



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2004/L.18
7 April 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Agenda item 10

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Congo (on behalf of States members of the African Group): draft resolution

2004/... Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Vienna Declaration and Programme of Action, particularly on the question of the human rights of everyone to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work,

Recalling its earlier resolutions on the subject, in particular, resolution 2003/20 of 22 April 2003,

Taking into consideration the Declaration and Plan of Implementation adopted by the World Summit on Sustainable Development held in Johannesburg, South Africa, in September 2002,

Welcoming the entry into force of the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (“the Rotterdam Convention”) as a key instrument providing States with a major tool to reduce the risks associated with pesticide use,

Affirming that the illicit movement and dumping of toxic and dangerous products and wastes constitute a serious threat to human rights, including the rights to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work, particularly of individual developing countries that do not have the technologies to process them,

Noting that the Stockholm Convention on Persistent Organic Pollutants has the potential to address serious issues of concern, especially for developing countries,

Reaffirming that the international community must treat all human rights in a fair and equal manner, on the same footing and with the same emphasis,

Reiterating that all human rights are universal, indivisible, interdependent and interrelated,

Reaffirming General Assembly resolution 50/174 of 22 December 1995 on strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity,

Mindful of the call by the World Conference on Human Rights on all States to adopt and vigorously implement existing conventions relating to the dumping of toxic and dangerous products and wastes and to cooperate in the prevention of illicit dumping,

Aware of the increasing rate of illicit movement and dumping by transnational corporations and other enterprises from industrialized countries of hazardous and other wastes in developing countries that do not have the national capacity to deal with them in an environmentally sound manner,

Aware also that many developing countries do not have the national capacities and technologies to process such wastes in order to eradicate or diminish their adverse effects on human rights, including the rights to life, the enjoyment of the highest attainable standard of physical and mental health, and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work,

1. *Takes note* of the report of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/2004/46 and Add.1 and Add.1/Corr.1 and Add.2 and 3);
2. *Appreciates* the efforts made by the Special Rapporteur in carrying out her mandate in the face of very limited financial resources;
3. *Categorically condemns* the illicit dumping of toxic and dangerous products and wastes in developing countries;
4. *Reaffirms* that illicit traffic in and dumping of toxic and dangerous products and wastes constitute a serious threat to human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work;
5. *Urges* all Governments to take appropriate legislative and other measures, in line with their international obligations, to prevent the illegal international trafficking in toxic and hazardous products and wastes, the transfer of toxic and hazardous products and wastes through fraudulent waste-recycling programmes, and the transfer of polluting industries, industrial activities and technologies, which generate hazardous wastes, from developed to developing countries;

6. *Invites* the United Nations Environment Programme, the secretariats for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Pesticides in International Trade, the Commission on Sustainable Development, the International Register of Potentially Toxic Chemicals, the Food and Agriculture Organization of the United Nations, the International Labour Organization, the World Health Organization and regional organizations to continue to intensify their coordination and international cooperation and technical assistance on environmentally sound management of toxic chemicals and hazardous wastes, including the question of their transboundary movement;

7. *Requests* the Governments of developed countries, together with international financial institutions, to provide financial assistance to African countries for the implementation of the Programme of Action adopted at the First Continental Conference for Africa on the Environmentally Sound Management of Unwanted Stocks of Hazardous Wastes and Their Prevention, held in Rabat, from 8 to 12 January 2001;

8. *Expresses its appreciation* to the relevant United Nations bodies, in particular the United Nations Environment Programme and the secretariat for the Basel Convention, for the support extended to the Special Rapporteur and urges them and the international community to continue to give her the necessary support to enable her to discharge her mandate;

9. *Urges* the international community and the relevant United Nations bodies, in particular the United Nations Environment Programme and the secretariat for the Basel Convention, to continue to give appropriate support to developing countries, upon their request, in their efforts to implement the provisions of existing international and regional instruments controlling the transboundary movement and dumping of toxic and dangerous products and wastes in order to protect and promote human rights, including the rights to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to water, food, adequate housing and work;

10. *Urges* all Governments to ban the export of toxic and dangerous products, substances, chemicals, pesticides and persistent organic pollutants that are banned or severely restricted in their own countries;
11. *Calls upon* countries that have not done so to consider ratifying the Rotterdam Convention;
12. *Urges* States to strengthen the role of national environmental protection agencies and non-governmental organizations, local communities and associations, trade unions, workers and victims, and provide them with the legal and financial means to take necessary action;
13. *Urges* human rights bodies to be more systematic in addressing violations of rights associated with the practices of multinational companies, toxic waste and other environmental problems;
14. *Decides* to extend the mandate of the Special Rapporteur for a further three years;
15. *Urges* the Special Rapporteur to continue to undertake, in consultation with the relevant United Nations bodies, organizations and the secretariats of relevant international conventions, a global, multidisciplinary and comprehensive study of existing problems and new trends of and solutions to illicit traffic in and dumping of toxic and dangerous products and wastes, in particular in developing countries, with a view to making concrete recommendations and proposals on adequate measures to control, reduce and eradicate these phenomena;
16. *Invites* the Special Rapporteur, in accordance with her mandate, to include in her report to the Commission at its sixty-first session comprehensive information on:
 - (a) Persons killed, maimed or otherwise injured in developing countries through the illicit movement and dumping of toxic and dangerous products and wastes;
 - (b) The question of the impunity of the perpetrators of these heinous crimes, including racially motivated discriminatory practices, and to recommend measures to bring them to an end;
 - (c) The question of rehabilitation of and assistance to victims;

(d) The scope of national legislation in relation to transboundary movement and dumping of toxic and dangerous products and wastes;

(e) The question of fraudulent waste-recycling programmes, the transfer of polluting industries, industrial activities and technologies from the developed to developing countries and their new trends, including e-waste and dismantling of ships, ambiguities in international instruments that allow illegal movement and dumping of toxic and dangerous products and wastes, and any gaps in the effectiveness of the international regulatory mechanisms;

17. *Encourages* the Special Rapporteur, in accordance with her mandate and with the support and assistance of the Office of the United Nations High Commissioner for Human Rights, to continue to provide Governments with an appropriate opportunity to respond to allegations transmitted to her and reflected in her report, and to have their observations reflected in her report to the Commission;

18. *Reiterates its call* to the Secretary-General to continue to make all necessary resources available for the Special Rapporteur to carry out her mandate successfully and, in particular:

(a) To provide her with adequate financial and human resources, including administrative support;

(b) To provide her with the necessary specialized expertise to enable her to carry out her mandate fully;

(c) To facilitate her consultations with specialized institutions and agencies, in particular with the United Nations Environment Programme and the World Health Organization, with a view to improving the provision by such institutions and agencies of technical assistance to Governments which request it and appropriate assistance to victims;

19. *Decides* to continue consideration of this question at its sixty-first session, under the same agenda item;

20. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2004/... of ... April 2004, endorses the decision of the Commission to extend the mandate of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights for a further three years.”
