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**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON  
THE SIXTY-FIRST SESSION OF THE COMMISSION**

**Draft report of the Commission**

**Rapporteur: Ms. Deirdre KENT (Canada)**

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\* Documents E/CN.4/2005/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/2005/L.11 and addenda.

## **XVII. Promotion and protection of human rights:**

- (a) Status of the International Covenants on Human Rights;**
- (b) Human rights defenders;**
- (c) Information and education;**
- (d) Science and the environment**

1. The Commission considered agenda item 17 at its 48th meeting on 13 April 2005, at its 51st and 52nd meetings, on 15 April, at its 53rd and 54th meetings, on 18 April, at its 58th and 59th meetings, on 20 April and at its 60th meeting on 21 April.<sup>1</sup>

2. For the documents issued under agenda item 17, see annex VI to the present report. For a list of all resolutions and decisions adopted by the Commission and Chairperson's statements, by agenda item, see annex V.

3. At the 48th meeting, on 13 April 2005, Ms. Hina Jilani, Special Representative of the Secretary-General on the situation of human rights defenders, introduced her report (E/CN.4/2005/101 and Add.1-3 and Corr.1). The observers for Angola and Turkey made statements, as concerned countries, on the report.

4. Also at the same meeting:

(a) Mr. Robert K. Goldman, independent expert on the protection of human rights and fundamental freedoms while countering terrorism, introduced his report (E/CN.4/2005/103);

(b) Ms. Diane Orentlicher, independent expert appointed to update the Set of principles to combat impunity, introduced her report (E/CN.4/2005/102).

5. In the general debate on agenda item 17, statements were made by members of the Commission, observers and representatives of non-governmental organizations. For a detailed list of speakers, see annex III to the present report.

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<sup>1</sup> See footnote 1 above (chap. III, para. 1)

## **Human rights and human responsibilities**

6. At the 58th meeting, on 20 April 2005, the representative of China (on behalf of the States members of the like-minded group) introduced draft decision E/CN.4/2005/L.67, sponsored by China (on behalf of the States members of the like-minded group). Ethiopia, Nigeria, the Russian Federation, Saudi Arabia and Swaziland subsequently joined the sponsors.

7. A statement in connection with the draft decision was made by the representatives of Cuba.

8. An explanation of vote before the vote was made by the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement).

9. At the request of the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement), a recorded vote was taken on the draft decision, which was adopted by 26 votes to 25, with 1 abstention. The voting was as follows:

*In favour:* Bhutan, Burkina Faso, China, Congo, Cuba, Ecuador, Egypt, Ethiopia, Gabon, Guinea, India, Indonesia, Kenya, Malaysia, Mauritania, Nepal, Nigeria, Pakistan, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Zimbabwe.

*Against:* Argentina, Armenia, Australia, Brazil, Canada, Costa Rica, Dominican Republic, Finland, France, Germany, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Mexico, Netherlands, Paraguay, Peru, Republic of Korea, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Eritrea.

10. For the text of the decision, see chapter II, section B, decision 2005/111.

### **Enhancement of international cooperation in the field of human rights**

11. At the same meeting, the representative of Malaysia (on behalf of the Non-Aligned Movement) introduced draft resolution E/CN.4/2005/L.69, sponsored by China and Malaysia (on behalf of the Non-Aligned Movement). Colombia, Madagascar and the Russian Federation subsequently joined the sponsors.

12. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/54.

### **Human rights and international solidarity**

13. At the same meeting, the representative of Cuba introduced draft resolution E/CN.4/2005/L.71, sponsored by Algeria, Angola, Burundi, China, Congo, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Ecuador, Eritrea, Guinea, Iran (Islamic Republic of), Kenya, Lebanon, the Libyan Arab Jamahiriya, Rwanda, Swaziland, the Syrian Arab Republic, Togo, Tunisia, the United Republic of Tanzania, Viet Nam and Zimbabwe. Cameroon, Ethiopia, Madagascar, Malaysia, Mozambique and Senegal subsequently joined the sponsors.

14. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

15. Statements in explanation of vote before the vote were made by the representatives of Canada and the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement).

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<sup>2</sup> See footnote 2 above (chap. III, para. ).

16. At the request of the representative of Canada, a recorded vote was taken on the draft resolution, which was adopted by 37 votes to 15, with 1 abstention. The voting was as follows:

*In favour:* Argentina, Armenia, Bhutan, Brazil, Burkina Faso, China, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Gabon, Guatemala, Guinea, Honduras, India, Indonesia, Kenya, Malaysia, Mauritania, Mexico, Nepal, Nigeria, Pakistan, Paraguay, Peru, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Zimbabwe.

*Against:* Australia, Canada, Finland, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Republic of Korea, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Qatar.

17. For the text, see chapter II, section A, resolution 2005/55.

**Promotion of peace as a vital requirement for the full enjoyment of all human rights by all**

18. At the same meeting, the representative of Cuba introduced draft resolution E/CN.4/2005/L.72, sponsored by Algeria, Belarus, Botswana, Cameroon, China, Congo, Cuba, Democratic Republic of the Congo, Democratic People's Republic of Korea, Eritrea, Iran (Islamic Republic of), Kenya, Libyan Arab Jamahiriya, Malaysia, Mozambique, Qatar, Swaziland, Syrian Arab Republic, Togo, Viet Nam and Zimbabwe. Angola, Burundi, Lebanon, South Africa, Sudan, Tunisia and Uganda subsequently joined the sponsors.

19. Statements in explanation of vote before the vote were made by the representatives of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement) and the United States of America.

20. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution, which was adopted by 32 votes to 15, with 6 abstentions. The voting was as follows:

*In favour:* Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Gabon, Guatemala, Guinea, Indonesia, Kenya, Malaysia, Mauritania, Nepal, Nigeria, Pakistan, Paraguay, Peru, Qatar, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Zimbabwe.

*Against:* Australia, Canada, Finland, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Republic of Korea, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Argentina, Armenia, Costa Rica, Honduras, India, Mexico.

21. For the text, see chapter II, section A, resolution 2005/56.

### **Promotion of a democratic and equitable international order**

22. At the same meeting, the representative of Cuba introduced draft resolution E/CN.4/2005/L.73, sponsored by Algeria, Bangladesh, Botswana, Burundi, China, Congo, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Eritrea, Guinea, Iran (Islamic Republic of), Kenya, Libyan Arab Jamahiriya, Nigeria, Pakistan, Qatar, Rwanda, Sudan, Swaziland, Syrian Arab Republic, Togo, United Republic of Tanzania, Viet Nam and Zimbabwe. Cameroon, Egypt and South Africa subsequently joined the sponsors.

23. A statement in explanation of vote before the vote was made by the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement).

24. At the request of the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement), a recorded vote was taken on the draft resolution, which was adopted by 32 votes to 15, with 6 abstentions. The voting was as follows:

*In favour:* Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Gabon, Guatemala, Guinea, India, Indonesia, Kenya, Malaysia, Mauritania, Nepal, Nigeria, Pakistan, Paraguay, Qatar, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Zimbabwe.

*Against:* Australia, Canada, Finland, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Republic of Korea, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Argentina, Armenia, Costa Rica, Honduras, Mexico, Peru.

25. For the text, see chapter II, section A, resolution 2005/57.

**The development of public information activities in the field of human rights, including the World Public Information Campaign on Human Rights**

26. At the same meeting, the representative of Italy introduced draft resolution E/CN.4/2005/L.74, sponsored by Albania, Australia, Austria, Bulgaria, Canada, Congo, Costa Rica, Croatia, Cyprus, Denmark, Germany, Greece, Honduras, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Luxembourg, Malta, Nigeria, Peru, Poland, Portugal, Republic of Moldova, Romania, San Marino, Slovenia, Spain, Switzerland, Thailand, Timor-Leste and Venezuela. Chile, Iceland, Nicaragua, Senegal, Serbia and Montenegro and South Africa subsequently joined the sponsors.

27. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

28. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/58.

### **The question of the death penalty**

29. At the same meeting, the observer for Luxembourg (on behalf of the European Union) introduced draft resolution E/CN.4/2005/L.77, sponsored by Albania, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Monaco, the Netherlands, New Zealand, Norway, Paraguay, Poland, Portugal, Republic of Moldova, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Turkmenistan, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela. Angola, Brazil, Cape Verde, Djibouti, Georgia, Guinea-Bissau, Kiribati, Marshall Islands, Nicaragua, Panama, Peru, the Russian Federation and Solomon Islands subsequently joined the sponsors.

30. Statements in connection with the draft resolution were made by the representatives of India, Kenya, the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement), Nigeria, Saudi Arabia (on behalf of China, Egypt, Eritrea, Ethiopia, Guinea, Indonesia, Japan, Malaysia, Mauritania, Nigeria, Pakistan, Qatar, Saudi Arabia, Sudan, Swaziland, Togo and Zimbabwe) and Sri Lanka.

31. The representative of Saudi Arabia (also on behalf of China, Egypt, Eritrea, Ethiopia, Guinea, Indonesia, Japan, Malaysia, Mauritania, Nigeria, Pakistan, Qatar, Saudi Arabia, Sudan, Swaziland, Togo and Zimbabwe) stated that they dissociated themselves from the draft resolution.



32. The representative of India orally amended the draft resolution by proposing the deletion of operative paragraphs 5 (a), 7 (j) and 10.

33. At the request of the representative of India, a recorded vote was taken on the proposal to delete operative paragraphs 5 (a), 7 (j) and 10 of the draft resolution, which was rejected by 19 votes to 25, with 8 abstentions. The voting was as follows:

*In favour:* China, Cuba, Egypt, Eritrea, Ethiopia, Guinea, India, Indonesia, Japan, Malaysia, Mauritania, Pakistan, Qatar, Saudi Arabia, Sudan, Swaziland, Togo, United States of America, Zimbabwe.

*Against:* Argentina, Armenia, Australia, Brazil, Canada, Costa Rica, Dominican Republic, Ecuador, Finland, France, Germany, Honduras, Hungary, Ireland, Italy, Mexico, Nepal, Netherlands, Paraguay, Peru, Romania, Russian Federation, South Africa, Ukraine, United Kingdom of Great Britain and Northern Ireland.

*Abstaining:* Bhutan, Burkina Faso, Congo, Gabon, Guatemala, Kenya, Republic of Korea, Sri Lanka.

34. Statements in explanation of vote before the vote were made by the representatives of the Sudan and the United States of America.

35. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution, which was adopted by 26 votes to 17, with 10 abstentions. The voting was as follows:

*In favour:* Argentina, Armenia, Australia, Bhutan, Brazil, Canada, Costa Rica, Dominican Republic, Ecuador, Finland, France, Germany, Honduras, Hungary, Ireland, Italy, Mexico, Nepal, Netherlands, Paraguay, Peru, Romania, Russian Federation, South Africa, Ukraine, United Kingdom of Great Britain and Northern Ireland.

*Against:* China, Egypt, Eritrea, Ethiopia, Guinea, Indonesia, Japan, Malaysia, Mauritania, Pakistan, Qatar, Saudi Arabia, Sudan, Swaziland, Togo, United States of America, Zimbabwe.

*Abstaining:* Burkina Faso, Congo, Cuba, Gabon, Guatemala, India, Kenya, Nigeria, Republic of Korea, Sri Lanka.

36. For the text, see chapter II, section A, resolution 2005/59.

### **Human rights and the environment as part of sustainable development**

37. At the same meeting, the representative of Costa Rica introduced draft resolution E/CN.4/2005/L.79, sponsored by Congo, Costa Rica, Croatia, Dominican Republic, Ecuador, Ethiopia, Guatemala, Honduras, Kenya, Morocco, Peru, Slovenia, South Africa, Switzerland, Ukraine. Austria, Chile, France, Germany, Italy, Lithuania, Mexico, Nicaragua, Nigeria, Panama, Paraguay and Uruguay subsequently joined the sponsors.

38. A statement in explanation of vote before the vote was made by the representative of Australia.

39. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/60.

### **World Programme for Human Rights Education**

40. At the same meeting, the representative of Costa Rica introduced draft resolution E/CN.4/2005/L.80, sponsored by Andorra, Argentina, Armenia, Australia, Austria, Bangladesh, Bolivia, Canada, Chile, Congo, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Germany, Guatemala, Honduras, Israel, Italy, Japan, Malta, Morocco, Nigeria, Paraguay, Peru, Portugal, Republic of Korea, Romania, San Marino, Slovakia, Spain, Ukraine and Venezuela. Belarus, Belgium, Burkina Faso, Ethiopia and Nicaragua subsequently joined the sponsors.

41. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/61.

## **Convention on the Prevention and Punishment of the Crime of Genocide**

42. At the same meeting, the representative of Armenia introduced draft resolution E/CN.4/2005/L.81/Rev.1, sponsored by Argentina, Armenia, Austria, Belgium, Brazil, Burundi, Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kenya, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Norway, Poland, Portugal, Rwanda, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland and Uruguay. Belarus, Bulgaria, Canada, Guatemala, Iceland, Liechtenstein, Nicaragua, Panama, Paraguay, Peru, South Africa and the United Republic of Tanzania subsequently joined the sponsors.

43. A statement in connection with the draft resolution was made by the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland).

44. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

45. A statement in explanation of vote before the vote was made by the representative of the United States of America.

46. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/62.

## **Protection of the human rights of civilians in armed conflicts**

47. At the same meeting, the representative of Egypt introduced draft resolution E/CN.4/2005/L.82 sponsored by the Congo, Cuba, Egypt, Guinea, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Mauritania, Mexico, Nepal, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, South Africa, Switzerland and Tunisia. Austria, Azerbaijan, Bahrain, Chile, Costa Rica, Cyprus, Democratic Republic of the Congo, Dominican Republic, Ecuador, Eritrea, Ethiopia, Finland, France, Gabon, Ghana, Greece, Iraq, Ireland, Libyan Arab Jamahiriya,

Liechtenstein, Mozambique, Nicaragua, Panama, Paraguay, Philippines, Portugal, Romania, Russian Federation, Slovenia, Spain, Sudan, Sweden, Syrian Arab Republic, Swaziland, Togo, United Arab Emirates, United Republic of Tanzania, Uruguay and Zimbabwe subsequently joined the sponsors.

48. Statements in connection with the draft resolution were made by the representatives of Costa Rica, Cuba, Pakistan and the Russian Federation.

49. Statements in explanation of vote before the vote were made by the representatives of India and the United States of America.

50. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution, which was adopted by 51 votes to 1, with 1 abstention. The voting was as follows:

*In favour:* Argentina, Armenia, Australia, Bhutan, Brazil, Burkina Faso, Canada, China, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Finland, France, Gabon, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

*Against:* United States of America.

*Abstaining:* Japan.

51. For the text of the resolution, see chapter II, section A, resolution 2005/63.

### **Right to the truth**

52. At the 59th meeting, on the same day, the representative of Argentina introduced draft resolution E/CN.4/2005/L.84, sponsored by Argentina, Armenia, Austria, Azerbaijan, Belgium, Bolivia, Brazil, Canada, Chile, Costa Rica, Cuba, the Dominican Republic, Ecuador, Finland,

France, Guatemala, Honduras, Ireland, Italy, Luxembourg, Mexico, Nigeria, Paraguay, Peru, Portugal, the Republic of Korea, Romania, Slovenia, South Africa, Spain, Switzerland, Timor-Leste and Uruguay. Croatia, Cyprus, Denmark, Germany, Greece, Guinea, Haiti, Hungary, Israel, Malta, the Netherlands, Sweden and Venezuela subsequently joined the sponsors.

53. A statement in connection with the draft resolution was made by the representative of the United States of America.

54. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

55. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2005/66.

### **Human rights defenders**

56. At the same meeting, the observer for Norway introduced draft resolution E/CN.4/2005/L.85, sponsored by Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, the Dominican Republic, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Monaco, Morocco, the Netherlands, New Zealand, Nigeria, Norway, Poland, Portugal, the Republic of Korea, Republic of Moldova, Romania, San Marino, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, Ukraine and the United Kingdom of Great Britain and Northern Ireland. Azerbaijan, Costa Rica, Japan, Madagascar, Nicaragua, Niger, Panama, Paraguay, Peru, Thailand, Timor-Leste and the United States of America subsequently joined the sponsors.

57. A statement in connection with the draft resolution was made by the representative of the Netherlands (on behalf of the States members of the European Union that are members of the

Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement).

58. The representative of Cuba introduced the amendment (E/CN.4/2005/99) to the draft resolution E/CN.4/2005/L.85 sponsored by Norway.

59. The representative of Cuba orally revised the draft amendment, which read as follows:

“*After the fifth preambular paragraph, insert a new preambular paragraph to read as follows: ‘Stressing that domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities referred to in the Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted’;*”

60. At the request of the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland, as well as Romania, which aligned itself with the statement), a recorded vote was taken on the proposed amendment, as orally revised, to the draft resolution. The amendment was rejected by 20 votes to 27, with 6 abstentions. The voting was as follows:

*In favour:* Bhutan, China, Congo, Cuba, Egypt, Eritrea, Ethiopia, India, Indonesia, Kenya, Malaysia, Mauritania, Nepal, Pakistan, Qatar, Russian Federation, Saudi Arabia, Sri Lanka, Sudan, Zimbabwe.

*Against:* Argentina, Armenia, Australia, Brazil, Canada, Costa Rica, Dominican Republic, Ecuador, Finland, France, Germany, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Mexico, Netherlands, Paraguay, Peru, Republic of Korea, Romania, South Africa, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Burkina Faso, Gabon, Guinea, Nigeria, Swaziland, Togo.

61. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

62. Statements in explanation of vote before the vote were made by the representatives of Cuba and Indonesia.

63. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/67.

### **The role of good governance in the promotion and protection of human rights**

64. At the same meeting, the representative of Australia introduced draft resolution E/CN.4/2005/L.86, sponsored by Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Cameroon, Canada, Chile, Congo, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Iraq, Ireland, Israel, Italy, Japan, Kenya, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Morocco, the Netherlands, Nigeria, Norway, Paraguay, Peru, Poland, Portugal, Qatar, the Republic of Korea, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Switzerland, Thailand, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Madagascar, Marshall Islands, Mauritania, Nicaragua, Philippines, Samoa, Solomon Islands, Sweden, the former Yugoslav Republic of Macedonia and United Republic of Tanzania subsequently joined the sponsors.

65. Statements in connection with the draft resolution were made by the representatives of Cuba and the Republic of Korea.

66. The representative of Cuba amended the draft resolution by proposing the deletion of “and the Community of Democracies” in the twelfth preambular paragraph.

67. A statement in connection with the proposed amendment was made by the representative of Australia.

68. At the request of the representative of Australia, a recorded vote was taken on the proposed amendment, which was rejected by 35 votes to 7, with 11 abstentions. The voting was as follows:

*In favour:* China, Congo, Cuba, Guinea, Pakistan, Swaziland, Zimbabwe.

*Against:* Argentina, Armenia, Australia, Canada, Costa Rica, Dominican Republic, Ecuador, Finland, France, Germany, Guatemala, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Sri Lanka, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

*Abstaining:* Bhutan, Brazil, Burkina Faso, Egypt, Eritrea, Ethiopia, Gabon, Qatar, Saudi Arabia, Sudan, Togo.

69. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

70. A statement in explanation of vote before the vote was made by the representative of Cuba.

71. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/68.

### **Human rights and transnational corporations and other business enterprises**

72. At the same meeting, the representative of Argentina (on behalf of Argentina, India, Nigeria, the Russian Federation and the United Kingdom of Great Britain and Northern Ireland) introduced draft resolution E/CN.4/2005/L.87, sponsored by Argentina, Austria, Belgium, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Ethiopia, Finland, France, Germany, Greece, Guatemala, Hungary, India, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, Nigeria, Norway, Poland, Portugal, Romania,



the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland. Armenia, Brazil, Costa Rica, Ecuador, Eritrea, Iceland, Kenya, Liechtenstein, Mozambique, New Zealand, Panama, Peru, the former Yugoslav Republic of Macedonia, Togo and Zambia subsequently joined the sponsors.

73. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

74. Statements in explanation of vote before the vote were made by the representatives of Mauritania, South Africa and the United States of America.

75. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution, which was adopted by 49 votes to 3, with 1 abstention. The voting was as follows:

*In favour:* Argentina, Armenia, Bhutan, Brazil, Canada, China, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Finland, France, Gabon, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

*Against:* Australia, South Africa, United States of America.

*Abstaining:* Burkina Faso.

76. For the text, see chapter II, section A, resolution 2005/69.

### **Protection of human rights and fundamental freedoms while countering terrorism**

77. At the 60th meeting, the representative of Mexico introduced draft resolution E/CN.4/2005/L.88, sponsored by Argentina, Armenia, Austria, Belgium, Bolivia, Bosnia and

Herzegovina, Bulgaria, Canada, Costa Rica, Croatia, Cyprus, Czech Republic, Chile, Denmark, the Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Paraguay, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom of Great Britain and Northern Ireland. Albania, Brazil, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Honduras, Israel, Madagascar, Monaco, Nigeria, Panama, the Russian Federation, Serbia and Montenegro, South Africa, Swaziland, Togo, United Republic of Tanzania, the United States of America, Uruguay and Venezuela subsequently joined the sponsors.

78. The representative of Mexico orally revised the draft resolution by modifying the third and fourth preambular paragraphs, by inserting a new preambular paragraph after the sixth preambular paragraph as well as by inserting a new operative paragraph after the fourth operative paragraph; by modifying operative paragraphs 6, 7, 13 and 14; by deleting operative paragraphs 15 and 16; and by inserting a new operative paragraph 15. The operative paragraphs were renumbered accordingly.

79. Statements in connection with the draft resolution were made by the representatives of India, Indonesia, Kenya, the Russian Federation and the United States of America.

80. The representative of the Russian Federation introduced an amendment (E/CN.4/2005/89) to the draft resolution E/CN.4/2005/L.88 sponsored by the Russian Federation, which was subsequently withdrawn. The amendment read as follows:

**“1. Insert a new preambular paragraph after the first preambular paragraph, reading as follows:**

*Emphasizing the need to intensify the fight against terrorism at the national level, to enhance effective international cooperation in combating terrorism in conformity with international law, including relevant States' obligations under international human rights and international humanitarian law, and to strengthen the role of the United Nations in this respect,*

**“2. *Insert a new preambular paragraph after the eighth preambular paragraph, reading as follows:***

*Emphasizing* that States should deny safe haven to those who finance, plan, support or commit terrorist acts or provide safe havens,

**“3. *Insert a new operative paragraph after operative paragraph 1, reading as follows:***

*Stresses* that every person regardless of nationality, race, sex, religion or any other distinction, has a right to protection from terrorism and terrorist acts,

**“4. *Insert two new operative paragraphs after operative paragraph 3, reading as follows:***

*Urges* all States to deny safe haven to terrorists,

*Calls upon* States to take appropriate measures, in conformity with relevant provisions of national and international law, including international human rights standards, before granting refugee status, for the purpose of ensuring that an asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts, including assassinations, and to ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists,

**“5. *Insert a new operative paragraph after operative paragraph 4, reading as follows:***

*Urges* States and encourages the Office of the United Nations High Commissioner for Refugees to review, with full respect for legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light indicating that the person in question has planned, facilitated or participated in the commission of terrorist acts,

**“6. Insert a new operative paragraph after operative paragraph 6, reading as follows:**

*Takes note* of the work of the Sub-Commission on the Promotion and Protection of Human Rights on the issue of terrorism and the final report of the Special Rapporteur on terrorism and human rights (E/CN.4/Sub.2/2004/40),

**“7. Insert a new operative paragraph after operative paragraph 13, reading as follows:**

*Requests* the Office of the United Nations High Commissioner for Human Rights as well as the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in the course of the examination of the question and in the conduct of any study on terrorism and in their activities relating to the issue of terrorism, to adopt a comprehensive approach, in particular, by giving full and equal attention to the issues raised in the present resolution, including with relation to the grave impact of terrorism on the enjoyment of human rights of individuals.”.

81. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

82. An explanation of vote after the vote was made by the representative of China.

83. The draft resolution, as orally revised, was adopted without a vote. For the text see chapter II, section A, resolution 2005/80.

### **Human rights and transitional justice**

84. At the 59th meeting, the observer for Switzerland (on behalf of the Congo, Peru, Poland, Switzerland and Timor-Leste) introduced draft resolution E/CN.4/2005/L.91, sponsored by Afghanistan, Albania, Argentina, Austria, Belgium, Bolivia, Bulgaria, Chile, the Congo, Costa Rica, the Czech Republic, Estonia, Finland, Hungary, Ireland, Liechtenstein, Lithuania, Mexico, the Netherlands, New Zealand, Nigeria, Peru, Poland, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Sweden, Switzerland, Timor-Leste, Turkey and

the United Kingdom of Great Britain and Northern Ireland. Australia, Canada, Croatia, Denmark, Ecuador, Guatemala, Iceland, Italy, Malta, Nicaragua, Norway, Portugal, the former Yugoslav Republic of Macedonia and the United States of America subsequently joined the sponsors.

85. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications<sup>2</sup> of the draft resolution.

86. An explanation of vote before the vote was made by the representative of Indonesia.

87. The draft resolution was adopted without a vote. For the text see chapter II, section A, resolution 2005/70.

### **Impunity**

88. At the 60th meeting the representative of Canada introduced draft resolution E/CN.4/2005/L.93, sponsored by Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Canada, Croatia, the Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Peru, Poland, the Republic of Korea, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland. Bulgaria, Chile, the Congo, Costa Rica, Cyprus, Ecuador, France, Kenya, Latvia, Lithuania, Madagascar, Nicaragua, Paraguay, Portugal, Serbia and Montenegro, Sierra Leone, the former Yugoslav Republic of Macedonia and the United Republic of Tanzania subsequently joined the sponsors.

89. Statements in connection with the draft resolution were made by the representatives of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland - as well as Romania, which aligned itself with the statement) and the United States of America.

90. The representative of the United States of America proposed amending the draft resolution as follows:

(a) The eighth preambular paragraph, to read as follows:

*“Noting the first referrals by States and the Security Council of situations to the Court and the ongoing investigations by the Prosecutor,”*

(b) The tenth preambular paragraph, to read as follows:

*“Welcoming appropriate cooperation between international criminal tribunals, including sharing lessons learned and devising effective approaches to meet challenges faced, to advance the common goal of strengthening the international legal system in situations where national systems are unable or unwilling to take action,”*

(c) Operative paragraph 9, to read as follows:

*“Recognizes the entry into force of the Rome Statute of the International Criminal Court on 1 July 2002, including that to date 98 States have ratified or acceded to the Rome Statute;”*

(d) Operative paragraph 10, to read as follows:

*“Recognizes the fundamental importance of the principle of complementarity.”*

91. A statement in connection with the proposed amendment was made by the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland - as well as Romania, which aligned itself with the statement).

92. At the request of the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland - as well

as Romania, which aligned itself with the statement), a recorded vote was taken on the proposed amendment, which was rejected by 36 votes to 1, with 15 abstentions. The voting was as follows:

*In favour:* United States of America.

*Against:* Argentina, Armenia, Australia, Brazil, Canada, Congo, Costa Rica, Dominican Republic, Ecuador, Eritrea, Ethiopia, Finland, France, Germany, Guatemala, Guinea, Honduras, Hungary, Ireland, Italy, Japan, Kenya, Mexico, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Sudan, Swaziland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

*Abstaining:* Bhutan, Burkina Faso, China, Egypt, Gabon, India, Indonesia, Malaysia, Mauritania, Nepal, Pakistan, Qatar, Saudi Arabia, Sri Lanka, Togo.

93. An explanation of vote before the vote was made by the representative of the United States of America.

94. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/81.

**The legal implications of disappearance of States and other territories for environmental reasons, including the implications for the human rights of their residents, with particular reference to the rights of indigenous peoples**

95. At the 59th meeting the Commission considered draft decision 5 recommended by the Sub-Commission on the Promotion and Protection of Human Rights for adoption by the Commission (see E/CN.4/2005/2-E/CN.4/Sub.2/2004/48, chap. I, sect. B).

96. Statements in connection with the draft decision were made by the representatives of Australia and the United States of America.

97. At the request of the representative of the United States of America, a recorded vote was taken on the draft decision, which was adopted by 51 votes to 2. The voting was as follows:

*In favour:* Argentina, Armenia, Bhutan, Brazil, Burkina Faso, Canada, China, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Finland, France, Gabon, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

*Against:* Australia, United States of America.

*Abstaining:* None.

98. For the text, see chapter II, section B, decision 2005/112.

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