



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/Sub.2/2004/L.11
9 August 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and
Protection of Human Rights
Fifty-sixth session
Agenda item 7

DRAFT PROVISIONAL AGENDA AND ADOPTION OF THE REPORT

**Draft report of the Sub-Commission on the Promotion
and Protection of Human Rights***

Rapporteur: Mr. Paulo Sérgio Pinheiro

* Documents E/CN.4/Sub.2/2004/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 Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights, will be contained in documents E/CN.4/Sub.2/2004/L.11 and addenda.

CONTENTS

<i>Chapter</i>	<i>Page</i>
II. Resolutions and decisions adopted by the Sub-Commission at its fifty-sixth session	4
A. <i>Resolutions</i>	
2004/1. Absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment	4
2004/2. Housing and property restitution	5
2004/3. Duration of the Social Forum	7
2004/4. Corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights	8
2004/5. Study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights	11
2004/6. Promotion of the realization of the right to drinking water and sanitation	12
2004/7. Implementation of existing human rights norms and standards in the context of the fight against extreme poverty	16
2004/8. The Social Forum	22
2004/9. Final report on the study “Indigenous peoples’ permanent sovereignty over natural resources”	26
2004/10. The legal implications of disappearances 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	29
2004/11. Protection of indigenous peoples in time of conflict	30
2004/12. Discrimination against leprosy victims and their families	31

CONTENTS (*continued*)

<i>Chapter</i>	<i>Page</i>
II. A. <i>Resolutions (continued)</i>	
2004/13. The rights of minorities	32
2004/14. International Decade of the World's Indigenous People ...	36
2004/15. Working Group on Indigenous Populations	40
B. <i>Decisions</i>	
2004/101. Establishment of a sessional working group on the administration of justice under agenda item 3	47
2004/102. Establishment of a sessional working group to examine the working methods and activities of transnational corporations under agenda item 4	47
2004/103. Extrajudicial, summary or arbitrary executions	47
2004/104. The right to development	48
2004/105. The right to food and progress in developing international voluntary guidelines for its implementation	48
2004/106. Effects of debt on human rights	49
2004/107. The right to drinking water supply and sanitation	49
2004/108. Impact of intolerance on the enjoyment and the exercise of human rights	50

II. Resolutions and decisions adopted by the Sub-Commission at its fifty-sixth session

A. Resolutions

2004/1. Absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment

The Sub-Commission on the Promotion and Protection of Human Rights,

Bearing in mind article 5 of the Universal Declaration of Human Rights, which states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling the provisions of article 7 of the International Covenant on Civil and Political Rights as well as other relevant international instruments, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol adopted by the General Assembly in its resolution 57/199 of 18 December 2002,

Recalling also its resolution 2002/2 of 12 August 2002 on the current situation and future of human rights adopted under agenda item 2,

Stressing that the prohibition of torture and cruel, inhuman or degrading treatment is absolute and is applicable in all circumstances, in time of war and in time of peace,

Alarmed at the many acts of torture that have recently been disclosed and the attempts to make such practices commonplace or to justify such practices, including in situations of armed conflict, against persons protected by the principles of international humanitarian law,

1. *Recalls* that all forms of torture and other cruel, inhuman or degrading treatment or punishment constitute violations of the peremptory norms of international law;

2. *Welcomes* the entry into force in the near future of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was opened for signature on 4 February 2003;

3. *Applauds* the activities of the Special Rapporteur of the Commission on Human Rights on the question of torture and requests all States to cooperate in good faith with him and to issue an open invitation to him to visit their country;

4. *Urges* all States to ratify, as soon as possible, the Convention and its Optional Protocol;
5. *Recommends* that all States develop independent and effective domestic mechanisms as concrete means of combating torture and other cruel, inhuman or degrading treatment or punishment;
6. *Hopes* that independent and effective investigations and proceedings will make it possible to establish the facts, ensure reparation for damages suffered by the victims and punish all persons responsible, at whatever level, and that measures will be taken to put an end to such scandals;
7. *Decides* to continue consideration of this question at its fifty-seventh session.

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. IV.]

2004/2. Housing and property restitution

The Sub-Commission on the Promotion and Protection of Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and other relevant international instruments on human rights and humanitarian law,

Recalling its resolution 1998/26 of 26 August 1998 on housing and property restitution in the context of the return of refugees and internally displaced persons, its decision 2001/122 of 16 August 2001 on the return of refugees' or displaced persons' property, its resolution 2002/30 of 15 August 2002 on the right to return of refugees and internally displaced persons, its resolution 2002/7 of 14 August 2002 on housing and property restitution in the context of refugees and other displaced persons, its resolution 2003/17 of 13 August 2003 on prohibition of forced evictions and its resolution 2003/18 of 13 August 2003 on housing and property restitution,

Recalling also Commission on Human Rights decision 2003/109 of 24 April 2003 on housing and property restitution in the context of the return of refugees and internally displaced persons, and taking note of Commission resolution 2004/28 of 16 April 2004 on prohibition of forced evictions,

Reaffirming the right of all refugees and displaced persons to return freely to their countries and to have restored to them housing and property of which they were deprived during the course of displacement, or to be compensated for any property that cannot be restored to them,

1. *Urges* all States to ensure the free and fair exercise of the right to return to one's home and place of habitual residence by all refugees and displaced persons and to develop effective and expeditious legal, administrative and other procedures to ensure the free and fair exercise of this right, including fair and effective mechanisms designed to resolve outstanding housing and property problems;

2. *Reiterates* that the adoption or application of laws by States that are designed to or result in the loss or removal of tenancy, use, ownership or other rights connected with housing or property, the retraction of the right to reside in a particular place, or laws of abandonment employed against refugees or internally displaced persons pose serious impediments to the return and reintegration of refugees and internally displaced persons and to reconstruction and reconciliation;

3. *Affirms* that the remedy of compensation should only be used when the remedy of restitution is not possible or when the injured party knowingly and voluntarily accepts compensation in lieu of restitution;

4. *Welcomes* the progress report of the Special Rapporteur, Mr. Paulo Sérgio Pinheiro, on housing and property restitution in the context of the return of refugees and internally displaced persons, which contains the draft principles on housing and property restitution for refugees and displaced persons (E/CN.4/Sub.2/2004/22), as well as the draft commentary to the draft principles (E/CN.4/Sub.2/2004/22/Add.1);

5. *Requests* the Office of the United Nations High Commissioner for Human Rights to circulate the draft principles on housing and property restitution for refugees and displaced persons widely among non-governmental organizations, Governments, specialized agencies and other interested parties for comment;

6. *Requests* the Special Rapporteur to take those comments into account in the preparation of his final report to be considered by the Sub-Commission at its fifty-seventh session;

7. *Decides* to continue consideration of this issue at its fifty-seventh session under the same agenda item.

*18th meeting
9 August 2004*
[Adopted without a vote. See chap. VI.]

2004/3. Duration of the Social Forum

The Sub-Commission on the Promotion and Protection of Human Rights,

Expressing its appreciation to the Commission on Human Rights for its decision 2003/107 of 22 April 2003 recommending to the Economic and Social Council that it authorize the Sub-Commission to convene an annual intersessional Social Forum, and to the Council for its decision 2003/264 of 23 July 2003 authorizing the convening of the Social Forum for two days,

Noting that 8 expert members of the Sub-Commission, 11 invited experts, observers from 53 States and 30 non-governmental organizations, and 8 organizations and academic institutions participated in the Social Forum,

Appreciating that the Social Forum focused on poverty and extreme poverty and their impact on economic, social and cultural rights,

Noting that the selection of issues relating to economic, social and cultural rights had to be restricted because of the two-day limitation,

Concerned that the discussions at the Social Forum had to be curtailed and even the few issues selected could not be adequately examined,

Considering that none of the existing working groups of the Sub-Commission is charged with the responsibility for the exclusive examination of economic, social and cultural rights,

Considering also that three of the working groups meet for 5 working days and the fourth for 10 working days,

Reaffirming the indivisibility of all human rights,

Recalling that the International Conference on Human Rights held at Tehran in 1968 proclaimed that the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible,

Recommends that the Commission on Human Rights study the possibility of extending the annual intersessional meeting of the Social Forum.

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VI.]

**2004/4. Corruption and its impact on the full enjoyment of human rights,
in particular economic, social and cultural rights**

The Sub-Commission on the Promotion and Protection of Human Rights,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights, the United Nations Convention against Transnational Organized Crime, as well as other relevant human rights instruments,

Deeply concerned that the enjoyment of human rights, be they economic, social and cultural or civil and political is seriously undermined by the phenomenon of corruption,

Taking account of standards adopted against corruption at the national, regional and international levels, in particular the United Nations Convention against Corruption adopted by the General Assembly in its resolution 58/4 of 31 October 2003,

Convinced that corruption has become a major international concern, taking many forms, from routine cases of bribery or petty abuse of power to the amassing of personal wealth through embezzlement or other dishonest means,

Deeply concerned that serious corruption in the private sector has led to the collapse of many healthy companies, thereby violating the rights of many, and at the high-level corruption engendered by some transnational corporations in countries in which they operate,

Recalling its decision 2002/106 of 14 August 2002 in which it entrusted Ms. Christy Mbonu with the task of preparing, without financial implications, a working paper on corruption and its impact on the enjoyment of human rights,

Taking note of Commission on Human Rights decision 2004/106 of 16 April 2004, in which the Commission endorsed the decision of the Sub-Commission to appoint Ms. Christy Mbonu as Special Rapporteur with the task of preparing a comprehensive study on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights, and its request to the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-sixth session, a progress report at the fifty-seventh session and the final report at its fifty-eighth session,

Taking into account the very lively and interactive debate the report elicited among participants by the preliminary report of the Special Rapporteur (E/CN.4/Sub.2/2004/23),

1. *Expresses its appreciation* to Ms. Christy Mbonu for her preliminary report and endorses the conclusions and recommendations contained therein;
2. *Urges* States that have not done so to introduce national mechanisms to prevent and combat corruption through the adoption and implementation of specific anti-corruption legislation;
3. *Encourages* political leaders in their respective countries to be national examples of probity, integrity and self-esteem;
4. *Encourages* States to sign and ratify the United Nations Convention against Corruption and to incorporate its provisions into their domestic law;

5. *Also encourages* States to aggressively combat and eliminate corruption, particularly among law enforcement agencies and the judiciary;
6. *Calls upon* civil society, particularly the media and non-governmental organizations, to become more involved in the prevention and punishment of corruption;
7. *Calls upon* the Office of the United Nations High Commissioner for Human Rights, in cooperation with specialized agencies such as the International Labour Organization, the World Bank and the International Monetary Fund, representatives of large corporations, the United Nations Office at Vienna and other stakeholders, to organize periodic high-level meetings under the auspices of the Sub-Commission to create greater awareness on the part of the international community, in particular States, of the importance of eliminating corruption;
8. *Requests* the Secretary-General to facilitate the work of the Special Rapporteur by enabling her to attend the meetings of the “Friends of the Convention”, which take place in Vienna;
9. *Recommends* the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2004/4 of 9 August 2004, endorses the request to the Secretary-General to facilitate the work of the Special Rapporteur on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights, by enabling her to attend the meetings of the ‘Friends of the Convention’, which take place in Vienna.”

*18th meeting
9 August 2004*
[Adopted without a vote. See chap. VI.]

2004/5. Study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling its resolution 2003/12 of 13 August 2003 in which the Sub-Commission, at the request of the Committee on Economic, Social and Cultural Rights, requested Mr. Emmanuel Decaux to prepare a working paper on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights,

Taking note of the working paper submitted by Mr. Emmanuel Decaux (E/CN.4/Sub.2/2004/24),

1. *Extends its thanks* to Mr. Decaux for preparing the working paper;
2. *Decides* to appoint Mr. Marc Bossuyt as Special Rapporteur to undertake a study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights, based on the working paper prepared by Mr. Emmanuel Decaux (E/CN.4/Sub.2/2004/24), on the comments received and on the discussion held at the fifty-sixth session of the Sub-Commission;
3. *Requests* the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-seventh session, an interim report at its fifty-eighth session and a final report at its fifty-ninth session;
4. *Requests* the Secretary-General to provide the Special Rapporteur with all the necessary assistance to enable him to carry out his mandate;
5. *Recommends* the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2004/5 of 9 August 2004, approves the decision of the Sub-Commission to appoint Mr. Marc Bossuyt as

Special Rapporteur to undertake a study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights, based on the working paper prepared by Mr. Emmanuel Decaux (E/CN.4/Sub.2/2004/24), on the comments received and the discussions held at the fifty-sixth session of the Sub-Commission, and the decision to request the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-seventh session, an interim report at its fifty-eighth session and a final report at its fifty-ninth session. The Commission also approves the request that the Secretary-General provide the Special Rapporteur with all the necessary assistance to enable him to carry out his mandate.”

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VI.]

2004/6. Promotion of the realization of the right to drinking water and sanitation

The Sub-Commission on the Promotion and Protection of Human Rights,

Reaffirming the indivisibility, interdependence and interrelated nature of economic, social and cultural rights and civil and political rights,

Mindful that the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and a wide range of other texts provide unequivocally that all persons are entitled to the full realization of economic, social and cultural rights,

Recalling the Declaration on the Right to Development,

Recalling also that in part I, paragraph 10, of the Vienna Declaration and Programme of Action, the World Conference on Human Rights reaffirmed the right to development as a universal and inalienable right and an integral part of human rights, and urged States and the international community to promote effective international cooperation for the realization of the right to development and the elimination of obstacles to development,

Taking account of the results of the World Summit for Social Development, held in Copenhagen from 6 to 12 March 1995, especially the recommendations in its Programme of Action concerning the United Nations system to strengthen United Nations operational activities for development in order to ensure the implementation of the World Summit outcome, as well as the capacity of the United Nations system for gathering and analysing information and establishing indicators of social development, taking into account the work carried out by different countries, in particular by developing countries,

Recalling resolutions I (Assessment of water resources), II (Community water supply), III (Agricultural water use), IV (Research and development of industrial technologies), VIII (Institutional arrangements for international cooperation in the water sector) and IX (Financing arrangements for international cooperation in the water sector) adopted at the United Nations Water Conference, held in Mar del Plata, Argentina, from 14 to 25 March 1997,

Taking particular account of the International Drinking Water Supply and Sanitation Decade (1981-1990) and the observance, on 22 March of each year, of the World Day for Water, proclaimed by the General Assembly in its resolutions 35/18 of 10 November 1980 and 47/193 of 22 December 1992, respectively,

Bearing in mind the objectives of a “20:20”-type compact concerning in particular the access of all to drinking water supply and sanitation services, as stated in the *Human Development Report 1994*,

Recalling its resolution 1997/18 of 27 August 1997, in which it decided to entrust to Mr. El-Hadji Guissé the task of drafting, without financial implications, a working paper on the question of the promotion of the realization of the right of access of everyone to drinking water supply and sanitation services,

Reaffirming the fundamental principles of equality, human dignity and social justice, and the right to drinking water supply and sanitation for every woman, man and child,

Convinced of the urgent and persistent need for increased attention and commitment by all decision makers to the right of everyone to drinking water supply and sanitation,

Bearing in mind the Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, adopted in London in 1999 under the auspices of the Economic Commission for Europe, and which refers to the principle of equitable access to water, which should be provided for all members of the population,

Bearing in mind also the principles of the Madeira Declaration on the sustainable management of water resources, adopted by the European Council on Environment Law on 17 April 1999, and the resolution on drinking water adopted by the Council on 28 April 2000,

Taking into consideration the working paper on the promotion of the realization of the right of everyone to access to drinking water supply and sanitation services prepared by Mr. Guissé (E/CN.4/Sub.2/1998/7),

Recalling Commission on Human Rights decision 2002/105 of 22 April 2002, approving the appointment of Mr. Guissé as Special Rapporteur to conduct a detailed study on the relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation,

Taking into consideration the preliminary and interim reports on the promotion of the realization of the right to drinking water supply and sanitation prepared by Mr. Guissé and submitted to the Sub-Commission at its fifty-fourth and fifty-fifth sessions (E/CN.4/Sub.2/2002/10 and E/CN.4/Sub.2/2003/WP.3),

Deeply concerned that more than 1 billion people in the world are still deprived of access to drinking water supply and that almost 4 billion are not living in decent conditions of sanitation,

1. *Welcomes with satisfaction* the final report of Mr. El-Hadji Guissé (E/CN.4/Sub.2/2004/20) on, in particular, the right of everyone to drinking water, in sufficient quantity and of sufficient quality to meet all essential needs, and to sanitation, and the realization thereof;

2. *Affirms* that the access of everyone to drinking water supply must not be subject to any restriction but must be subject to regulation and control by the public authorities;

3. *Affirms also* that the right to water is an individual and collective human right and is closely linked to other rights, such as the rights contemplated in several international human rights instruments and in General Comment No. 15 of the Committee on Economic, Social and Cultural Rights (E/C.12/2002/11);

4. *Subscribes* to the remarks of the Special Rapporteur to the effect that various obstacles linked to the right of everyone to drinking water supply and sanitation seriously impede the realization of all human rights, particularly economic, social and cultural rights, and that equality is an essential element for effective participation in the realization of the right to development and the right to a healthy environment;

5. *Calls upon* all States to cooperate in the area of drinking water supply and sanitation for the realization of the right of everyone to water;

6. *Requests* the Secretary-General to bring to the attention of States, non-governmental organizations and international organizations the recommendations contained in the final report of the Special Rapporteur and in General Comment No. 15 of the Committee on Economic, Social and Cultural Rights;

7. *Recommends* the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of resolution 2004/6 of 9 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, decides to approve the request of the Sub-Commission to have the reports of the Special Rapporteur on the promotion of the realization of the right to drinking water supply and sanitation (E/CN.4/Sub.2/2002/10, E/CN.4/Sub.2/2003/WP.3 and E/CN.4/Sub.2/2004/20) issued in the official languages of the United Nations.”

18th meeting
9 August 2004
[Adopted without a vote. See chap. VI.]

**2004/7. Implementation of existing human rights norms and standards
in the context of the fight against extreme poverty**

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling that, in accordance with the Universal Declaration of Human Rights, the International Covenants on Human Rights recognize that the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights,

Recalling in particular that article 25 of the Universal Declaration of Human Rights stipulates that everyone has the right to a standard of living adequate for the health and well-being of him/herself and of his/her family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control,

Recalling that the General Assembly, in its resolution 57/211 of 18 December 2002, reaffirmed (a) that extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them; (b) that it is essential for States to foster participation by the poorest people in the decision-making process in the societies in which they live, in the promotion of human rights and in efforts to combat extreme poverty; and (c) that appropriate attention must continue to be given to the links between human rights and extreme poverty,

Recalling the World Conference on Human Rights and the Vienna Programme of Action adopted in 1993, which emphasizes the indivisibility of civil, political, economic, social and cultural rights,

Also recalling the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development, reaffirmed during the twenty-fourth special session of the General Assembly on the follow-up to the World Summit, held in Geneva in June 2000, which provide the substantive framework for eradicating poverty by setting specific targets, drawing up plans and implementing programmes,

Mindful that in its resolution 2001/31 of 23 April 2001 the Commission on Human Rights requested the Sub-Commission to consider the need to develop, on the basis of the various relevant international instruments, the ongoing work in other forums, the conclusions and recommendations of the Expert Seminar on Human Rights and Extreme Poverty organized in accordance with Commission resolution 2000/12 of 17 April 2000 and any other relevant inputs, in particular those received from Governments, guiding principles on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty,

Taking into account Commission resolution 2004/23 of 16 April 2004, in which the Commission expressed deep concern that extreme poverty persists in all countries of the world, regardless of their economic, social and cultural situation, and reaffirmed that extreme poverty and exclusion from society constitute a violation of human dignity, and that it is essential for States to foster participation by the poorest people in the decision-making process in the societies in which they live and in the realization of human rights,

Recalling the World Conference on Human Rights and the Vienna Programme of Action adopted in 1993, urging the need for participation by the poorest people in the preparation, formulation and evaluation of the policies that affect them, and recalling that respect for dignity is inherent in efforts to combat poverty,

Also recalling that, in its resolution 2004/23, the Commission emphasized that a better understanding is needed of what is endured by people living in poverty, including women and children, and that thought must be given to the subject, drawing on the experience and ideas communicated by the poorest themselves and by those committed to working alongside them,

Aware that, in its resolution 2003/24 of 22 April 2003, the Commission encouraged the ad hoc working group established to prepare a study to contribute to the drafting of an international declaration on extreme poverty and human rights to adopt an approach to human rights and extreme poverty based on the universality, indivisibility, interdependence and interrelation of all human rights, and recalled that freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights,

Mindful of the definition of extreme poverty given by the Special Rapporteur, Mr. Leandro Despouy, in his final report on human rights and extreme poverty (E/CN.4/Sub.2/1996/13, annex III),

Considering the need for further study of the question, on the basis of the definition provided by Mr. Despouy,

Taking note of the reports of the independent expert, Ms. Anne-Marie Lizin, on extreme poverty (E/CN.4/1999/48, E/CN.4/2000/52, E/CN.4/2001/54 and Corr.1, E/CN.4/2002/55, E/CN.4/2003/52, E/CN.4/2004/43), in particular her suggestions for bringing together people in extreme poverty and those working with them on policy implementation, and her recommendation that yearly round tables be held bringing together all parties concerned,

Recalling the report of the Secretary-General (E/CN.4/Sub.2/2000/14 and Add.1) on promoting the right to development in the context of the United Nations Decade for the Elimination of Poverty (1997-2006), submitted in accordance with Sub-Commission resolution 1999/9,

Noting with interest the Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies, prepared by the Office of the United Nations High Commissioner for Human Rights,

Bearing in mind the importance of international programmes against poverty,

Bearing in mind also that the fight against poverty is one of the agreed international development goals and the importance of placing the issue at the centre of discussions at the Social Forum,

Aware of the need to apply human rights norms and standards in the context of the fight against extreme poverty,

1. *Reaffirms* that extreme poverty places men, women, children and entire population groups in a situation involving the violation of fundamental rights and freedoms, in

the industrialized countries as much as in the developing countries, that it may, in some situations, constitute a threat to the right to life, and that its immediate alleviation and eventual eradication must remain a high priority for the international community;

2. *Re-emphasizes* that extreme poverty remains a major issue to be addressed by Governments, civil-society organizations, the private sector and the organs and agencies of the United Nations system, including international trade and financial institutions, and in this context reaffirms that political commitment is a prerequisite for the eradication of extreme poverty;

3. *Requests* Ms. Antoanella-Iulia Motoc, Mr. Emmanuel Decaux, Mr. Yozo Yokota, Mr. El-Hadji Guissé and Mr. José Bengoa, with Mr. Bengoa as coordinator, to prepare, without financial implications, a progress report at the fifty-seventh session and a final report at the fifty-eighth session, on the need to develop, on the basis of the various relevant international instruments, the ongoing work in other forums, the conclusions and recommendations of the Expert Seminar on Human Rights and Extreme Poverty and any other relevant inputs, in particular those received from Governments, guiding principles on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty;

4. *Also requests* the experts to address extreme poverty specifically, in accordance with the terms of reference given to them by the Commission in its resolutions 2001/31 and 2003/24 as a violation of human dignity and all human rights, civil and political as well as economic, social and cultural;

5. *Further requests* the experts to study the application of the human rights covenants and conventions in a context of extreme poverty in order to identify gaps and obstacles to their implementation, taking into account the indivisibility and interdependence of civil, political, economic, social and cultural rights;

6. *Reiterates its approval* of the underlying principles of a conceptual framework set out in document E/CN.4/Sub.2/2003/17, in particular the argument that a rights-based approach compels policy makers to focus on the most vulnerable and disadvantaged, those who are often excluded by “average progress”;

7. *Requests* the experts to consider specifically the situations of poverty in various parts of the world in the light of international jurisprudence, treaties, covenants and other relevant instruments with a view to putting an end to extreme poverty and social exclusion, and to consider the policies of the World Bank, the World Trade Organization, the International Monetary Fund and other international bodies for fighting poverty and extreme poverty;

8. *Encourages* the experts to adopt an operational approach to extreme poverty based on the principle of the justiciability of rights and the need to give States clear obligations and objectives;

9. *Requests* the experts to adopt an approach towards extreme poverty which strengthens bonds of solidarity and social inclusion mechanisms, giving the very poorest people the capacity to exercise all their rights and enjoy respect for their human dignity;

10. *Also requests* the experts to continue extensive consultations with regional and international intergovernmental organizations, non-governmental organizations, local associations, academics and other competent partners in order to consider elements for insertion in a text on human rights and extreme poverty and, for that purpose, to ensure in particular the involvement of persons living in extreme poverty;

11. *Also requests* the experts, in this context, to take part in regional seminars together with people living in situations of extreme poverty and those working with them, in order to identify the fundamental elements which should appear in an international text on extreme poverty and human rights;

12. *Requests* Governments to cooperate with the experts by providing them with information, resources and invitations to visit their countries to examine programmes and experiences concerning the eradication of poverty;

13. *Also requests* Governments to provide data, including statistics and information on the legal, economic or other measures they have taken to reduce extreme poverty;

14. *Requests* the experts, with the possible assistance of the various parties and population groups concerned, to identify a range of indicators for keeping track of situations of extreme poverty and changes in them, and pinpointing the related needs, with a view to the organization of the most appropriate measures;

15. *Invites* non-governmental organizations to contribute to the study by the group of experts by making their experience and practical knowledge available;

16. *Invites* the experts to participate in the Social Forum, of which the main theme is poverty, and to contribute to moving the proceedings and discussions in the Forum forward;

17. *Also invites* the experts to cooperate with the independent expert on extreme poverty, Mr. Arjun Sengupta;

18. *Invites* the treaty bodies and other United Nations human rights mechanisms, including the special procedures, to examine situations of poverty and extreme poverty and their impact, in the framework of their mandates;

19. *Invites* the Office of the United Nations High Commissioner for Human Rights to give its support to the conduct of the study, the preparations for the regional and international seminars and other activities suggested in the programme of work;

20. *Requests* regional specialized bodies in Asia, Africa, Latin America and Europe and international agencies such as the United Nations Conference on Trade and Development, the United Nations Development Programme and the United Nations Educational, Scientific and Cultural Organization to collaborate and provide information for the study.

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VI.]

2004/8. The Social Forum

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling the Universal Declaration of Human Rights and the indivisibility, interdependence and interrelated nature of economic, social and cultural rights and civil and political rights,

Recalling also the reports and studies on the realization of economic, social and cultural rights submitted by several special rapporteurs to the Sub-Commission and the Commission on Human Rights, in particular those submitted by Mr. Danilo Türk, Mr. Asbjørn Eide, Mr. Mustapha Mehedi, Mr. Leandro Despouy, Mr. El-Hadji Guissé, Mr. Joseph Oloka-Onyango, Ms. Deepika Udagama, Mr. David Weissbrodt and Mr. José Bengoa,

Recalling further Commission on Human Rights resolution 1999/53 of 27 April 1999 and decision 2000/107 of 26 April 2000, and Sub-Commission resolutions 1999/10 of 25 August 1999, 2000/6 of 17 August 2000, 2001/24 of 16 August 2001, 2002/12 of 14 August 2002 and 2003/14 of 13 August 2003 on the establishment of a forum for economic, social and cultural rights, to be called the Social Forum,

Welcoming Commission on Human Rights decision 2001/103 of 25 April 2001 authorizing the Sub-Commission to hold the Social Forum during its fifty-third session and decision 2003/107 of 22 April 2003 to recommend to the Economic and Social Council that it authorize the Sub-Commission to convene an annual intersessional forum on economic, social and cultural rights, to be known as the “Social Forum”, for two days on dates that would permit the possible participation of 10 members of the Sub-Commission, to be appointed by the regional groups of the Sub-Commission, and that the Council also authorize the provision of all the necessary facilities for the preparation and servicing of the event, and of Council resolution 2003/264 of 23 July 2003,

Recalling the holding of the preparatory panel meeting on the Social Forum during the fifty-third and the first meeting before the fifty-fourth session of the Sub-Commission, in which

the participants unanimously recognized the need for a new process/mechanism within the United Nations system with broad participation, reflecting the current structure of international society,

Considering that a deeper discussion of issues relating to poverty eradication and the realization of economic, social and cultural rights would require a longer period of time than is available in the two days allocated to the Social Forum,

Considering also the new challenges of globalization, of the changes in the international order and of the emergence of new actors in the international, regional and national economic and financial areas,

Considering further the need to listen to the most vulnerable and their advocates and to ensure a meaningful and effective participation of those who are not heard, and to have a constructive dialogue with officials of international institutions and governmental representatives,

Bearing in mind that the reduction of poverty, especially rural poverty, remains an ethical and moral imperative of humankind, based on respect for human dignity, and noting the report of the Chairman-Rapporteur of the second Social Forum, held on 22 and 23 July 2004, which focused on "Poverty, rural poverty and human rights",

Taking into account that a human rights perspective is necessary for the fight against poverty and extreme poverty, which affects overwhelmingly the rural population, because of its emphasis on non-discrimination and participation,

Considering that poverty entails powerlessness and that, in implementing a human rights approach to poverty eradication, emphasis should be placed on the political and economic empowerment of the poor,

1. *Expresses its satisfaction* at the holding of the second Social Forum on 22 and 23 July 2004 and welcomes the report of its Chairman-Rapporteur (E/CN.4/Sub.2/2004/26);

2. *Notes* the comprehensive nature of the conclusions and recommendations of the Social Forum and calls upon States, international organizations, in particular those with a mandate for poverty eradication, non-governmental organizations, civil society organizations, trade unions and other relevant actors, to take them into account when designing and implementing poverty-eradication programmes and strategies;

3. *Reiterates* its decision that the Social Forum shall meet every year, with the mandate laid down in previous Sub-Commission resolutions, and decides that the next meeting of the Social Forum will be held during 2005 in Geneva on dates suitable for the participation of Sub-Commission members and of the broadest possible range of other stakeholders, and decides that the theme for the Social Forum in 2005 will be “Poverty and economic growth: challenges to human rights” and that it will be addressed within the context of the five-year assessment of the goals set in the United Nations Millennium Declaration;

4. *Reiterates* its invitation to participate in the Social Forum to non-governmental organizations in consultative status with the Economic and Social Council and other non-governmental organizations outside Geneva, and in particular newly emerging actors, such as smaller groups and rural associations of the South, grass-roots organizations, peasants’ and farmers’ organizations and their national and international associations, pastoralist associations, fishermen’s/women’s organizations, voluntary organizations, youth associations, community organizations, trade unions and associations of workers, representatives of the private sector, United Nations agencies, the relevant functional commissions of the Economic and Social Council, the regional economic commissions, international financial institutions and development agencies;

5. *Invites* United Nations bodies and specialized agencies, the relevant functional commissions of the Economic and Social Council, the regional economic commissions, the international financial institutions, the Committee on Economic, Social and Cultural Rights, special rapporteurs and independent experts, non-governmental organizations, scholars, trade unions and associations of workers to participate in and to submit studies to the Social Forum;

6. *Invites* all Governments to participate in the Social Forum and invites States that have not ratified the International Covenant on Economic, Social and Cultural Rights to consider submitting reports to the Social Forum on the obstacles encountered in their efforts to eradicate poverty;

7. *Requests* the Office of the United Nations High Commissioner for Human Rights to seek effective means of ensuring consultation and the broadest possible participation in the Social Forum, including by entering into partnership with coalitions of non-governmental organizations, the private sector and international organizations;

8. *Requests* the Commission on Human Rights to recommend to the Economic and Social Council the establishment of a voluntary fund to facilitate the participation of grass-roots groups and similarly disadvantaged organizations in the Social Forum;

9. *Requests* Mr. Alfredsson, Mr. Bengoa and Ms. Motoc each to prepare a working paper for consideration at the Social Forum 2005;

10. *Invites* Governments, non-governmental organizations, international organizations, United Nations bodies, funds and programmes and specialized agencies, to submit information and their views on the theme of the 2005 Social Forum to the High Commissioner for Human Rights for inclusion in a compilation for distribution and consideration during the Forum;

11. *Also invites* Governments, non-governmental organizations, international organizations and United Nations bodies, funds and programmes and specialized agencies, to submit to the Office of the High Commissioner for Human Rights information about best practices in poverty-eradication policies and programmes incorporating a human rights perspective, and requests the High Commissioner to maintain a database in the web page of the Social Forum of those practices;

12. *Invites* the Social Forum to submit to the Sub-Commission at its fifty-seventh session a separate report containing a comprehensive and detailed summary of the discussions, including recommendations and draft resolutions;

13. *Requests* the Secretary-General to adopt the appropriate measures to disseminate information about the Social Forum, invite the relevant individuals and organizations to the Social Forum and take all practical measures required for the success of this initiative.

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VI.]

2004/9. Final report on the study “Indigenous peoples’ permanent sovereignty over natural resources”

The Sub-Commission on the Promotion and Protection of Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international and regional instruments on human rights and humanitarian law,

Reiterating the principle of equality and non-discrimination embodied in, inter alia, Article 1, paragraph 3, of the Charter of the United Nations, article 2, paragraph 1, of the Universal Declaration of Human Rights, article 2, paragraph 1, of the International Covenant on Civil and Political Rights, article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights and articles 1 and 2 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling that States are required to respect and secure the human rights and fundamental freedoms of all human beings,

Concerned that discrimination in various forms against the indigenous peoples continues to exist in many countries in which they live, despite international, regional and national efforts to eliminate it,

Recalling its resolution 2001/10, of 15 August 2001, in which it requested Mrs. Erica-Irene A. Daes to prepare a working paper on indigenous peoples’ permanent sovereignty over natural resources, resolution 2002/15 of 14 August 2002, in which it proposed to the Commission on Human Rights the appointment of Mrs. Daes as Special Rapporteur to

undertake a study on the subject based in her working paper (E/CN.4/Sub.2/2002/23) and requesting her to submit a preliminary report to the Sub-Commission at its fifty-fifth session and a final report at its fifty-sixth session, and decision 2003/113, in which it expressed its deep appreciation to the Special Rapporteur for her very comprehensive preliminary report (E/CN.4/Sub.2/2003/20) and welcomed the rich discussion that took place thereon,

Recalling also decision 2003/110, of 24 April 2003, of the Commission on Human Rights and decision 2003/267 of 23 July 2003 of the Economic and Social Council,

Mindful of the complex and acute political, legal, social, economic and cultural matters related to the subject of the above-mentioned study,

Welcoming the final report of the Special Rapporteur on the above-mentioned study (E/CN.4/Sub.2/2004/30 and Add.1),

Having heard the very interesting and important introductory statement of the Special Rapporteur and noting the rich and constructive discussion that took place thereon, during which approval and support was expressed in particular for the principal conclusions, guiding principles and basic recommendations proposed by the Special Rapporteur,

1. *Expresses its deep appreciation* to the Special Rapporteur, Mrs. Erica-Irene A. Daes, for her excellent and very comprehensive final report on the study “Indigenous peoples’ permanent sovereignty over natural resources” (E/CN.4/Sub.2/2004/30 and Add.1);
2. *Decides* to submit the final report to the Commission of Human Rights at its sixty-first session and requests the Special Rapporteur, owing to the complexity of the issues relating to it, to present the report to the Commission in person;
3. *Recommends* that the Commission on Human Rights and the Economic and Social Council authorize the Office of the United Nations High Commissioner for Human Rights to convene an expert seminar to which representatives of indigenous communities and Governments as well as the Special Rapporteur will be invited, in order to give further attention

to and to discuss in detail the many political, legal, economic, social and cultural aspects and matters relating to the above-mentioned study, as well as in the other relevant study of the Special Rapporteur on “Indigenous peoples and their relationship to land” (E/CN.4/Sub.2/2001/21);

4. *Also recommends* that, mindful of the importance and usefulness of these studies, which may, inter alia, be used as a basis for reconciliation between Governments and indigenous peoples, the studies entitled “Indigenous peoples and their relationship to land” and “Indigenous peoples’ permanent sovereignty over natural resources” be issued as United Nations publications as part of the Human Rights Study Series;

5. *Recommends* the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of resolution 2004/9 of 9 August 2004, of the Sub-Commission on the Promotion and Protection of Human Rights, decides:

“(a) To express its deep appreciation to the Special Rapporteur, Mrs. Erica-Irene A. Daes, for her excellent and very comprehensive final report on the study entitled ‘Indigenous peoples’ permanent sovereignty over natural resources’ (E/CN.4/Sub.2/2004/30 and Add.1);

“(b) To recommend to the Economic and Social Council that it authorize the Office of the United Nations High Commissioner for Human Rights to convene an expert seminar during the year 2005, to which representatives of indigenous peoples and Governments as well as the Special Rapporteur will be invited, in order to give further attention to and to discuss in detail the many political, legal, economic, social and cultural aspects and matters relating to in the above-mentioned study, as well as to the other relevant study of the Special Rapporteur entitled ‘Indigenous peoples and their relationship to land’ (E/CN.4/Sub.2/2001/21);

“(c) Also to recommend to the Economic and Social Council, mindful of the importance of the studies, which may, inter alia, be used as a basis for reconciliation between Governments and indigenous peoples, that they be issued as United Nations publications as part of the Human Rights Study Series.”

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VII.]

2004/10. 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

The Sub-Commission on the Protection and Promotion of Human Rights,

Recalling its previous work on the question, in particular resolution 2003/24 of 14 August 2003,

Taking account of Commission on Human Rights decision 2004/122 of 21 April 2004,

Welcoming the working paper submitted by Ms. Françoise Hampson (E/CN.4/Sub.2/AC.4/2004/CRP.1) on the human rights situation of indigenous peoples in States and territories threatened with extinction for environmental reasons,

1. *Invites* Ms. Hampson to update her working paper and to submit a further working paper to the fifty-seventh session of the Sub-Commission and the twenty-third session of the Working Group on Indigenous Populations;

2. *Requests* the Secretary-General to provide Ms. Hampson with all necessary assistance to update and expand her paper, inter alia, by facilitating her contacts with States, including transmitting a questionnaire elaborated by Ms. Hampson to solicit information required in connection with her paper;

3. *Recommends* to the Commission on Human Rights the following draft decision for adoption:

“The Commission on Human Rights, taking note of Sub-Commission on Promotion and Protection of Human Rights resolution 2004/10 of 9 August 2004, welcomes the working paper (E/CN.4/Sub.2/AC.4/2004/CRP.1) on the human rights situation of indigenous peoples in States and other territories threatened with extinction for environmental reasons and endorses the request of the Sub-Commission to Ms. Françoise Hampson to update and expand her work and submit an expanded working paper to the fifty-seventh session of the Sub-Commission. The Commission also endorses the request to the Secretary-General to provide Ms. Hampson with all necessary assistance to enable her to update and expand her working paper, inter alia, by facilitating her contacts with States, including transmitting a questionnaire elaborated by Ms. Hampson to solicit information required in connection with her study.”

*18th meeting
9 August 2004*
[Adopted without a vote. See chap. VII.]

2004/11. Protection of indigenous peoples in time of conflict

The Sub-Commission on the Promotion and Protection of Human Rights,

Considering the risks to which indigenous peoples are exposed during situations of conflict,

Bearing in mind the responsibility of the United Nations and the international community for the protection of the human rights of indigenous peoples and the protection of their territories, as affirmed by the General Assembly in its resolution 48/163 of 21 December 1993 proclaiming the International Decade of the World's Indigenous People, launched on 9 December 1994,

Welcoming the Action Plan to Prevent Genocide announced by the Secretary-General to the Commission on Human Rights on 7 April 2004, and the appointment of the Special Adviser on the Prevention of Genocide,

Reaffirming the right of indigenous peoples to live in safety and security,

Calls upon the Commission on Human Rights to adopt the following resolution:

“The Commission on Human Rights,

“1. Requests the Secretary-General:

“(a) To ensure that the Special Adviser for the Prevention of Genocide appointed under the Action Plan to Prevent Genocide takes into consideration the need to protect indigenous peoples and their territories;

“(b) To ensure that, in situations where there are forces present under a United Nations mandate, they protect vulnerable indigenous peoples, their territories and objects indispensable to their survival;

“(c) To ensure that the mandates of United Nations authorized operations include a requirement to protect indigenous populations and their territories;

“2. Requests the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people:

“(a) To liaise with the Special Adviser with regard to the protection of indigenous peoples from genocide;

“(b) To develop an emergency response mechanism as part of his mandate.”

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VII.]

2004/12. Discrimination against leprosy victims and their families

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling article 1 of the Universal Declaration of Human Rights, which stipulates that all human beings are born free and equal in dignity and rights,

Recalling also article 2 of the Universal Declaration, which provides that everyone is entitled to all the rights and freedoms set forth therein without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling further article 5 of the Universal Declaration, which provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Concerned that millions of people suffer from discrimination resulting from physical and mental illness or handicap,

Concerned in particular that tens of millions of people suffer not only from leprosy as a disease, which is scientifically and medically proven to be curable and manageable, but also from political, legal, economic or social discrimination and isolation as a result of misunderstanding and indifference, and lack of legislative or administrative measures to prohibit such discrimination and to protect and remedy the victims,

Requests Mr. Yozo Yokota to prepare, without financial implications, a preliminary working paper on discrimination against leprosy victims and their families, to be submitted to the fifty-seventh session of the Sub-Commission under the agenda item entitled “Prevention of discrimination and protection of minorities”.

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VII.]

2004/13. The rights of minorities

The Sub-Commission on the Promotion and Protection of Human Rights,

Noting Commission on Human Rights resolution 2004/51 of 20 April 2004 on the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Having considered the report of the Working Group on Minorities on its tenth session (E/CN.4/Sub.2/2004/29 and Add.1) and in particular the conclusions and recommendations contained therein,

Reiterating the need for States, minorities and majorities to search for peaceful and constructive solutions to problems affecting minorities,

Affirming that effective measures and the creation of favourable conditions for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, ensuring effective non-discrimination and de facto equality for all, as well as full and effective participation in matters affecting them contribute to the prevention and peaceful solution of human rights problems and situations involving minorities,

Emphasizing the importance of the timely identification of human rights problems and situations involving national or ethnic, religious and linguistic minorities, and the necessity of taking measures for the prevention of tension and conflict,

1. *Endorses* the conclusions and recommendations of the Working Group on Minorities at its tenth session as contained in its report (E/CN.4/Sub.2/2004/29);

2. *Reaffirms* the importance of the Working Group and its uniqueness as the only forum in the United Nations with a mandate to deal exclusively with minority issues, including by reviewing the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

3. *Welcomes* the decision of the Working Group to promote constructive dialogue between minorities and Governments, not least with conflict prevention in mind;

4. *Notes* the request by the Working Group that written submissions to it should include a brief assessment of the comparative situation of the minority in question in relation to the rest of the population, the main areas of concern and suggestions on how to address them, and takes note of the invitation by the Working Group to concerned Governments to respond to the information presented during the sessions of the Working Group, especially on best practices in dealing with minority situations;

5. *Welcomes* the decision of the Working Group to endorse the Commentary prepared by its outgoing Chairperson, Mr. Asbjørn Eide, as the Commentary of the

Working Group and to elaborate future general comments, including on the protection of minorities from forced assimilation, autonomy vis-à-vis self-determination, effective participation of minorities, and protection of places of worship and sacred places;

6. *Recalls with satisfaction* the progress report of Mr. Asbjørn Eide (E/CN.4/Sub.2/2003/21) and takes notes of the note by the Secretariat (E/CN.4/Sub.2/2004/32) stating that the final report updating Mr. Eide's 1993 study on peaceful and constructive approaches to situations involving minorities is to be submitted to the Sub-Commission at its fifty-seventh session;

7. *Welcomes* the intention of the Working Group to hold regional or subregional seminars, in cooperation with regional mechanisms wherever possible, and welcomes the suggestion to hold such seminars in the African and Asian regions as well as a seminar in the Americas on Afro-descendant issues, including with a view to considering regional guidelines, principles or codes of conduct, based on universal norms and international minority rights standards;

8. *Welcomes also* the intention of the Working Group to hold a seminar on the Roma/Sinti, and the possibility of calling upon the cooperation of the Council of Europe and the Focal Point for Roma and Sinti of the Organization for Security and Cooperation in Europe in regarding the organization of that seminar, to which Roma/Sinti representatives from European and, especially, non-European countries should also be invited;

9. *Notes* the visit of the Working Group to Finland and its report on that visit (E/CN.4/Sub.2/2004/29/Add.1) and welcomes the invitation from other Governments to visit their country, provided that resources are made available;

10. *Invites* the Office of the United Nations High Commissioner for Human Rights to consider organizing training workshops at the national level on the implementation of the rights of minorities;

11. *Invites* the Office of the High Commissioner for Human Rights, in cooperation with development agencies, to organize a meeting between the Working Group, representatives of international and bilateral development agencies, and Minority Rights Group International and minority representatives to examine further the integration of minority issues in development programming;

12. *Invites* the Office of the High Commissioner for Human Rights to prepare additional pamphlets for inclusion in the *United Nations Guide for Minorities*, in particular on the work of conflict-prevention mechanisms for the promotion and protection of the rights of persons belonging to minorities;

13. *Recommends* that the High Commissioner for Human Rights, when inviting, among others, Governments to submit their views on how best to protect the rights of persons belonging to minorities, also request them to consider providing the names of experts with a view to facilitating their participation in regional and international meetings and in advisory services and to consider providing information about recent cases relating to minority rights considered in the highest courts of the country;

14. *Appeals* to all States, specialized agencies, non-governmental organizations and scholars to continue to participate actively in the work of the Working Group;

15. *Welcomes* Commission on Human Rights decision 2004/114 of 20 April 2004 and Economic and Social Council decision 2004/... of 22 July 2004 recommending to the General Assembly that it give favourable consideration to the establishment of a voluntary fund on minority-related activities;

16. *Recommends* the preparation of a working paper by a member of the Sub-Commission on the advisability of drafting an additional protocol to the International Covenant on Civil and Political Rights containing remedies for violations of minority rights to be presented to the Sub-Commission at its fifty-eighth session;

17. *Also recommends* the nomination of a special representative of the Secretary-General on minority issues, with a particular focus on country fact-finding missions and preventive diplomacy;

18. *Recommends* the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2004/13 of 9 August 2004, decides to endorse its recommendation that a special representative of the Secretary-General on minority issues be nominated, with a particular focus on country fact-finding missions and preventive diplomacy. The special representative should cooperate closely with the Working Group on Minorities. The Commission also decides to recommend that the Economic and Social Council endorse the decision.”

*18th meeting
9 August 2004*
[Adopted without a vote. See chap. VII.]

2004/14. International Decade of the World's Indigenous People

The Sub-Commission on the Promotion and Protection of Human Rights,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling General Assembly resolution 48/163 of 21 December 1993, in which the Assembly proclaimed the International Decade of the World's Indigenous People,

Recalling also that the General Assembly established as the goal of the Decade the strengthening of international cooperation for the solution of problems faced by indigenous peoples in such areas as human rights, the environment, development, education and health, as well as with regard to their lands and their resources,

Recalling further General Assembly resolution 50/157 of 21 December 1995, in which the Assembly adopted the comprehensive programme of activities for the International Decade, which is about to end in December 2004,

Recalling the requests by the General Assembly, in its resolutions 50/157 and 52/108 of 12 December 1997, to assess the objectives of the Decade by quantifiable outcomes that will improve the lives of indigenous peoples and to evaluate the objectives halfway through the Decade and at its end,

Bearing in mind the most recent report of the Secretary-General on the programme of activities of the International Decade (A/58/289 and E/2004/82),

Bearing in mind also Economic and Social Council decision 2004/... of 22 July 2004 on a second decade of the world's indigenous people,

Recalling its resolution 2003/30 of 14 August 2003,

Noting with particular and increased concern the delay in the work on the elaboration of the draft United Nations declaration on the rights of indigenous peoples, one of the main objectives of the Decade,

Having considered the report of the Working Group on Indigenous Populations on its twenty-second session (E/CN.4/Sub.2/2004/28),

1. *Welcomes* the observance of the International Day of the World's Indigenous People on 22 July 2004;

2. *Recommends* that the celebration of the International Day of the World's Indigenous People be held on the fourth day of the twenty-third session of the Working Group on Indigenous Populations in order to ensure as large a participation of indigenous peoples, governmental representatives and intergovernmental and non-governmental organizations as possible;

3. *Recalls* the decision by the General Assembly in its resolution 52/108 of 12 December 1997 to appoint the United Nations High Commissioner for Human Rights as Coordinator for the International Decade of the World's Indigenous People;

4. *Recommends* that the Coordinator for the Decade appeal to Governments and other donors to contribute generously to the Voluntary Fund for the International Decade of the World's Indigenous People or to its eventual continuator;

5. *Stresses* the need to continue giving particular attention to achieving the effective participation of indigenous peoples in planning and implementing the activities of the Decade in order to realize fully the Decade's theme, "Indigenous people: partnership in action";

6. *Reiterates* its previous strong recommendation that, in accordance with General Assembly resolution 50/157 of 21 December 1995, the draft United Nations declaration on the rights of indigenous peoples be adopted as early as possible and, to this end, appeals to all participants in the intersessional working group of the Commission on Human Rights and to all others concerned to put into practice new, more dynamic ways and means of consultation, consensus-building, and decision-making, in order to conclude the preparation of a final text that would take into account the legitimate aspirations of indigenous peoples, to be submitted in due course to the General Assembly;

7. *Recalls* the appeals to Governments and indigenous peoples by the United Nations High Commissioner for Human Rights, the Chairperson of the Permanent Forum on Indigenous Issues, the Chairperson-Rapporteur of the Working Group on Indigenous Populations and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to make every effort to complete the work on the draft declaration;

8. *Welcomes* the steps being taken to establish and promote cooperation between the Permanent Forum, the Working Group and the Special Rapporteur, in particular in regard to advocating a common approach stressing the need for a second international decade;

9. *Notes* the view expressed once again by the indigenous caucus and indigenous and non-indigenous observers during the twenty-second session of the Working Group that the establishment of the Permanent Forum should not be construed as grounds for the abolition of the Working Group, which should continue to carry out the ample, flexible mandate conferred upon it by the Economic and Social Council in resolution 1982/34 of 7 May 1982;

10. *Welcomes with appreciation* the reports of the Expert Seminar on Indigenous Peoples and the Administration of Justice held in Madrid from 12 to 14 November 2003 (E/CN.4/Sub.2/AC.4/2004/6) and the Seminar on Treaties, Agreements and Other Constructive Arrangements between States and Indigenous Peoples held in Geneva from 15 to 17 December 2003 (E/CN.4/Sub.2/AC.4/2004/7) organized by the Office of the High Commissioner for Human Rights within the framework of the International Decade;

11. *Recommends* that the High Commissioner for Human Rights, in consultation with interested Governments and indigenous peoples/organizations, organize meetings in all regions of the world, and in particular activities in Africa, Asia, Oceania and Latin America, in order, inter alia, to raise public awareness about indigenous issues;

12. *Expresses its appreciation* to the High Commissioner, the members of the Advisory Group for the Voluntary Fund for the International Decade and all other participants in the technical seminar held in Geneva on 15 and 16 July 2004 to evaluate the impact of the activities financed through the Voluntary Fund for the International Decade and the United Nations Voluntary Fund for Indigenous Populations on the goals of the International Decade, for the successful results of the Seminar;

13. *Welcomes* Economic and Social Council decision 2004/... of 22 July 2004 transmitting to the General Assembly the recommendation to proclaim a second international decade of the world's indigenous people to begin in January 2005;

14. *Invites* the High Commissioner for Human Rights, in her capacity as Coordinator of the International Decade, drawing upon her analysis of the achievements of the Decade about to end and the obstacles encountered to the full accomplishment of its goals, and taking into

account the requests contained in Council decision 2004/..., to organize, early in 2005, a consultation with the purpose of elaborating a preliminary draft programme of activities for a possible second international decade of the world's indigenous people to be submitted, in due course, to the General Assembly for its consideration;

15. *Expresses* the view that, inter alia, representatives of the Inter-Agency Support Group on Indigenous Issues, States, non-governmental organizations and indigenous peoples/organizations; the Chairpersons of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations and of the Advisory Group for the Voluntary Fund for the International Decade, as well as the Chairman of the third session of the Permanent Forum, the Chairman-Rapporteur of the twenty-second session of the Working Group on Indigenous Populations and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people may provide useful inputs to the consultation mentioned in paragraph 14 above.

*18th meeting
9 August 2004*
[Adopted without a vote. See chap. VII.]

2004/15. Working Group on Indigenous Populations

The Sub-Commission on the Promotion and Protection of Human Rights,

Reaffirming the urgent need to recognize, promote and protect more effectively the rights of indigenous peoples, including their human rights and fundamental freedoms,

Mindful of the relevant recommendations adopted by the World Conference on Human Rights in 1993, in particular those contained in Part I, paragraph 20, and Part II, paragraphs 28 to 32, of the Vienna Declaration and Programme of Action,

Mindful also of the relevant recommendations adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a working group on indigenous populations,

Taking note with deep appreciation of the report of the Working Group on Indigenous Populations on its twenty-second session (E/CN.4/Sub.2/2004/28) and, in particular, of its conclusions and recommendations,

Welcoming the ample discussions in the Working Group during its twenty-second session under its twofold mandate: the review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous people, including the main theme, “Indigenous peoples and conflict resolution”, and standard-setting, as well as on cooperation with other United Nations bodies in the sphere of indigenous issues,

Deeply concerned at the still-visible sequels of the colonial era that continue to adversely affect the living conditions of indigenous peoples in various parts of the world,

Recalling Commission on Human Rights resolution 1993/30 of 5 March 1993, in which the Commission recommended to all thematic rapporteurs, special representatives, independent experts and working groups to pay special attention, within the framework of their mandates, to the situation of indigenous people,

Taking note of Commission on Human Rights resolutions 2004/57 and 2004/58 of 20 April 2004 and Economic and Social Council decision 2004/... of 22 July 2004,

Recalling its resolution 2003/29 of 14 August 2003,

1. *Expresses its deep appreciation* to all members of the Working Group on Indigenous Populations for the important and constructive work accomplished during its twenty-second session and for the new working methods introduced with the purpose of facilitating a more interactive dialogue during its annual sessions;

2. *Requests* the Secretary-General to transmit the report of the Working Group on its twenty-second session (E/CN.4/Sub.2/2004/28) to the United Nations High Commissioner for Human Rights, indigenous organizations, Governments and intergovernmental and

non-governmental organizations concerned, as well as to treaty bodies and all thematic rapporteurs, special representatives, independent experts and working groups existing as special procedures under the authority of the Commission;

3. *Reiterates its invitation* to the treaty bodies and all thematic special procedures to advise the Working Group on how they take into account, in their work and in accordance with their respective mandates, the promotion and protection of indigenous peoples' rights and in this context, further invites them to take duly into account paragraphs 3 and 4 of Commission on Human Rights resolution 2004/58 of 20 April 2004;

4. *Requests* that the report of the Working Group on its twenty-second session be made available to the Commission on Human Rights at its sixty-first session;

5. *Reiterates its recommendation* that the Working Group, upon request, cooperate as a body of experts in any conceptual clarification or analysis that might assist the open-ended intersessional working group established by the Commission in its resolution 1995/32 of 3 March 1995 to complete as soon as possible the final version of the draft United Nations declaration on the rights of indigenous peoples;

6. *Decides* that the Working Group at its twenty-third session shall adopt as the principal theme "Indigenous peoples and the international and domestic protection of traditional knowledge", as agreed upon by the Working Group (E/CN.4/Sub.2/2004/28, para. 137), and that the Office of the United Nations High Commissioner for Human Rights shall invite all relevant organizations and departments of the United Nations system, in particular the United Nations Educational, Scientific and Cultural Organization and the World Intellectual Property Organization, to provide information on this subject and, if possible, to participate actively in the debates on this matter at the Working Group;

7. *Requests* the Working Group to review at its twenty-third session the revised draft principles and guidelines on the heritage of indigenous people elaborated by Mrs. Erica-Irene Daes (E/CN.4/1995/26, annex);

8. *Invites* the members of the Working Group to prepare the following working papers and commentaries for submission to its twenty-third session:

(a) Mr. Yozo Yokota: in cooperation with the Saami Council, an expanded working paper containing substantive proposals on the draft principles and guidelines related to indigenous peoples' heritage;

(b) Ms. Antoanella-Iulia Motoc: in cooperation with the Tebtebba Foundation and any other indigenous source interested in the issue of the principle of free, prior and informed consent and ready to make a contribution to its analysis in the Working Group, a paper offering guidelines to govern the practice of implementation of said principles;

(c) Ms. Françoise Hampson: an additional working paper developing further the information and the ideas contained in her first paper on the human rights implications especially for indigenous populations, of the disappearance of States for environmental reasons (E/CN.4/Sub.2/AC.4/2004/CRP.1), taking into account the discussion on this matter during the Working Group's twenty-second session; this paper should also be submitted to the Sub-Commission's fifty-seventh session, as requested by the Commission in its decision 2004/122 of 21 April 2004;

(d) Mr. Miguel Alfonso Martínez: an additional working paper on the issue of indigenous peoples and conflict prevention and resolution, with particular emphasis on conflicts between indigenous traditional sources of authority and State-designated institutions and representatives and on the positive role that may be played by domestic and international third parties in brokering a dialogue for the peaceful resolution of conflicts affecting indigenous peoples;

9. *Decides*, in view of the discussions that will take place under the principal theme of its twenty-third session, to invite the Office of the High Commissioner for Human Rights to organize, as a matter of priority, in consultation with the Chairperson-Rapporteur of the Working Group, a second workshop on indigenous peoples, mining and other private sector companies and human rights with a view to preparing guidelines based on respect for the cultures and traditions of these communities and the principle of free, prior and informed consent;

10. *Endorses* the recommendations of the Working Group to request the Office of the High Commissioner to organize, if possible in 2005, a workshop on indigenous peoples and conflict resolution and prevention, as well as a seminar on specific possible ways and means to implement treaties, agreements and other constructive arrangements between States and indigenous peoples, preferably to be held in 2006, on lands of the peoples parties to Treaty 6 in Canada, in accordance with the invitation extended by them during the twenty-second session and already formally accepted by the Working Group (E/CN.4/Sub.2/2004/28, para. 118);

11. *Decides* that the Working Group's agenda for its twenty-third session would be as follows: 1. Election of officers; 2. Adoption of the agenda; 3. Organization of work; 4. Review of developments: (a) General debate; (b) Principal theme: "Indigenous peoples and the protection of traditional knowledge"; (c) Indigenous peoples and conflict prevention and resolution; 5. Standard-setting: (a) Legal commentary on the concept of free, prior and informed consent; (b) Review of draft principles and guidelines on the protection of the heritage of indigenous peoples; 6. Other matters: (a) International Decade of the World's Indigenous People; (b) Cooperation with United Nations bodies; (c) Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; (d) The human rights situation of States and territories threatened with extinction for environmental reasons; (e) State of the Voluntary Funds; (f) The draft United Nations declaration on the rights of indigenous peoples (update); 7. Presentation of elements for the conclusions and recommendations; 8. Adoption of the report;

12. *Invites* the Office of the High Commissioner for Human Rights, after consultation with the Chairperson-Rapporteur, to inform participants at the twenty-third session of the Working Group about the organization of issues under the item "Review of developments" in advance of the session in order to facilitate a more active dialogue among the various participants;

13. *Reiterates* its recommendation that the Commission on Human Rights, in view of the adoption of Economic and Social Council resolution 2002/28 of 25 July 2002 which permits indigenous organizations to participate in the work of the Permanent Forum on Indigenous

Issues on the same basis as the Working Group on Indigenous Populations, adopt a similar procedure for participation in the working group established in accordance with Commission resolution 1995/32, in order to ensure consistency in matters relating to the participation of indigenous peoples in the work of the United Nations affecting them;

14. *Requests* the Chairperson-Rapporteur to present the report of the Working Group on its twenty-second session to the upcoming session of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations, without financial implications, and to inform the Board of the Working Group's agenda for its next session, so that the Board can bear this in mind when it meets;

15. *Appeals* to all Governments, organizations, including non-governmental organizations and indigenous groups, and other potential donors in a position to do so to contribute generously to the United Nations Voluntary Fund for Indigenous Populations in order to assist representatives of indigenous communities and organizations to participate in the deliberations of the Working Group and the open-ended intersessional working group on the draft United Nations declaration on the rights of indigenous peoples;

16. *Requests* the Secretary-General to prepare an annotated agenda for the twenty-third session of the Working Group on the basis of paragraph 11 of the present resolution;

17. *Reiterates* its view that the Economic and Social Council, in reviewing all United Nations mechanisms relating to indigenous peoples, should take into account the fact that the mandates of the Working Group, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Permanent Forum on Indigenous Issues are distinct and complementary and requests the Commission, in the light of the ongoing cooperation of these three mechanisms, to endorse this view;

18. *Requests* the Commission on Human Rights to endorse the participation for one week of the Chairperson-Rapporteur of the Working Group at the fourth session of the

Permanent Forum on Indigenous Issues, as recommended by the Working Group (E/CN.4/2004/28, para. 125), to enable him to present the report of the Working Group on its twenty-second session, and to recommend to the Economic and Social Council that it approve such participation;

19. *Also requests* the Commission on Human Rights to request the Economic and Social Council to authorize the Working Group on Indigenous Populations to meet for five working days prior to the fifty-seventh session of the Sub-Commission in 2005;

20. *Recommends* to the Commission on Human Rights the following draft decision for adoption:

“The Commission on Human Rights, taking note of resolution 2004/15 of 9 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights, endorses the Sub-Commission’s request that the Economic and Social Council authorize the Working Group on Indigenous Populations to meet for five working days prior to the fifty-seventh session of the Sub-Commission in 2005.”

*18th meeting
9 August 2004*

[Adopted without a vote. See chap. VII.]

B. Decisions

2004/101. Establishment of a sessional working group on the administration of justice under agenda item 3

At its 1st meeting, on 26 July 2004, the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote, to establish a sessional working group on the administration of justice under agenda item 3, composed of the following members: Mr. Alfonso Martínez, Mr. Alfredsson, Mr. Bíró, Ms. Chung and Mr. Guissé.

[see chap. III.]

2004/102. Establishment of a sessional working group to examine the working methods and activities of transnational corporations under agenda item 4

At its 1st meeting, on 26 July 2004, the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote, to establish a sessional working group to examine the working methods and activities of transnational corporations under agenda item 4, composed of the following members: Ms. Hampson, Ms. Motoc, Ms. Rakotoarisoa, Mr. Tuñon Veilles and Mr. Yokota.

[See chap. III.]

2004/103. Extrajudicial, summary or arbitrary executions

At its 18th meeting, on 9 August 2004 the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote, to adopt the following statement:

“The Sub-Commission on the Promotion and Protection of Human Rights recalls that the extrajudicial, summary or arbitrary execution of a human being is unlawful in all circumstances.”

[See chap. IV.]

2004/104. The right to development

At its 18th meeting, on 9 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights, recalling Commission on Human Rights resolution 2003/83 of 25 April 2003 in which it requested the Sub-Commission to prepare a concept document establishing possible options for the implementation of the right to development, for submission to the Commission at its sixty-first session in 2005 for consideration and determination of the feasibility of those options, as well as its own decision 2003/116 of 14 August 2003 in it requested Ms. Florizelle O'Connor to submit to the Sub-Commission at its fifty-sixth session a working paper identifying and analysing possible alternatives that would enable the Sub-Commission to respond fully and as effectively as possible to the Commission request, and after having been advised by Ms. O'Connor that for unexpected technical reasons it was not possible for her to submit her paper during the present session, decided, without a vote, to recommend to the Commission on Human Rights to adopt the following draft decision:

“The Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights decision 2004/104 of 9 August 2004, decided to request Ms. Florizelle O'Connor to submit, without further delay, to the Sub-Commission at its fifty-seventh session the working paper requested by the Sub-Commission in its decision 2003/116 of 14 August 2004, so as to allow the Commission to consider and take decisions on this matter at its sixty-second session.”

[See chap. VI.]

2004/105. The right to food and progress in developing international voluntary guidelines for its implementation

At its 18th meeting, on 9 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights, reiterating the recommendations contained in its resolution 2003/9 of 13 August 2003 and welcoming the progress made by the Intergovernmental Working Group for the Elaboration of a Set of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, of the Food and

Agriculture Organization of the United Nations, in elaborating a set of voluntary guidelines (see document IGWG-RTFG 4/REP1), decided, without a vote, to call upon all Governments and interested and affected parties to continue the drafting process and renew their efforts to reach consensus on the remaining issues so as to make possible the completion and adoption of that set of guidelines.

[See chap. VI.]

2004/106. Effects of debt on human rights

At its 18th meeting on 9 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights, welcoming with satisfaction the working paper prepared by Mr. El-Hadji Guissé on the effects of debt on human rights (E/CN.4/Sub.2/2004/27), decided, without a vote, to request Mr. Guissé to prepare, without financial implications, an expanded working paper on the effects of debt on human rights and to submit it to it at its fifty-seventh session.

[See chap. VI.]

2004/107. The right to drinking water supply and sanitation

At its 18th meeting, on 9 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights, welcoming the reports prepared by Mr. El-Hadji Guissé on the relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation (E/CN.4/Sub.2/2002/10, E/CN.4/Sub.2/2003/WP.3 and E/CN.4/Sub.2/2004/20), decided, without a vote, to request the Special Rapporteur to prepare, without financial implications, a set of draft guidelines for the realization of the right to drinking water supply and sanitation and to submit them to it at its fifty-seventh session.

[See chap. VI.]

**2004/108. Impact of intolerance on the enjoyment and the exercise
of human rights**

At its 18th meeting, on 9 August 2004, the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote, to request Mr. Soli Sorabjee to submit, without financial implications, a working paper on the impact of intolerance on the enjoyment and the exercise of human rights and measures to counter intolerance to the fifty-seventh session of the Sub-Commission, under the same agenda item.

[See chap. VII.]
