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COMMISSION ON HUMAN RIGHTS
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Agenda item 8

**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE**

**Libyan Arab Jamahiriya (on behalf of the Arab Group)*,
Malaysia: draft resolution**

**2005/... Israeli settlements in the Occupied Palestinian Territory, including
East Jerusalem, and the occupied Syrian Golan**

The Commission on Human Rights,

Guided by the principles of the Charter of the United Nations, and affirming the inadmissibility of the acquisition of territory by force,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms, as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable instruments,

Recalling relevant resolutions of the Commission, the Security Council and the General Assembly, most recently General Assembly resolution 59/123 of 10 December 2004 in which it reaffirmed, inter alia, the illegality of the Israeli settlements in the occupied territories,

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Mindful that Israel is a party to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable de jure to Palestinian and all Arab territories occupied by Israel since 1967, including East Jerusalem and the Syrian Golan, and recalling the declaration adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention, held in Geneva on 5 December 2001,

Considering that the transfer by the occupying Power of parts of its own civilian population into the territory it occupies constitutes a breach of the Fourth Geneva Convention and relevant provisions of customary law, including those codified in Additional Protocol I to the Geneva Conventions,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, and its conclusion that the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law,

Recalling also General Assembly resolution ES-10/15 of 20 July 2004,

Recalling further its attachment to the implementation by both parties of their obligations under the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict (S/2003/529), which was endorsed by the Security Council in resolution 1515 (2003) of 19 November 2003, and noting in particular its call for a freeze on all settlement activity,

Expressing its concern that continuing Israeli settlement activity undermines the realization of a two-State solution,

Noting the potential of the announced withdrawals by Israel, the occupying Power, from the Gaza Strip and from certain parts of the northern West Bank, which can represent a step towards the implementation of the Quartet road map and a two-State solution, provided that they take place within the context of the road map and that they should not involve transfer of settlement activity to the West Bank, that there should be an organized and negotiated handover of responsibility to the Palestinian Authority and that Israel should facilitate the rehabilitation and reconstruction of the Gaza Strip,

Expressing grave concern about the continuing construction, contrary to international law, by Israel of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem, and expressing its concern in particular about the route of the wall in departure from the Armistice Line of 1949, which could prejudice future negotiations and make the two-State solution physically impossible to implement and which is causing the Palestinian people further humanitarian hardship,

Deeply concerned that the wall's route has been traced in such a way as to include the great majority of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem,

Expressing its concern at the failure of the Government of Israel to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,

1. *Welcomes* the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (E/CN.4/2005/29 and Add.1) and calls upon the Government of Israel to cooperate with the Special Rapporteur to allow him fully to discharge his mandate;

2. *Welcomes* the understandings by both parties at the Sharm el-Sheikh Summit, held on 8 February 2005, to stop all acts of violence as well as the positive steps taken by them in fulfilment of these understandings and urges them to enhance a new spirit of cooperation and to promote an atmosphere conducive to the establishment of peace and coexistence;

3. *Expresses its grave concern* at:

(a) The continuing Israeli settlement and related activities, in violation of international law, including the expansion of settlements, the expropriation of land, the demolition of houses, the confiscation and destruction of property, the expulsion of Palestinians and the construction of bypass roads, which change the physical character and demographic composition of the occupied territories, including East Jerusalem and the Syrian Golan, and constitute a violation of the Geneva Convention relative to the Protection of Civilian Persons in

Time of War, of 12 August 1949, and in particular article 49 of that Convention; settlements are a major obstacle to the establishment of a just and comprehensive peace and to the creation of an independent, viable, sovereign and democratic Palestinian State;

(b) The new construction plan by the Government of Israel announced on 21 March 2005 for a project of 3,500 additional housing units in Maale Adumim and the planned expansion of two other settlement blocks in the West Bank, and deplores the negative impact of these plans on the confidence between the two parties at a time when a genuine window of opportunity exists to relaunch the peace process, as the continuation of settlement activities by Israel, the occupying Power, would be a violation of international humanitarian law, the relevant United Nations resolutions and Israeli commitments in the context of the road map;

(c) The continued closures of and within the Occupied Palestinian Territory and the restriction of the freedom of movement of people and goods, including the extensive curfews imposed for long periods of time, which do not contribute to restoring confidence and reinforcing the ongoing dialogue between the two parties, and have caused an extremely precarious humanitarian situation for the civilian population as well as impaired the economic and social rights of the Palestinian people;

(d) The continued construction, contrary to international law, of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem;

4. *Takes note with satisfaction* of the resumption of the dialogue between the parties and the steps forward taken, and urges the Government of Israel:

(a) To reverse the settlement policy in the occupied territories, including East Jerusalem and the Syrian Golan and, as a first step towards their dismantlement, to stop immediately the expansion of the existing settlements, including “natural growth” and related activities;

(b) To prevent any new installation of settlers in the occupied territories;

5. *Demands* that Israel implement the recommendations regarding the settlements made by the then United Nations High Commissioner for Human Rights in her report to the Commission at its fifty-seventh session on her visit to the occupied Palestinian territories, Israel, Egypt and Jordan (E/CN.4/2001/114);

6. *Calls upon* Israel to take and implement serious measures, including confiscation of arms and enforcement of criminal sanctions, with the aim of preventing acts of violence by Israeli settlers, and other measures to guarantee the safety and protection of the Palestinian civilians and Palestinian properties in the Occupied Palestinian Territory, including East Jerusalem;

7. *Demands* that Israel, the occupying Power, comply fully with its legal obligations, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice;

8. *Urges* the parties to seize the opportunity offered by the current political context to give renewed impetus to the peace process and to implement fully the road map endorsed by the Security Council in resolution 1515 (2003), with the aim of reaching a comprehensive political settlement in accordance with the resolutions of the Council, including resolutions 242 (1967) and 338 (1973), and other relevant United Nations resolutions, the principles of the Peace Conference on the Middle East, held in Madrid on 30 October 1991, the Oslo Accords and subsequent agreements, which will allow two States, Israel and Palestine, to live in peace and security;

9. *Decides* to continue its consideration of this question at its sixty-second session.
