the draft resolution was to provide technical assistance to Sierra Leone to enable the Government and the people of Sierra Leone to address the human rights consequences of the war. The population had endured the horrors of a war waged by rebels and fuelled by arms dealers and diamond traffickers and their henchmen in the region and subregion. His delegation did not doubt that the Commission would make a point of adopting the draft resolution. The Government and people of Sierra Leone expressed their appreciation to the African Group, and the Congo in particular, as well as Canada and all the sponsors of the draft resolution for their support.

81. *The draft resolution was adopted without a vote.*

82. The CHAIRPERSON drew the Commission's attention to his statements on technical cooperation in the field of human rights in Afghanistan (E/CN.4/2004/FUTURE.1), Haiti (E/CN.4/2004/FUTURE.2), Nepal and Timor-Leste ((E/CN.4/2004/FUTURE.4/Rev.1), the texts of which had been circulated and would appear in the report of the Commission on its sixtieth session. If he heard no objections, he would take it that the Commission approved his statements.

83. *It was so agreed.*

84. The CHAIRPERSON invited delegations that wished to do so to comment on the statements which had just been approved.

85. Mr. DELAURENTIS (United States of America) welcomed the efforts by the drafters of the Chairperson's statement on technical cooperation in the field of human rights in Afghanistan, in particular the delegation of Italy, for producing a document that was fully acceptable to the

Commission. The text accurately reflected the very positive developments in the situation in Afghanistan in the past year, notably with regard to the role of women. It noted the commitment of the Afghan authorities to ensure full participation of women in all aspects of Government and civil society.

86. In supporting the Chairperson's statement, the United States demonstrated its strong commitment to advancing the rights of Afghan women and installing democracy in Afghanistan. The fact that the United States supported the statement in no way amounted to a general support for quotas. However, it recognized that exceptional circumstances, such as the aftermath of a conflict, might require countries to consider quotas in order to eliminate discrimination against women and speed up their participation in political life. Nevertheless, the United States considered that legal reform, anti-discrimination measures, capacity-building and equality of opportunity were the best ways of encouraging the participation of women and ensuring respect for their basic rights.

87. His delegation congratulated the drafters of the draft resolution for recognizing the achievements of the Afghan Government in the protection and promotion of the human rights of all citizens.

CONSIDERATION OF DRAFT RESOLUTIONS RELATING TO AGENDA ITEM 17 (*continued*)

Draft resolution E/CN.4/2004/L.106 (Protection of human rights and fundamental freedoms while countering terrorism)

88. The CHAIRPERSON informed the Commission that there were 15 additional sponsors of the draft resolution, which did not have financial implications.

89. Ms. OLAMENDI (Mexico), introducing the draft resolution, said that the sponsors had agreed to make the following amendments to it: in paragraph 10, add the words "through the intermediary of the High Commissioner for Human Rights" after "report" in the fifth line, and delete the words "with regard to international human rights institutional mechanisms" at the end of the paragraph.

90. In the draft resolution, the Commission reaffirmed that States must ensure that any measure taken to combat terrorism complied with their obligations under international law, in particular international human rights, refugee and humanitarian law. It also proposed the designation of an independent expert to assist the High Commissioner in the fulfilment of his mandate to protect human rights and fundamental freedoms while countering terrorism and to submit a report on measures taken to strengthen such protection. At the request of a number of delegations, it was specified that the report would be submitted through the intermediary of the High Commissioner for Human Rights in order to show that the independent expert and the High Commissioner were called upon not to compete with each other but to work together.

91. The sponsors of the draft resolution urged all members of the Commission to show their firm determination to combat terrorism with due respect for human rights.

92. Mr. SINGH PURI (India) said that everyone agreed that the fight against the scourge of terrorism must be waged with determination but also with full respect for human rights and fundamental freedoms. His delegation thanked the sponsors for submitting a draft resolution on a question of the utmost importance, but regretted that some of India's suggestions had not been reflected in the text. Convinced of the need to take account of the work of the Sub-Commission

on the Promotion and Protection of Human Rights in that area while also making the most of existing resources, mechanisms and expertise, his delegation proposed two amendments.

93. The first amendment was to add a paragraph 7 bis which would read: “Takes note of resolution 2003/15 on effects of measures to combat terrorism on the enjoyment of human rights adopted by the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-fifth session”, and the second was to replace paragraph 10 by a new paragraph that would read: “Calls upon the High Commissioner for Human Rights to seek the assistance of the Special Rapporteur on human rights and terrorism of the Sub-Commission on the Promotion and Protection of Human Rights in the fulfilment of the mandate spelled out in operative paragraph 9 of this resolution; and to circulate the completed study requested in United Nations General Assembly resolution 58/187 for consideration by States as mandated in paragraph 9, with a view to the consideration of the results thereof at the sixty-first session of the Commission on Human Rights”.

94. Mr. DE ALBA (Mexico) said that the sponsors of the draft resolution had conducted lengthy consultations with all delegations, including the delegation of India, to achieve a consensus text. They could not accept the Indian delegation’s proposed amendments, which would distort the very purpose of the draft resolution. The mandate of the Special Rapporteur on human rights and terrorism was different from that of the independent expert whom the draft resolution proposed to designate. Moreover, the Special Rapporteur herself had noted that a consideration of the conformity with international human rights instruments of measures to combat terrorism was a Herculean task which largely exceeded her capacities (E/CN.4/Sub.2/2003/WP.1, para. 95). Consequently, his delegation asked that the two proposed amendments be put to a vote.

95. Mr. SINGH PURI (India) asked for a separate vote on the two proposed amendments.

96. Mr. GUNARATNA (Sri Lanka) said that account should be taken of the work carried out to date by the Sub-Commission’s Special Rapporteur on human rights and terrorism. For that reason, his delegation would vote in favour of the constructive amendments proposed by the Indian delegation.

97. Mr. LI Xiaomei (China) thanked the sponsors of the draft resolution for their many efforts and for all the consultations they had organized. His delegation was of the view that the question of human rights and the fight against terrorism was already considered by a number of persons and bodies within the United Nations system, notably by the Special Rapporteur of the Sub-Commission. Therefore, his delegation supported the amendments proposed by the Indian delegation.

98. Mr. FERNANDEZ PALACIO (Cuba) acknowledged the efforts made by the sponsors of the draft resolution but regretted that they had not been able to agree to the proposals by the Indian delegation. His delegation failed to understand why the Commission could not even take note of a resolution of the Sub-Commission, which after all was its sole subsidiary body. It was also astonished that the draft resolution proposed to designate an independent expert, even though the Sub-Commission was already working on the subject and even though it had been constantly reiterated that there were no resources for establishing new mechanisms. If India had not submitted its proposed amendment on paragraph 10, the Cuban delegation would have asked that the words “from within existing resources” in paragraph 10 be put to a vote. It was to be feared that resources allocated in the past to development activities might henceforth serve to fund the mandate of the newly appointed independent expert.

99. *At the request of the representative of Mexico, a registered vote was taken on the amendment proposed by the Indian delegation to insert a paragraph 7 bis in the draft resolution.*

In favour: Bahrain, Bhutan, Burkina Faso, China, Cuba, Egypt, Ethiopia, Gabon, India, Indonesia, Mauritania, Nepal, Pakistan, Qatar, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Sri Lanka, Sudan, Uganda, Zimbabwe.

Against: Argentina, Armenia, Austria, Brazil, Chile, Congo, Costa Rica, Croatia, Dominican Republic, France, Germany, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Mexico, Netherlands, Paraguay, Peru, Republic of Korea, Sweden, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Australia, Eritrea, Nigeria, Swaziland, United States of America.

100. *The amendment proposed by the Indian delegation to insert a paragraph 7 bis in the draft resolution was rejected by 26 votes to 22, with 5 abstentions.*

101. *At the request of the representative of Mexico, a registered vote was taken on the Indian delegation's proposed amendment to paragraph 10 of the draft resolution.*

In favour: Bahrain, Bhutan, Burkina Faso, China, Cuba, Egypt, Eritrea, Ethiopia, Gabon, India, Indonesia, Mauritania, Nepal, Pakistan, Qatar, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Sri Lanka, Sudan, Zimbabwe.

Against: Argentina, Armenia, Austria, Brazil, Chile, Congo, Costa Rica, Croatia, Dominican Republic, France, Germany, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Mexico, Netherlands, Paraguay, Peru, Republic of Korea, Sweden, Togo, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Australia, Nigeria, Swaziland, United States of America.

102. *The Indian delegation's proposed amendment to paragraph 10 of the draft resolution was rejected by 27 votes to 22, with 4 abstentions.*

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) *(continued)*

103. The CHAIRPERSON drew the Commission's attention to his statement on the situation of human rights in Colombia (E/CN.4/2004/FUTURE.5). If he heard no objection, he would take it that the Commission wished to approve the statement.

104. *It was so agreed.*

105. The CHAIRPERSON drew the Commission's attention to the draft decision concerning the dates of its sixty-first session. It was proposed that the first meeting of the Commission be held on the third Monday of January 2005 with the sole purpose of electing its officers, and that the sixty-first session be held from 14 March to 22 April 2005.

106. *The draft decision concerning the dates of the sixty-first session of the Commission on Human Rights was adopted without a vote.*

The meeting rose at 5.30 p.m.