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COMMISSION ON HUMAN RIGHTS

Sixtieth session

SUMMARY RECORD OF THE 57th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 April 2004, at 10 a.m.

Chairperson: Mr. SMITH (Australia)

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The meeting was called to order at 10 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 9) (continued) (E/CN.4/2004/L.34; draft decision concerning agenda sub-item 9 (a))

Draft resolution concerning the situation of human rights in Myanmar
(E/CN.4/2004/L.34)

1. Ms. WHELAN (Ireland), introducing draft resolution E/CN.4/2004/L.24 on behalf of its sponsors, thanked the Special Rapporteur on the situation of human rights in Myanmar for his work to date and expressed the hope that he would be able to further investigate the major areas of concern identified in the draft resolution with the full cooperation of the Government of Myanmar.

2. The draft resolution welcomed recent positive developments in Myanmar such as the visits to the country by the Special Rapporteur and the Special Envoy of the Secretary-General. It also welcomed Myanmar's continued cooperation with the International Committee of the Red Cross (ICRC) and the Government's agreement of May 2003 on the International Labour Organization (ILO) Plan of Action for the Elimination of Forced Labour Practices in Myanmar, but noted that conditions for implementation of the Plan did not exist for the time being.

3. The draft resolution expressed serious concern at the ongoing systematic violations of human rights in Myanmar, at the events of 30 May 2003 and the subsequent detention of the leadership of the National League for Democracy (NLD) and the house arrest of Aung San Suu Kyi. It further expressed grave concern at the violations of the rights of persons belonging to ethnic minorities, at the situation of a large number of internally displaced persons and at the flow of refugees to neighbouring countries. It called on the Government to fulfil its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the administration of justice.

4. The draft resolution strongly urged the Government to end the systematic violations of human rights, to restore democracy and respect the results of the 1990 elections, and to release Aung San Suu Kyi and other members of the NLD.

5. A number of revisions to the draft resolution had been agreed after consultations with interested delegations, including the delegation of Myanmar. The following new paragraph had been inserted after the first preambular paragraph:

“Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligation they have undertaken under the various international instruments in the field”.

In the fourth preambular paragraph the words “Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security and” had been deleted. In operative

paragraph 1 (a) a reference to document E/CN.4/2004/30 had been inserted in parentheses after the reference to document A/58/325 and Add.1. In paragraph 1 (g) the words “her efforts to fulfil her mandate” had been replaced by “his efforts to fulfil his mandate”. The following new paragraph had been inserted after paragraph 1:

“Takes note of the efforts of the Government of Myanmar to meet the HIV/AIDS challenge and calls upon it to enhance its efforts in this regard and to support the effective implementation of the United Nations Joint Plan of Action, in cooperation with the relevant international agencies”.

6. She hoped that, as in previous years, the draft resolution would be adopted without a vote.
7. The CHAIRPERSON announced that there were two additional sponsors, who would be listed in the Commission’s report.
8. Mr. Hyuck CHOI (Republic of Korea) said that the Republic of Korea, as a sponsor of the draft resolution, reiterated its firm belief in the need to uphold human rights in the process of national reconciliation and transition to democracy in Myanmar. While taking note of the Government’s commitment to implement the seven-step road map, he stressed the importance of establishing a concrete timeframe for its implementation. With regard to the National Convention to be convened on 17 May 2004 to draft a new constitution, the Republic of Korea believed that it was essential for all political parties and ethnic groups to participate in the process. It offered its full support to the Government in its efforts to restore democracy and to promote and protect human rights.
9. Mr. WILLIAMSON (United States of America), noting that his delegation was a sponsor of the draft resolution, said that the United States continued to work to promote democracy and improve human rights in Burma and was unwavering in its support for the establishment of democracy there. It deplored the unlawful imprisonment of Aung San Suu Kyi and Tin Oo following the attack on their convoy in May 2003 and called for their unconditional release from house arrest.
10. He hoped that the recent reopening of NLD headquarters in Rangoon and the release of U Lwin and Aung Shwe would lead to further progress towards national reconciliation. For a constitutional convention to be successful, however, the political opposition and ethnic groups must be involved in the preparations and the convention itself. Aung San Suu Kyi and other NLD leaders must also be released so that they could participate fully in preparations for national reconciliation and democracy. He called on the Government to develop a timetable for the establishment of democracy.
11. The United States remained deeply troubled by the military’s abuse of ethnic minority civilians, including rape, torture, murder, forced relocation and confiscation of property. The Government continued to restrict freedom of religion, promoting Buddhism over other religions and imposing restrictions on religious minorities, especially ethnic Rohingya Muslims and Chin, Kachin, Karen and Naga Christians. The United States had designated Burma a “country of particular concern” in 2003 on account of its severe violations of religious freedom.

12. The United States encouraged the international community, especially Asian countries, to increase their engagement with the Government on those issues and urged the Government to continue cooperating with the Commission's special procedures. It supported the call by the Special Rapporteur on the situation of human rights in Myanmar for an investigation into the May 2003 attack at Depeyin and the human rights abuses against ethnic minorities.

13. Mr. SOBASHIMA (Japan) said that his delegation supported the draft resolution. Japan had been working closely with the international community to support the efforts of the Government of Myanmar to promote democratization, structural economic reforms and human rights. It was important for the international community to send a balanced message to Myanmar by acknowledging substantial positive developments in addition to addressing existing problems. The draft resolution should not isolate Myanmar but encourage it to make every effort to improve the current situation and advance the process of national reconciliation. Japan was prepared to assist Myanmar in achieving those goals.

14. Mr. WANG Min (China) said that Myanmar had taken a number of positive steps over the past year aimed at national reconciliation, human rights development and international cooperation. The Special Rapporteur on the situation of human rights in Myanmar had recognized those efforts in his report (E/CN.4/2004/33). He regretted, however, that the draft resolution did not fully and accurately reflect those positive developments. China was not in favour of applying political pressure to the people and Government of Myanmar through the adoption of a country-specific resolution. As a friendly neighbour, China had been following developments in the country and understood its special difficulties. It appreciated the Government's efforts to promote and protect human rights and hoped that Myanmar would soon enjoy political stability, national harmony and economic development.

15. Mr. THAN (Observer for Myanmar) said that the draft resolution was far from being fair, constructive, balanced or forward-looking. Myanmar was at a critical juncture in its political evolution and the current positive developments had given rise to optimism. The seven-step road map announced by the Prime Minister was the key to the country's political future, and the first step - the reconvening of the National Convention - would be taken the following month. The road map had been welcomed by the countries attending the summit of the Association of Southeast Asian Nations (ASEAN) in October 2003 and by other countries in the region, and the Special Rapporteur on the situation of human rights in Myanmar had referred to it as a positive development. But neither the road map nor the reconvening of the National Convention had been mentioned in the draft resolution. However, Myanmar's full cooperation with the ILO, the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), ICRC, the Special Envoy of the Secretary-General and the Commission's Special Rapporteur had been recognized.

16. The sweeping allegations by some non-governmental organizations (NGOs) about violence against women in Shan State and other states were entirely unfounded. Women were held in high esteem in Myanmar society and were never subjected to any form of degrading treatment. A milestone in the advancement of women had been the recent establishment of the Myanmar Women's Affairs Federation, which had held its first conference a few weeks previously. The recommendations adopted at the conference included measures to combat violence against women and trafficking in women and children.

17. Despite the efforts by his delegation and those of friendly countries, the draft resolution left a great deal to be desired and his delegation rejected it. Nevertheless, Myanmar would continue to cooperate with the Commission to the extent possible.

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

Draft decision concerning agenda sub-item 9 (a)

19. The CHAIRPERSON read out the following draft decision on agenda sub-item 9 (a):

“At its 57th meeting on 21 April 2004, the Commission on Human Rights decided, without a vote, to retain on its agenda sub-item 9 (a), entitled ‘Question of human rights in Cyprus’, of the item entitled ‘Question of the violation of human rights and fundamental freedoms in any part of the world’ and to give it due priority at its sixty-first session, it being understood that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the Secretary-General to submit a report to the Commission regarding their implementation.”

20. The draft decision was adopted without a vote.

INDIGENOUS ISSUES (agenda item 15) (continued) (E/CN.4/2004/L.105)

Draft resolution concerning human rights and indigenous issues (E/CN.4/2004/L.105)
(continued)

21. The CHAIRPERSON reminded the Commission that the United States had proposed an amendment to draft resolution E/CN.4/2004/L.105.

22. Mr. HERNÁNDEZ (Mexico), speaking on behalf of the sponsors of the draft resolution, announced that the third preambular paragraph had been revised. The reference in that paragraph to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families would be deleted and the following new fourth preambular paragraph would be inserted: “*Acknowledging with appreciation* the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families”.

23. Ms. GOROVE (United States of America) said that her delegation would withdraw its proposed amendment. The United States understood that the phrase “relevant norms and standards” contained in the third preambular paragraph meant those norms and standards that were relevant to the protection of the human rights of indigenous peoples, and also those that were applicable to the United States by virtue either of its having assumed the pertinent legal obligation or of its having accepted the norm or standard. With that understanding, the United States would join the consensus on the draft resolution.

24. Mr. ALFONSO MARTINEZ (Cuba), expressing support for the draft resolution and commending the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people on his work, said that his delegation wished to join the sponsors of the draft resolution.

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

PROMOTION AND PROTECTION OF HUMAN RIGHTS:

- (a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS
- (b) HUMAN RIGHTS DEFENDERS
- (c) INFORMATION AND EDUCATION
- (d) SCIENCE AND ENVIRONMENT

(agenda item 17) (continued) (E/CN.4/2004/L.31, 43, 49, 68, 79, 85, 86, 88/Rev.1, 94, 103, 104, 106-110; E/CN.4/2004/2-E/CN.4/Sub.2/2003/43, chapter I, draft decisions 2, 3, 6, 7 and 10)

Draft resolution concerning enhancement of international cooperation in the field of human rights (E/CN.4/2004/L.31)

26. Ms. HUSSAIN (Malaysia), introducing draft resolution E/CN.4/2004/L.31 on behalf of the sponsors, said that it was abundantly clear from the deliberations in the Commission and other international forums that there continued to be a dire need for genuine international cooperation for the promotion and protection of human rights. The draft resolution emphasized the importance in that context of impartiality, objectivity, transparency and non-selectivity, principles which should be applied in a manner consistent with the purposes and principles of the Charter of the United Nations and without politicization. It noted the valuable contribution that a dialogue among civilizations could make to improving awareness and understanding of shared common values, and stressed the importance of an unbiased and fair approach to human rights issues. States were recognized as being responsible at all levels for upholding the principles of human dignity, equality and equity.

27. She called on the Commission to adopt the draft resolution by consensus.

28. The CHAIRPERSON announced that there was an additional sponsor, who would be mentioned in the Commission's report.

29. The draft resolution was adopted without a vote.

Draft resolution concerning promotion of a democratic and equitable international order (E/CN.4/2004/L.43)

30. Mr. SÁNCHEZ OLIVA (Cuba) introduced draft resolution E/CN.4/2004/L.43 on behalf of the sponsors, who had been joined by Egypt, Eritrea, Kenya and Mauritania. Similar resolutions had been adopted by a majority of the Commission's members at previous sessions. However, the current text also incorporated ideas contained in the Millennium Declaration, the Declaration of Principles adopted at the World Summit on the Information Society and the Final Document of the Thirteenth Conference of Heads of State or Government of the Non-Aligned Countries. The main aim of the draft resolution was to reaffirm the right to an international order based on inclusion, justice, equality, non-discrimination, democracy, human dignity,

solidarity, and respect for cultural diversity and universal human rights, an international order that promoted cooperation among States and the elimination of disparities between developed and developing countries, and guaranteed present and future generations peace, justice, economic and social development and full enjoyment of all human rights.

31. He hoped that, as at the previous session, the draft resolution would be adopted by a large majority.

32. At the request of the representative of Ireland, a recorded vote was taken on the draft resolution.

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

Against: Australia, Austria, Croatia, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Republic of Korea, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

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

33. The draft resolution was adopted by 31 votes to 15, with 7 abstentions.

Draft resolution concerning promotion of peace as a vital requirement for the full enjoyment of all human rights by all (E/CN.4/2004/L.68)

34. Mr. LEON GONZALES (Cuba), introducing draft resolution E/CN.4/2004/L.68 on behalf of the sponsors, said that the vast majority of Commission members had voted in favour of similar draft resolutions at the previous two sessions. The draft resolution stressed the importance of broadening the role and effectiveness of the United Nations in promoting international peace, security and justice. It rejected the use of violence to achieve political goals and noted that peaceful political solutions were the only way of guaranteeing a stable and democratic future for all the peoples of the world. It called on all States to respect the provisions of the Charter of the United Nations in their international relations, irrespective of their political, economic or social systems, and their size, geographical location and level of economic development.

35. He trusted that the draft resolution would attract strong support.

36. The CHAIRPERSON announced that there was one additional sponsor, who would be mentioned in the Commission's report. The draft resolution had no financial implications.

37. Ms. WHELAN (Ireland), speaking on behalf of the European Union (EU) countries members of the Commission and Hungary in explanation of vote before the vote, said that some issues raised in the draft resolution would be better addressed in the competent forums that were

already dealing with them. The text failed to emphasize that the absence of peace did not justify failure to respect human rights. With a single focus on the relationship between States, the draft resolution disregarded the relationship between the State and its citizens and the State's responsibility for individual human rights. With those considerations in mind, countries she represented would vote against the draft resolution.

38. That explanation of vote had been agreed to by the EU as a whole and by the acceding States.

39. Mr. DELAURENTIS (United States of America) called for a vote on the draft resolution and said he would vote against it.

40. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution.

In favour: Armenia, Bahrain, Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Dominican Republic, Egypt, Eritrea, Ethiopia, Gabon, Guatemala, Indonesia, Mauritania, Nepal, Nigeria, Pakistan, Paraguay, Peru, Qatar, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Uganda, Zimbabwe.

Against: Australia, Austria, Croatia, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Republic of Korea, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Chile, Costa Rica, Honduras, India, Mexico.

41. The draft resolution was adopted by 32 votes to 15, with 6 abstentions.

Draft decision concerning human rights and human responsibilities
(E/CN.4/2004/L.79)

42. Mr. LA Yifan (China), introducing draft decision E/CN.4/2004/L.79, on behalf of the members of the Like-Minded Group, Libyan Arab Jamahiriya, Madagascar, Mauritania, Swaziland, Togo and Uganda, said that the concepts of human rights and human responsibilities referred to in the draft decision were not new. They were enshrined in a number of international human rights instruments and were common values in many parts of the world and thus warranted the Commission's attention.

43. The draft decision invited the Office of the United Nations High Commissioner for Human Rights (OHCHR) to circulate the pre-draft declaration on human social responsibilities (E/CN.4/2003/105, annex I) to Member States and to intergovernmental and non-governmental organizations, and to request their views on it. In response to suggestions made during the open-ended consultations, the words "duly structured" would be deleted from paragraph (b) of the draft decision.

44. The CHAIRPERSON informed the Commission that there were two additional sponsors of the draft decision, which had no financial implications.

45. Ms. GABR (Egypt) said that human rights were indivisible and needed to be respected as a whole. In that connection, it was important to note that the rights of the individual and of the community were mutually dependent and neither should take precedence over the other. Tolerance, respect for the rights and freedoms of others and the rejection of all forms of racism were key elements in creating a human rights culture.

46. Ms. WHELAN (Ireland), speaking on behalf of the EU as a whole and the acceding countries, said that it was regrettable that a draft decision that had been considered and rejected the previous year should have been re-submitted without any substantial changes. The EU thus opposed the draft decision, both on substantive and on procedural grounds.

47. The EU believed that the primary responsibility for the promotion and protection of human rights lay with the State. An approach to human rights that made them conditional on the performance of so-called human duties and responsibilities was contrary to the Commission's core principles and as such unacceptable.

48. While moral, ethical or philosophical considerations regarding the relationship of the individual with his or her community and the State were important, it was not acceptable that human rights should only be enjoyed or respected if the individual fulfilled his or her obligations to the community or the State. Individual human rights needed to be promoted unconditionally.

49. In addition, the issue of legal regulation of minimum standards for an individual's responsibility towards his or her community or the State did not fall within the Commission's mandate. Instead, it was incumbent on the State, within the limits established by international human rights standards and obligations, to regulate such standards within the framework of national legislation.

50. In that connection, the Universal Declaration of Human Rights and the International Bill of Human Rights limited States' ability to encroach on individual rights.

51. For those reasons, the EU had strong reservations concerning the inclusion of the issue of human responsibility on the agenda of the Commission. As stated in the past, the EU did not support the request for a study on the issue. In addition, the elaboration of a pre-draft declaration on human social responsibilities had been included in the mandate given to the Special Rapporteur of the Sub-Commission pursuant to Commission resolution 2000/63. Therefore, circulation of document E/CN.4/2003/105, annex I, or the compilation of replies received, was not the Commission's responsibility.

52. She called for a vote on the draft decision and said she would vote against it.

53. Mr. ALFONSO MARTINEZ (Cuba) said that his delegation was a long-standing supporter of a study on the question of human rights and human responsibilities. It would support the draft decision in order to give Member States and other stakeholders the opportunity to submit their views on the importance of such a study and on a relevant analysis by the Commission.

54. Cuba supported the draft decision in the spirit of the 1948 American Declaration of the Rights and Duties of Man that referred to rights and duties as complementary elements of every social and political human activity. While rights exalted individual liberty, duties expressed the dignity of that liberty. Duties and responsibilities were thus not seen as a prerequisite for the enjoyment of human rights, but as a necessary complement to those rights. It was regrettable that the close connection between those two concepts had not been taken into account in the Commission's consideration of human rights thus far.

55. At the request of the representative of Ireland, a recorded vote was taken on the draft decision, as orally revised.

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

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

Abstaining: Armenia, Eritrea.

56. The draft decision, as orally revised, was adopted by 26 votes to 25, with 2 abstentions.

Draft resolution concerning the role of good governance in the promotion of human rights (E/CN.4/2004/L.85)

57. Mr. JAKUBOWSKI (Poland), introducing draft resolution E/CN.4/2004/L.85 on behalf of the sponsors, said that the importance of good governance for the protection and promotion of human rights was increasingly recognized, as shown by the growing support for that concept in the Commission.

58. The draft text highlighted the fundamental role played by transparent, responsible, accountable and participatory government in the creation and maintenance of an environment that was conducive to the full enjoyment of all human rights. It recognized the significance of democratic values founded on the practice of good governance for the realization of human rights, and reaffirmed the importance of international and regional cooperation in facilitating the implementation of good governance practices by States. The draft resolution underlined the special role of good governance in development and poverty eradication.

59. The CHAIRPERSON informed the Committee that there were four additional sponsors of the draft resolution, which had no financial implications.

60. Mr. REYES RODRIGUEZ (Cuba) asked the Commission to postpone action on the draft resolution. As it stood, his delegation could not join the consensus on the draft text, notably because of the unacceptable reference made in the eighth preambular paragraph to a forthcoming meeting of the so-called Community of Democracies. In contrast to the

International Conference of New or Restored Democracies, which allowed for the open and democratic participation of all interested States, the so-called Community of Democracies had been created by the United States Government to manipulate and politicize international cooperation.

61. A consensus on the draft resolution was, however, important and his delegation therefore requested postponement of action to allow for further consultations.

62. The CHAIRPERSON said that action on the draft resolution would be postponed until later in the meeting to allow for further consultations with a view to facilitating a consensus on the text.

Draft resolution concerning human rights and international solidarity
(E/CN.4/2004/L.86)

63. Ms. PEREZ ALVAREZ (Cuba), introducing draft resolution E/CN.4/2004/L.86 on behalf of the sponsors, who had been joined by the Islamic Republic of Iran and Uganda, said its main objective was further progress regarding so-called “third-generation rights”, particularly the right to international solidarity within the framework of the United Nations human rights mechanisms with a view to responding to the increasing challenges faced by developing countries.

64. Democracy, development and human rights were interrelated and the fact that the benefits of globalization increasingly eluded developing countries caused grave concern. The international community was, therefore, urged to take action to promote and consolidate international development assistance with a view to facilitating the full enjoyment of human rights for all.

65. Adoption of the draft resolution would thus be an important step forward in the promotion and protection of human rights, including the right to development.

66. Mr. MAXWELL HEYWARD (Australia) said that official development assistance played a vital role in promoting good governance and human rights. International cooperation was crucial to guaranteeing equal access to the benefits of globalization. However, full realization of human rights was not contingent on international assistance as maintained in paragraph 4 of the draft resolution. It was incumbent on each State to promote and protect the human rights of its citizens, irrespective of the nature or extent of international assistance.

67. His delegation also rejected the concept of a “right to solidarity” and the idea that such a right needed further development within the United Nations system. Australia therefore called for a vote on the draft resolution and would vote against it.

68. Ms. WHELAN (Ireland), speaking in explanation of vote on behalf of the EU countries members of the Commission and Hungary, said that the EU firmly believed that States bore the primary responsibility for the promotion and protection of human rights and fundamental freedoms.

69. The EU was deeply committed to the goals set out at the Millennium Summit and was gravely concerned by the obstacles to sustained development. It would thus spare no effort to ensure the success of United Nations initiatives and follow-up on commitments undertaken at the International Conference on Financing for Development and the United Nations Conference on the Least Developed Countries.

70. However, the EU doubted the value of promoting an initiative on international solidarity that failed to take account of agreements and decisions reached in other forums, and it would therefore vote against the draft resolution.

71. That explanation of vote had been agreed to by the EU as a whole, by the acceding countries and by the candidate countries.

72. At the request of the representative of Australia, a recorded vote was taken on the draft resolution.

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

Against: Australia, Austria, Croatia, France, Germany, Hungary, Ireland, Italy, Japan, Netherlands, Republic of Korea, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Qatar.

73. The draft resolution was adopted by 37 votes to 15, with 1 abstention.

Draft resolution concerning the question of the death penalty (E/CN.4/2004/L.94)

74. Ms. WHELAN (Ireland), introducing draft resolution E/CN.4/2004/L.94 on behalf of the EU, the acceding countries and over 70 additional sponsors, said that the abolition of the death penalty contributed to the enhancement of human dignity and the progressive development of human rights.

75. The draft resolution thus called on all States to abolish capital punishment. It also urged those States that maintained the practice to progressively restrict the number of offences for which the death penalty might be imposed; to establish a moratorium on executions; to make public information on the imposition of the death penalty and the scheduling of executions; and to respect the right to a fair trial. Juvenile offenders, pregnant mothers, and mothers with dependent children should be excluded from the imposition of the death penalty. It should only be imposed for the most serious of crimes and proceedings related to capital offences should take place in strict observance of the guarantees enshrined in the International Covenant on Civil and Political Rights.

76. Mr. ATTAR (Saudi Arabia), speaking on behalf of Bahrain, China, Egypt, Eritrea, Ethiopia, Indonesia, Japan, Mauritania, Nigeria, Qatar, Saudi Arabia, Sierra Leone, the Sudan, Swaziland, Togo, Uganda and Zimbabwe, said that those countries wished to dissociate themselves from the draft resolution. An explanatory statement, which had also been agreed to by 47 observer delegations, would be circulated to the Commission.

77. Mr. DELAURENTIS (United States of America) said that international law did not prohibit the death penalty when due process safeguards were respected and when it was only imposed for the most serious of crimes.

78. The decision on the maintenance or abolition of capital punishment was one for each individual State to take. In the United States, there was ongoing public debate on the issue of the death penalty and consensus on the need for rigorous observance of due process by all concerned bodies and at all levels.

79. With those considerations in mind, his delegation called for a vote and would vote against the draft resolution.

80. Mr. SAHA (India) said that there was no consensus in the international community on the question of capital punishment. Abolition of the death penalty and consideration of the issue as a human rights concern was a progressive process.

81. In India, the death penalty was imposed only for the most serious of crimes and executions were extremely rare. Capital punishment could not be imposed on pregnant women or juvenile offenders, and the accused had the right to appeal or ask for mercy.

82. His delegation considered several elements of the draft resolution as unacceptable, such as the stipulation not to execute any person so long as any related legal procedure was pending at the national or international level; the call for a moratorium on executions; and unwarranted extradition restrictions. India therefore requested a recorded vote on paragraphs 4 (j), 5 (a) and 7 together and would vote against those paragraphs.

83. Mr. OWOSENI (Nigeria) said that legislative provisions concerning the death penalty in Nigeria were currently under review. His Government was fully committed to safeguarding the safety of its citizens while honouring its obligations under international human rights instruments, particularly with respect to the right to life.

84. While no judicial execution had taken place in recent years, the Constitution still contained provisions for imposing the death penalty in the interests of peace and security. It could, however, only be imposed for very serious crimes and in full respect of due process safeguards.

85. In the absence of an international consensus on the abolition of the death penalty, determination of the matter rested with each individual State. His delegation considered a universal decision on the question as inappropriate. Any such agreement needed to be reached through negotiations, and Nigeria would therefore vote against the draft resolution.

86. Ms. FERNANDO (Sri Lanka) said that in Sri Lanka the death penalty was imposed only for the most serious of crimes. A moratorium had been established, no execution had taken place in 25 years, and the safeguards mentioned in paragraphs 2 and 4 of the draft resolution were incorporated in national legislation.

87. Abolition of the death penalty, however, was not mandatory under any international instrument and the decision rested with each individual State. Her delegation would, therefore, abstain from voting on the draft resolution or any amendments thereto.

88. At the request of the representative of India, a recorded vote was taken on paragraphs 4 (j), 5 (a) and 7 of the draft resolution together.

In favour: Argentina, Armenia, Australia, Austria, Brazil, Chile, Congo, Costa Rica, Croatia, Dominican Republic, France, Germany, Honduras, Hungary, Ireland, Italy, Mexico, Netherlands, Paraguay, Peru, Russian Federation, South Africa, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Against: Bahrain, China, Cuba, Egypt, Eritrea, Ethiopia, India, Indonesia, Japan, Nigeria, Pakistan, Qatar, Saudi Arabia, Sierra Leone, Sudan, Swaziland, Togo, Uganda, United States of America, Zimbabwe.

Abstaining: Bhutan, Burkina Faso, Gabon, Guatemala, Nepal, Republic of Korea, Sri Lanka.

89. Paragraphs 4 (j), 5 (a) and 7 of the draft resolution were adopted by 25 votes to 20, with 7 abstentions.

90. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution as a whole.

In favour: Argentina, Armenia, Australia, Austria, Bhutan, Brazil, Chile, Congo, Costa Rica, Croatia, Dominican Republic, France, Gabon, Germany, Honduras, Hungary, Ireland, Italy, Mexico, Nepal, Netherlands, Paraguay, Peru, Russian Federation, South Africa, Swaziland, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Against: Bahrain, China, Egypt, Eritrea, Ethiopia, India, Indonesia, Japan, Mauritania, Nigeria, Pakistan, Qatar, Saudi Arabia, Sierra Leone, Sudan, Togo, Uganda, United States of America, Zimbabwe.

Abstaining: Burkina Faso, Cuba, Guatemala, Republic of Korea, Sri Lanka.

91. The draft resolution as a whole was adopted by 29 votes to 19, with 5 abstentions.

Draft decision concerning fundamental standards of humanity
(E/CN.4/2004/L.103)

92. Mr. LIED (Observer for Norway), introducing draft decision E/CN.4/2004/L.103 on behalf of the sponsors, said that the Secretary-General had submitted several useful reports to the Commission on the subject of fundamental standards of humanity, which had been on the Commission's agenda since 1995. His latest report (E/CN.4/2004/90) reflected recent developments in terms of providing protection to the individual and indicated that many of the most serious violations of human rights took place in situations of internal strife. The forthcoming study by ICRC on customary rules of international humanitarian law would provide further guidance on the issue. The draft decision emphasized that ensuring the implementation of existing norms remained central to efforts to guarantee fundamental standards of humanity and called for a new report on the issue to be submitted to the Commission at its sixty-second session. He pointed out that Norway's name had been omitted from the list of sponsors and hoped that the oversight would be remedied in the report of the session.

93. The CHAIRPERSON informed the Commission that an additional six countries wished to become sponsors of the draft decision, which had no financial implications. He took it that the Commission wished to adopt the draft decision without a vote.

94. It was so decided.

Draft decision concerning science and environment (E/CN.4/2004/L.104)

95. The CHAIRPERSON said that draft decision E/CN.4/2004/L.104 had received the support of a broad range of countries from all regional groups and the sponsors had agreed that it did not need to be formally introduced. He took it that the Commission wished to adopt it without a vote.

96. It was so decided.

Draft resolution concerning human rights defenders (E/CN.4/2004/L.107)

97. Mr. LIED (Observer for Norway) said the fact that the draft resolution he was introducing (E/CN.4/2004/L.107) had been sponsored by more than 70 countries illustrated the importance attached by the international community to the work of human rights defenders. The draft acknowledged the achievements of the Special Representative of the Secretary-General on human rights defenders and welcomed the reports she had submitted to the Commission. It reiterated the importance of the Declaration on Human Rights Defenders and called on all States to promote and give full effect to it, emphasized the important role played by individuals, NGOs and groups in the promotion and protection of human rights and noted with deep concern that, in many countries, human rights defenders were facing threats, harassment and insecurity. It urged States to ensure that anti-terrorist and security measures complied with their international obligations and did not hinder the work and safety of human rights defenders and recalled that certain rights were recognized as non-derogable in any circumstances. It further urged all Governments to cooperate with and assist the Special Representative and to investigate the

urgent appeals and allegations that she brought to their attention. He hoped that the draft resolution could be adopted without a vote, as had traditionally been the case. He pointed out that Norway's name had been omitted from the list of sponsors and hoped that the oversight would be remedied in the report of the session.

98. The CHAIRPERSON informed the Commission that an additional 20 countries wished to become sponsors of the draft resolution and that a document outlining the financial implications of the text had been circulated to members. He took it that the Commission wished to adopt the draft resolution without a vote.

99. It was so decided.

Draft resolution concerning the status of the International Covenants on Human Rights (E/CN.4/2004/L.108)

100. Mr. HALLSTROM (Observer for Finland), introducing draft resolution E/CN.4/2004/L.108 on behalf of the sponsors, said that the International Covenants on Human Rights constituted the first all-embracing and legally binding international treaties in the field of human rights. In the draft resolution, the Commission recognized the importance of those instruments and appealed strongly to all States that had not yet done so to become parties to them and to the Optional Protocols to the International Covenant on Civil and Political Rights and to review any reservations they might have. It noted the need to give further consideration to the issue of justiciability of the rights set forth in the International Covenant on Economic, Social and Cultural Rights and took note of the first session of the open-ended working group to elaborate an optional protocol to that Covenant. It further recognized the important role of the treaty bodies and reiterated that consideration should be given to the equal representation of women and men and to equitable geographical distribution of membership. In order to accommodate some of the concerns that had been raised by interested delegations during open-ended consultations regarding operative paragraph 2, the word "accede" had been replaced by the words "to consider acceding, as a matter of priority" and the word "make" had been replaced by the word "making". It was hoped that the changes, incorporated in a spirit of compromise, would result in the adoption of the draft resolution by consensus.

101. The CHAIRPERSON informed the Commission that an additional seven countries wished to become sponsors of the draft resolution and that a document outlining the financial implications of the text had been circulated to members.

102. Mr. SOBASHIMA (Japan) and Mr. THORPE (United Kingdom) said that, in view of the oral amendments read out by the observer for Finland, their delegations wished to become sponsors of the draft text.

103. Ms. GOROVE (United States of America) said that, although the draft resolution fulfilled an important role in reaffirming the value and relevance of the International Covenants on Human Rights, each sovereign State had the right to decide for itself, on the basis of its own needs and legal system, whether or not to ratify a particular instrument. She proposed that, in operative paragraph 2, the word "become" should be replaced by the words "consider as a matter of priority becoming" and that the words "as a matter of priority", as proposed by the representative of Finland, should be deleted after the words "to consider acceding". The draft

resolution should reflect the stance taken in other resolutions on the matter, namely that States should accord greater priority to becoming parties to the International Covenants than to acceding to the Optional Protocols.

104. Ms. BORSIN BONNIER (Sweden) expressed disappointment that the spirit of compromise shown by the draft resolution's sponsors was not shared by all and requested a vote on the amendments proposed by the United States representative. She appealed to all members to vote against the amendments on the ground that they challenged the two instruments that provided what was perhaps the most important foundation for the work of the Commission. Her statement had been endorsed by the delegation of Finland.

105. At the request of the representative of Sweden, a recorded vote was taken on the amendments proposed by the delegation of the United States of America.

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

Against: Argentina, Armenia, Australia, Austria, Brazil, Chile, Congo, Costa Rica, Croatia, Dominican Republic, Eritrea, Ethiopia, France, Gabon, Germany, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Russian Federation, Sierra Leone, South Africa, Sri Lanka, Swaziland, Sweden, Togo, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: Bhutan, Burkina Faso, China, Cuba, Egypt, Pakistan, Qatar, Sudan.

106. The proposed amendments were rejected by 40 votes to 5, with 8 abstentions.

107. The CHAIRPERSON said he took it that the Commission wished to adopt the draft resolution, as orally revised by the observer for Finland, without a vote.

108. It was so decided.

Draft resolution concerning the role of good governance in the promotion of human rights (continued) (E/CN.4/2004/L.85)

109. The CHAIRPERSON said that, as the necessary consultations had been held, the Commission could resume its consideration of draft resolution E/CN.4/2004/L.85.

110. Mr. MARTABIT (Chile), speaking on behalf of the convening countries of the Community of Democracies, namely the Czech Republic, India, the Republic of Korea, Mali, Mexico, Poland, Portugal, South Africa and the United States of America and Chile and also on behalf of Italy, Peru and Romania, said that good governance played a fundamental role in creating and maintaining an atmosphere conducive to the full enjoyment of human rights and that transparent, accountable and participatory government was the foundation on which good governance rested. A central element of the draft resolution was the recognition that good governance and the building of effective democratic institutions were a continuous process for

all Governments, regardless of the level of development of the countries concerned. A relatively low level of development did not justify a failure to create effective and efficient democratic institutions and should not pose an obstacle to good governance. The draft text also highlighted the positive impact of good governance on development and poverty eradication.

111. The forthcoming meeting of the Community of Democracies to be held in Chile in 2005 was important in that it would contribute to strengthening the democratic values that were based on good governance. International and regional cooperation, when required by the States in need, facilitated the implementation of good governance practices at all levels. The seminar to be held in Seoul in August 2004 in accordance with Commission resolutions 2002/76 and 2003/65 would focus on the essential elements of good governance, including promoting the rule of law and strengthening the delivery of services contributing to the realization of human rights, as well as on international cooperation in support of national good governance practices. He hoped that the draft resolution would be adopted by consensus.

112. Mr. REYES RODRIGUEZ (Cuba) said that his delegation attached great importance to the process of good governance in the management of public affairs and recognized that one of the criteria for good governance was the need to end impunity for human rights violations. Notwithstanding its major shortcomings, the draft resolution did cover some fundamental points and therefore, in a spirit of compromise, his delegation would not ask that it be put to the vote. However, it requested a separate vote on the eighth preambular paragraph, which placed high expectations on the meeting of the Community of Democracies. The Community had been created at the initiative of the United States as part of a politicized effort to discriminate against certain States, unlike the International Conference of New or Restored Democracies, which had been convoked in the framework of the United Nations and was truly democratic and open to all. His delegation firmly believed that the paragraph in question should be deleted, as it undermined the value of the draft text.

113. Ms. Ji-Ah PAIK (Republic of Korea) said that, traditionally, her delegation had sponsored the Commission's resolutions on good governance. As reflected in the draft resolution before the Commission, her Government would soon be hosting a seminar on good governance practices in cooperation with OHCHR and the United Nations Development Programme (UNDP). The seminar, the report of which would be submitted at the next session of the Commission, would provide an excellent opportunity for the international community to reflect on the essential elements of good governance and particularly on its role in the promotion of human rights. Her delegation counted on the active participation at the seminar of Governments, national human rights institutions, relevant international bodies and NGOs and would do its utmost to ensure a successful outcome.

114. Mr. MARTABIT (Chile) said that it was regrettable to hold a vote on part of a draft text that deserved to be adopted by consensus. The concerns that had been expressed about the meeting of the Community of Democracies to be held in Chile were totally unwarranted. The meeting would involve the participation of a significant number of States, international organizations and representatives of civil society and would contribute to the delicate process of good governance. Good governance was an issue that affected all States without exception.

115. Mr. REYES RODRIGUEZ (Cuba) said that his delegation's main concern was that participation at the meeting in Chile was not open to all; indeed, Cuba was one of the States that would not be invited to attend. The meeting was fundamentally anti-democratic and exclusive.

116. Mr. VLASSOV (Russian Federation) said that, although his delegation supported the adoption of the draft resolution, it believed that all States should be able to participate in the meetings of the Community of Democracies.

117. At the request of the representative of Cuba, a recorded vote was taken on the eighth preambular paragraph of the draft resolution.

In favour: Argentina, Armenia, Australia, Austria, Bahrain, Bhutan, Brazil, Burkina Faso, Chile, Congo, Costa Rica, Croatia, Dominican Republic, France, Germany, Guatemala, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Qatar, Republic of Korea, Russian Federation, Sierra Leone, South Africa, Sri Lanka, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Zimbabwe.

Against: Cuba.

Abstaining: China, Egypt, Eritrea, Ethiopia, Gabon, Mauritania, Pakistan, Saudi Arabia, Sudan, Swaziland, Togo.

118. The eighth preambular paragraph was adopted by 41 votes to 1, with 11 abstentions.

119. Mr. REYES RODRIGUEZ (Cuba) said that, although his delegation would not block the consensus on the draft resolution, it reserved the right to call for a vote at future sessions if reference to the meeting of the Community of Democracies was retained in draft resolutions on the issue of good governance.

120. The CHAIRPERSON said he took it that the Commission wished to adopt the draft resolution as a whole without a vote.

121. It was so decided.

Draft resolution concerning follow-up to the United Nations Decade for Human Rights Education (E/CN.4/2004/L.109)

122. Mr. GONZALEZ-SANZ (Costa Rica), introducing draft resolution E/CN.4/2004/L.109 on behalf of the sponsors, said that his country had been working for many years to promote human rights education. Thanks to the fruitful dialogue that had been established and the substantive contributions of other delegations and NGOs, his delegation had been able to prepare the text that was before the Commission. It called on the General Assembly to proclaim a world programme for human rights education, structured in consecutive phases, in order to maintain and develop the implementation of human rights education programmes in all sectors and requested OHCHR to prepare a plan of action for the first phase, focusing on primary and secondary education. Human rights education was a lifelong process which helped to strengthen national capacities and could be tailored to the needs of each country. It contributed to the

creation of just societies and the establishment of peace and democracy. Human rights education was central to the work of the Commission and deserved the attention and support of the international community. Although there had been some disagreement regarding the form of the draft resolution, there had been an unambiguous consensus as to the importance of human rights education.

123. The CHAIRPERSON informed the Commission that an additional 18 countries wished to become sponsors of the draft resolution, which had no financial implications. He took it that the Commission wished to adopt the draft resolution without a vote.

124. It was so decided.

Draft resolution concerning impunity (E/CN.4/2004/L.110)

125. Mr. VON KAUFMANN (Observer for Canada), introducing draft resolution E/CN.4/2004/L.110 on behalf of the sponsors, said that it was designed to support national and international efforts to bring to justice the perpetrators of violations of human rights and international humanitarian law that constituted crimes. Among other things, it requested the Secretary-General to appoint an independent expert to update the Set of Principles for the protection and promotion of human rights through action to combat impunity, prepared by the Sub-Commission in 1997. His delegation had held four rounds of open consultations with a view to reaching consensus.

126. The CHAIRPERSON informed the Commission that there were 14 additional sponsors, and that the draft resolution had financial implications, details of which had been circulated to members.

127. Ms. GOROVE (United States of America) said that her delegation's request for the language of the draft resolution pertaining to the International Criminal Court to remain factual and neutral had not been granted. Therefore she proposed a number of amendments. The eighth preambular paragraph should be replaced by the words "*Recognizing* that justice is best achieved through functioning national judicial systems that serve to bring alleged criminals to justice so as to end impunity"; operative paragraph 8 should be deleted in its entirety; and, in paragraph 9, the words "that States parties have endorsed" should replace "the fundamental importance of", and the word "stresses" should be deleted.

128. At the request of the representative of Ireland, a recorded vote was taken on the amendment to the eighth preambular paragraph of the draft resolution, proposed by the delegation of the United States of America.

In favour: Bahrain, Bhutan, Eritrea, India, Indonesia, Pakistan, Qatar, Saudi Arabia, United States of America.

Against: Argentina, Armenia, Australia, Austria, Brazil, Burkina Faso, Chile, Congo, Costa Rica, Croatia, Dominican Republic, Egypt, Ethiopia, France, Germany, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Mexico, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea,

Russian Federation, Sierra Leone, South Africa, Sudan, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: China, Cuba, Gabon, Mauritania, Nepal, Sri Lanka, Swaziland, Togo.

129. The proposed amendment to the eighth preambular paragraph of the draft resolution was rejected by 36 votes to 9, with 8 abstentions.

130. At the request of the representative of Ireland, a recorded vote was taken on the amendment to paragraph 8 of the draft resolution, proposed by the delegation of the United States of America.

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

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

Abstaining: Bhutan, Burkina Faso, China, Cuba, Egypt, Gabon, Indonesia, Mauritania, Nepal, Pakistan, Sri Lanka, Swaziland, Togo.

131. The proposed amendment to paragraph 8 of the draft resolution was rejected by 35 votes to 5, with 13 abstentions.

132. At the request of the representative of Ireland, a recorded vote was taken on the amendment to paragraph 9 of the draft resolution, proposed by the delegation of the United States of America.

In favour: Eritrea, Ethiopia, India, Mauritania, Pakistan, Qatar, Saudi Arabia, United States of America.

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

Abstaining: Bhutan, China, Cuba, Egypt, Gabon, Indonesia, Nepal, Sri Lanka, Sudan, Swaziland, Togo.

133. The proposed amendment to paragraph 9 of the draft resolution was rejected by 34 votes to 8, with 11 abstentions.

134. Ms. GOROVE (United States of America), explaining her delegation's position on the draft resolution as a whole, said that it supported the overall aims of the draft resolution. However, future resolutions on impunity should emphasize the duty of States to ensure that legal rights and obligations derived from judicial systems established, implemented and monitored by democratically elected governments. The draft resolution overemphasized the role of the International Criminal Court and international tribunals, since justice was best achieved through functioning national judicial systems. The United States would act consistently with international treaties to which it was a party, but the authority to prosecute crimes derived from the United States Constitution and criminal statutes. Criminal proceedings against United States military personnel must be pursuant to the requirements of the United States Code of Military Justice or Federal and State Criminal Codes. On that basis, her delegation would join the consensus on the draft resolution.

135. Mr. VLASSOV (Russian Federation), explaining his delegation's position on the draft resolution as a whole, said that it opposed the appointment of an independent expert, provided for in paragraph 20 of the draft resolution. Duplication of work already occurred among existing special procedures. Moreover, a new special procedure was unlikely to help resolve the problem of impunity, since States must bear responsibility for strengthening judicial systems at the national level.

136. Mr. SARAN (India), explaining his delegation's position on the draft resolution as a whole, said that it was also concerned by the unstructured proliferation of special mechanisms. In view of the lack of resources for existing mechanisms, as well as the recommendation by the Secretary-General to rationalize special procedures, he deeply regretted the appointment of an independent expert on impunity. Nevertheless, India was prepared to join the consensus on the draft resolution.

137. The draft resolution was adopted without a vote.

Draft decisions recommended to the Commission by the Sub-Commission in its report (E/CN.4/2004/2-E/CN.4/Sub.2/2003/43, chapter I)

Draft decision 2: Human rights and bioethics

138. Mr. DELAURENTIS (United States of America) expressed concern over the duplication of work within the Sub-Commission. Given that the proposed study was unlikely to be consistent with work already being undertaken by other United Nations agencies, he requested a vote on the draft decision and said he would vote against it.

139. At the request of the representative of the United States of America, a recorded vote was taken on the draft decision.

In favour: Argentina, Armenia, Australia, Austria, Bahrain, Bhutan, Brazil, Burkina Faso, Chile, China, Congo, Costa Rica, Croatia, Cuba, Dominican Republic, Eritrea, Ethiopia, France, Gabon, Germany, Guatemala, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan,

Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Russian Federation, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Togo, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against: Egypt, United States of America.

Abstaining: Saudi Arabia.

140. The draft decision was adopted by 50 votes to 2, with 1 abstention.

Draft decision 3: United Nations Decade for Human Rights Education, 1995-2004

141. Mr. GONZÁLEZ-SANZ (Costa Rica) said that the draft decision should be amended to refer to the proclamation of a world programme for human rights education, in accordance with the resolution on the follow-up to the United Nations Decade for Human Rights Education (E/CN.4/2004/L.109), adopted earlier in the meeting.

142. The draft decision, as orally amended, was adopted without a vote.

Draft decision 6: Human rights implications, particularly for indigenous people, of the disappearance of States for environmental reasons

143. Ms. REES (United Kingdom), introducing a proposed amendment to draft decision 6 of the Sub-Commission (E/CN.4/2004/L.49), said that it was inappropriate for the Sub-Commission to request the Secretary-General to produce a report on the human rights implications arising from the disappearance of States for environmental reasons. As the subsidiary expert body of the Commission, the Sub-Commission was best placed to produce such a report. Furthermore, it was premature to establish a working group to consider the final report before work had even started on an initial study.

144. The CHAIRPERSON said that the amended draft decision had financial implications, details of which had been circulated to members.

145. The draft decision, as amended by the United Kingdom, was adopted without a vote.

Draft decision 7: Universal implementation of international human rights treaties

146. The CHAIRPERSON said that the draft decision had financial implications, details of which had been circulated to members.

147. The draft decision was adopted without a vote.

Draft decision 10: Prevention of human rights violations caused by the availability and misuse of small arms and light weapons

148. The CHAIRPERSON said that the draft decision had no financial implications.

149. Mr. DELAURENTIS (United States of America) said that, since the author of the questionnaire was no longer a member of the Sub-Commission, it would be inappropriate to approve the action requested in the draft decision. He therefore called for a vote on the draft decision and said he would vote against it.

150. At the request of the representative of the United States of America, a recorded vote was taken on the draft decision.

In favour: Argentina, Armenia, Australia, Austria, Bhutan, Brazil, Burkina Faso, Chile, China, Congo, Costa Rica, Croatia, Cuba, Dominican Republic, Egypt, Eritrea, France, Gabon, Germany, Guatemala, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Russian Federation, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Togo, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against: Ethiopia, United States of America.

Abstaining: Bahrain, Saudi Arabia.

151. The draft decision was adopted by 49 votes to 2, with 2 abstentions.

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS:

(a) TREATY BODIES

(b) NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS

(c) ADAPTATION AND STRENGTHENING OF THE UNITED NATIONS MACHINERY FOR HUMAN RIGHTS

(agenda item 18) (continued) (E/CN.4/2004/L.83)

Draft resolution concerning the composition of the staff of the Office of the United Nations High Commissioner for Human Rights (E/CN.4/2004/L.83)

152. Mr. FERRER RODRIGUEZ (Cuba), introducing draft resolution E/CN.4/2004/L.83 on behalf of the sponsors, said that it was designed to correct the unbalanced geographical distribution of the staff of OHCHR. Among other things, it requested the High Commissioner to prepare a comprehensive action plan and to submit a report on its implementation to the Commission at its sixty-first session.

153. Mr. MAXWELL HEYWARD (Australia) said that the fundamental principle involved in the staffing of OHCHR was the effectiveness and efficiency of its operation. It was the responsibility of the High Commissioner to determine how best to achieve those objectives, bearing in mind the relevant rules set by the General Assembly and its subsidiary bodies. The recruitment process should take the relative merit of applicants as its primary consideration. It was inappropriate for the Commission to interfere with the role of the High Commissioner in the manner indicated. He therefore called for a vote on the draft resolution and said he would vote against it.

154. Ms. WHELAN (Ireland), speaking in explanation of vote before the vote, on behalf of the EU and associated countries, said that she intended to vote against the draft resolution because, pursuant to Article 11 of the Charter, the General Assembly was the only competent body for dealing with administrative, budgetary and human resource issues. Pursuant to Article 97 of the Charter, the Secretary-General was the chief administrator of the Organization and of the staff required. In accordance with Article 101, the paramount consideration in the employment of staff should be the necessity of securing the highest standards of competence, efficiency and integrity. The EU supported efforts to improve the composition of staff, in order to ensure gender balance and equitable geographical distribution within the United Nations. However, it was the exclusive responsibility of the Fifth Committee of the General Assembly to carry out a thorough analysis of posts and to adopt geographical and other rules.

155. At the request of the representative of Australia, a recorded vote was taken on the draft resolution.

In favour: Argentina, Armenia, Bahrain, Bhutan, Burkina Faso, Chile, China, Congo, Croatia, Cuba, Dominican Republic, Egypt, Eritrea, Ethiopia, Gabon, Honduras, India, Indonesia, Mauritania, Mexico, Nepal, Nigeria, Pakistan, Paraguay, Qatar, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Uganda, Zimbabwe.

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

Abstaining: Brazil, Costa Rica, Guatemala, Peru.

156. The draft resolution was adopted by 35 votes to 14, with 4 abstentions.

The meeting rose at 1 p.m.