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SUMMARY RECORD OF THE 55th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 19 April 2004, at 3 p.m.

Chairperson: Mr. SMITH (Australia)

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The meeting was called to order at 3 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (*continued*)

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEM 10 (*continued*)

Draft resolution E/CN.4/2004/L.38 (Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights) and the amendment submitted by Saudi Arabia and revised by Pakistan (E/CN.4/2004/L.67/Rev.1) (*continued*)

Explanations of vote before the vote

1. Mr. WANG Min (China) said that his country, which attached great importance to the realization of economic, social and cultural rights, had participated actively in the meetings of the working group established to elaborate an optional protocol and highly appreciated the work carried out in that regard by Portugal. Believing that it was reasonable and in the interest of all countries to ask the working group to analyse the obstacles facing developing countries in the realization of those rights and to stress international cooperation, China supported the amendment contained in document E/CN.4/2004/L.67/Rev.1.
2. Ms. WHELAN (Ireland), speaking on behalf of the European Union and the European Union Accession States, said that draft resolution reflected a careful balance and that paragraph 14 closely followed the recommendation of the working group and had been the subject of a broad convergence of views. The new proposed request to the working group compromised that balance and ran counter to the spirit of consensus which should guide the working group. Thus, the European Union was opposed to the proposed amendment.
3. Ms. GABR (Egypt) said that her delegation would vote in favour of the amendment, whose sole aim was to ensure the implementation of one of the essential provisions of the Covenant, namely article 2, which stipulated that States parties undertook to take steps, notably through international assistance and cooperation, with a view to achieving progressively the full realization of economic, social and cultural rights.
4. Mr. REYES RODRIGUEZ (Cuba) said that, far from compromising the draft resolution, the proposed amendment supplemented and strengthened it. It was in conformity with the Covenant, would make a perceptible contribution to the progressive realization of economic, social and cultural rights and, for the first time, would allow solidarity to be imposed by virtue of an international human rights instrument. For those reasons, the Cuban delegation would vote in favour of the proposed amendment.
5. Mr. SINGH PURI (India) said that he, too, would vote in favour of the proposed amendment, which enriched the initial draft by helping to improve prospects for the realization of economic, social and cultural rights.
6. Mr. MONTWEDI (South Africa) reiterated his support for the proposed amendment.

7. Mr. DUPONT (Argentina) said that he would vote against the proposed amendment and stressed that, although it was essential to help developing countries overcome the obstacles to the realization of economic, social and cultural rights, it was even more important that they each became aware of their problems and tried to remedy them. The Covenant was the result of a delicate balance which must be preserved.

8. *At the request of the representative of Ireland, a registered vote was taken on the proposed amendment contained in document E/CN.4/2004/L.67/Rev.1.*

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

Against: Argentina, Armenia, 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: Burkina Faso, Indonesia.

9. *The amendment was rejected by 26 votes to 25, with 2 abstentions.*

10. The CHAIRPERSON recalled that the Australian delegation had proposed replacing the word “Welcomes” by “Takes note of” at the beginning of paragraph 13 of the draft resolution.

11. *At the request of the representative of Ireland, a registered vote was taken on the amendment proposed by Australia.*

In favour: Australia, Bahrain, Bhutan, Ethiopia, India, Indonesia, Pakistan, Saudi Arabia, Sudan, United States of America.

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

Abstaining: China, Egypt, Eritrea, Mauritania, Nepal, Qatar, Togo.

12. *The proposed amendment was rejected by 36 votes to 10, with 7 abstentions.*

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

In favour: Argentina, Armenia, Austria, Bhutan, Brazil, Burkina Faso, Chile, China, Congo, Costa Rica, Croatia, Cuba, Dominican Republic, Egypt, Eritrea, Ethiopia, France, Gabon, Germany, Guatemala, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, 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: None.

Abstaining: Australia, Bahrain, Qatar, Saudi Arabia, United States of America.

14. *The draft resolution was adopted by 48 votes to none, with 5 abstentions.*

Explanations of vote after the vote on draft resolutions relating to agenda item 10

15. Mr. CHUMAREV (Russian Federation), referring to draft resolution E/CN.4/2004/L.38, said that all the conditions had been met for the working group to start on the actual elaboration of the provisions of the optional protocol, and he hoped that a broad discussion would take place before the end of the working group's second session. It was his understanding that the special rapporteurs to which reference was made in subparagraph 14 (d) (iv) of the draft resolution were those who actually dealt with economic, social and cultural rights.

16. Mr. UMER (Pakistan) regretted that the amendment which his delegation had proposed to draft resolution E/CN.4/2004/L.38 to address the lack of any explicit reference to the inseparable link between international cooperation and the realization of economic, social and cultural rights had not been approved. Pakistan hoped that the developing countries would make their voices heard on that subject in the working group; for its part, it would spare no effort in that regard. His delegation had voted in favour of draft resolution E/CN.4/2004/L.38 because of the importance which it attached to the realization of economic, social and cultural rights.

17. Mr. SINGH PURI (India) said that, while energetically supporting the proposed amendment (document E/CN.4/2004/L.67/Rev.1), which had unfortunately been rejected, his delegation had voted in favour of draft resolution E/CN.4/2004/L.38 as a whole because of its firm commitment to the full realization of economic, social and cultural rights. It would continue to stress, both in the working group and elsewhere, the need for international cooperation as well as the importance of identifying obstacles facing developing countries.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO
AGENDA ITEM 11

Draft resolution E/CN.4/2004/L.42 (Enhancing the role of regional, subregional and other organizations and arrangements in promoting and consolidating democracy)

18. Mr. COSTEA (Romania) introduced the draft resolution on behalf of its main sponsors, namely Peru, the United States of America, Timor Leste and Romania, countries very different in size, development, religion and the age of their democracy. Seventy-three other countries had sponsored the draft resolution, which constituted a new cross-regional initiative to strengthen cooperation among countries seeking to work more actively to promote democracy. The main purpose of the draft resolution was to emphasize the importance of the role that regional and subregional organizations could play in promoting democracy, taking into account their knowledge of the specific needs of each region. The draft resolution recognized that democracy could contribute substantially to preventing conflicts and accelerating reconstruction and reconciliation and that the mandates of peacekeeping operations should include relevant objectives to that effect. It called upon the Office of the High Commissioner for Human Rights to consider the designation of a focal point to assist member States in facing challenges to democratic governance.

19. The draft resolution's sponsors acknowledged that building democratic societies had to take account of regional particularities and noted that the United Nations could support national programmes to that end when so requested by States. Bearing in mind the need for streamlining and efficiency, they had given the draft resolution a new focus, had not repeated any of the paragraphs already adopted by the Commission except for one and had reduced the preamble to a minimum. They hoped that the draft resolution would be adopted by a broad majority. Two editing changes needed to be made in the English version of the draft resolution: in paragraph 4, the word "the" should be deleted before "democratic", and in paragraph 8, an "s" should be added to "material".

20. The CHAIRPERSON informed the Commission that there were 45 additional sponsors of the draft resolution, which did not have budgetary implications.

21. Mr. VEGAS TORRES (Peru) said that the recent history of Latin America had shown that international organizations, and in particular regional and subregional ones, could play a vital role in protecting and consolidating democracy, which was essential to achieving full respect for human rights. In Peru, the State and civil society had undertaken to build a more participatory democracy, one in which human rights were respected, the aspirations of citizens were of primary importance, and everyone's quality of life made tangible progress. But that was a long and arduous task which called for patience, an organizational spirit, a gradual strengthening of institutions, a collective commitment and positive international encouragement.

22. His delegation was proud to have taken part, together with delegations from 12 other democratic countries from all regions and cultures of the world, in the start of a process of dialogue and cooperation aimed at strengthening the system of universal human rights protection. The draft resolution under consideration was part of that process.

23. Ms. HERRERA (Cuba) said that unfortunately, an attempt was being made to suggest that there was only one model of democracy, thereby disregarding the wealth and diversity of democracies in the world as well as the conclusions of the seminar of experts set out in the report contained in document E/CN.4/2003/59, according to which "there is no single model of democracy or of democratic institutions" [...]; each society [...] has its own indigenous and democratic institutional traditions". The draft resolution ignored, to the detriment of the developing countries, one of the pillars of democracy, namely the right of peoples freely to choose their political system and mode of development. The proposed appointment of a focal point within the Office of the High Commissioner again illustrated the differing treatment given the North and the South in the Commission. The countries of the North, which systematically opposed the setting up of new mechanisms in areas of interest to the countries of the South, such as the right to development or the promotion of cultural rights, were in actual fact proposing to establish a mechanism which would enable them to control the countries of the South. Another deficiency of the draft resolution was that it focused on the defence of democracy at national level and neglected the importance of implementing democratic principles at international and regional levels. For all those reasons, Cuba would abstain in the vote on the draft resolution.

24. Mr. KOZAK (United States of America) said that it was a privilege for the United States to join the delegations of Romania and Peru, which had shown great leadership in the Commission in recent years on the issue of the promotion of democracy. It was an honour to work with them and with the delegation of Timor Leste in elaborating the draft resolution. Bringing the task of democracy into the Office of the High Commissioner would serve to reaffirm the importance of

the values and institutions of democracy and add a new and positive dimension to the Commission, namely the offer of assistance to States which wanted to make democratic reforms. Regional organizations played an important role in promoting human rights and an even more important one in strengthening democracy. The cooperation of democracies within regional and international organizations was a key element of efforts by the Community of Democracies. Such cooperation was based on shared interests and values and could produce results more consistent with democratic ideals and human rights standards.

25. Ms. QI Xiaoxiang (China) said that her country, which was working for the promotion of democracy and economic development, would abstain in the vote, because it was of the view that every country had the right, taking into account its ideology, beliefs, level of development etc., to decide its model of democracy and its path of development, and it was not possible to transplant or copy a system of democracy. Some countries, such as the United States, spoke of democracy while practising unilateralism at international level.

26. Mr. MARTABIT (Chile), speaking on behalf of the countries of the Community of Democracies (Chile, the Czech Republic, India, Mali, Mexico, Poland, Portugal, the Republic of Korea, South Africa and the United States of America), as well as Italy, Peru and Romania, said that his delegation supported the draft resolution, which acknowledged that democracy contributed to the realization of all human rights and that there was a close link between democracy and good governance, on the one hand, and economic development and poverty alleviation, on the other. The draft further acknowledged that democracy contributed to preventing violent conflicts, to accelerating reconciliation and reconstruction and, in peacetime, to resolving disputes that might impede economic and social progress. Above all, democracy also ensured the rights of minorities and respect for cultural diversity.

27. Mr. SINGH PURI (India) said that his delegation, which had been one of the initial sponsors of the resolution, fully subscribed to the statements by the Romanian and Chilean delegations. Stressing the existence of a close link between democracy and all human rights, India called on all countries to support the draft resolution.

28. *At the request of the representative of Cuba, a recorded vote was taken on the draft resolution.*

In favour: Argentina, Armenia, Australia, Austria, Bahrain, Brazil, Burkina Faso, Chile, Congo, Costa Rica, Croatia, Dominican Republic, Egypt, 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, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: None.

Abstaining: Bhutan, China, Cuba, Saudi Arabia, Sudan, Swaziland, Togo, Zimbabwe.

29. *The draft resolution was adopted by 45 votes to none, with 8 abstentions.*

Draft resolution E/CN.4/2004/L.44 (Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy)

30. The CHAIRPERSON informed the Commission that a proposed amendment to the draft resolution, circulated under the symbol E/CN.4/2004/L.64, had been withdrawn.

31. Ms. HERRERA (Cuba), introducing the draft resolution, said that Madagascar, Mauritania, Nicaragua and Venezuela had joined the sponsors. The text of the draft was very similar to the one which the Commission had regularly adopted the past three years. The only new additions had been a few ideas taken from the Declaration of Principles of the World Summit on the Information Society and the Universal Declaration on Democracy adopted by the Inter-Parliamentary Council in Cairo in 1997.

32. The main objective of the draft, as set out in paragraphs 1 and 2, was to recognize that popular participation, equity, social justice and non-discrimination were essential foundations of democracy and that democracy was based on the freely expressed will of the people to determine their own political, economic, social and cultural systems. In the text, the Commission reaffirmed that democracy, development and respect for human rights were interdependent and mutually reinforcing and recognized the rich and diverse nature of the community of the world's democracies, which arose out of all of the world's social, cultural and religious beliefs and traditions.

33. Her delegation hoped that, like at the fifty-ninth session of the Commission, the draft resolution would receive broad support from member States.

34. The CHAIRPERSON said that the draft resolution under consideration did not have financial implications.

35. Ms. WHELAN (Ireland), speaking on behalf of the European Union members States that were members of the Commission and the Acceding State Hungary, said that the draft resolution lacked a definition of democracy and its practical implications for the exercise of power by citizens. It also presented international cooperation and development as a prerequisite for democracy. The European Union's commitment to international cooperation was well known, as was its opposition to any excuse by Governments for not allowing the exercise of political rights and fundamental freedoms. As the draft resolution did not serve to advance the cause of human rights and democracy, the European Union called for a vote on the draft resolution, and would vote against it.

36. In closing, she said that her comments had been agreed to by the European Union, the Acceding States of the European Union – Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia – and the Candidate Countries Bulgaria, Romania and Turkey.

37. *At the request of the representative of Ireland, a registered vote was taken on the draft resolution.*

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

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

Abstaining: Argentina, Armenia, Chile, Costa Rica, Guatemala, Honduras, Japan, Mexico, Paraguay, Peru, Saudi Arabia.

38. *The draft resolution was adopted by 28 votes to 14, with 11 abstentions.*

Draft resolution E/CN.4/2004/L.45 (Integrity of the judicial system)

39. Mr. VLASSOV (Russian Federation), introducing the draft resolution on behalf of its sponsors, said that the Russian Federation was convinced that the proper functioning of the judicial system was one of the main guarantees of respect for human rights in all circumstances, whether in peacetime or in emergency periods. The draft was based on the provisions of generally accepted international instruments, namely the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

40. He drew attention to a small drafting change in paragraph 7, in which the word “international” should be deleted from the phrase “applicable international law”. His delegation thanked all the other delegations that had taken part in the elaboration of the text and hoped that it would be adopted by consensus.

41. The CHAIRPERSON informed the Commission that there were two additional sponsors of the draft resolution, which did not have financial implications.

42. Mr. PEAY (United States of America) said that his delegation continued to question the need for the draft resolution, particularly in view of the Commission's perennial consideration and adoption of the resolution on the independence and impartiality of the judiciary and the independence of lawyers. However, the text introduced by the Russian Federation was the result of serious negotiations and reflected universally recognized principles. It was also encouraging that the Russian Federation and Hungary would pursue intersessional discussions aimed at exploring the possibility of combining their two texts into a single resolution that would address both the independence of the judiciary and the integrity of the judicial system. In view of those developments, the United States delegation would join the consensus on the draft resolution under consideration.

43. Mr. SINGH PURI (India) said that his delegation would also join the consensus on the draft or vote in its favour if it was put to a vote.

44. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.52 (Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers)

45. Ms. TOTH (Hungary), introducing the draft resolution on behalf of its 41 sponsors, said that it was based on the text of earlier resolutions adopted on the subject by the Commission. The preambular part once again referred to the relevant resolutions of the General Assembly as well as the recommendations emanating from the United Nations Congress on the Prevention of Crime and the Treatment of Offenders. It also evoked the main principles on the question. In the

operative part, the Commission took note of the Special Rapporteur's concern that the situation of the independence of judges and lawyers, which was the bedrock of the rule of law, remained delicate in many parts of the world, and it called upon all Governments to respect and uphold the independence of judges and lawyers and, to that end, to take effective measures that would enable them to carry out their professional duties without harassment or intimidation of any kind.

46. The sponsors of the draft resolution hoped that, as in past years, it would be adopted without a vote.

47. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.53 (The right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms)

48. Mr. MARTABIT (Chile), introducing the draft resolution on behalf of its sponsors, recalled that in 2002 and 2003 two consultative meetings had been held to finalize the basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law. Major progress having been made at those meetings, it was important to complete the process if possible by 2005. For that reason, the draft proposed that the Commission request the High Commissioner for Human Rights to hold a third consultative meeting and the Chairperson-Rapporteur to prepare a revised version of the principles and guidelines on the basis of the results of the previous consultative meetings, that it authorize the Chairperson-Rapporteur to conduct consultations with all interested parties and that it request the High Commissioner to transmit to the Commission at its sixty-first session the outcome of the consultative process.

49. He informed the Commission that Costa Rica, the Czech Republic, France, Nicaragua, Sweden and Uruguay had joined the sponsors of the draft, which he hoped that, as in the past, the Commission would adopt without a vote.

50. The CHAIRPERSON informed the Commission that there were 12 additional sponsors of the draft resolution, which did not have financial implications.

51. Mr. DELAURENTIS (United States of America) said that his delegation continued to believe that the goal of producing guidelines on the right to a remedy for use by Governments could be best realized through a sequential approach where the human rights law content and the international humanitarian law content of the guidelines would be dealt with separately. It invited continued consideration of the United States proposal that current efforts on the guidelines focus exclusively on the human rights law content of the draft guideline and that the international humanitarian law content be set aside for consideration by States in a separate forum, ideally one with established expertise in the area of international humanitarian law. As the guidelines were intended as a summary or restatement of existing rules within those two bodies of law, such an approach was warranted. His delegation joined the sponsors of the draft resolution and commended them, and Chile in particular, for their excellent work.

52. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.54 (Conscientious objection to military service)

53. Mr. MARKOTIC (Croatia), introducing the draft resolution on behalf of its 34 sponsors, said that in it, the Commission recalled that the right of everyone to have conscientious objection to military service was a legitimate exercise of the right to freedom of thought, conscience and religion. The draft resolution took note of the report of the Office of the High Commissioner for Human Rights on the compilation and analysis of best practices in that area and expressed its appreciation to all those who had contributed material for the report. It called upon States which had not yet done so to review their laws and practices in relation to conscientious objection to military service, taking account of the report, and requested the Office of the High Commissioner to prepare an analytical report which would provide supplementary information and to submit it to the Commission at its sixty-second session. It encouraged States to consider granting amnesties and restitution of rights for those who had refused to undertake military service on grounds of conscientious objection.

54. The purpose of the draft resolution was not to undermine the national defence, which was a sovereign right under international law, to impose a different value system on other States or to infringe the principle of equal application of the law. His delegation thanked the sponsors for their efforts and called upon all members of the Commission to adopt the draft resolution without a vote, as in previous years.

55. The CHAIRPERSON informed the Commission that there were four additional sponsors of the draft resolution, which did not have financial implications.

56. Mr. DELAURENTIS (United States of America) said that his delegation would join the consensus on the draft resolution because the United States fully supported the right of everyone to have personal objections to military service as one element of the exercise of freedom of thought, conscience and religion. In countries with military conscription, everyone should have that right in the context of a fair and impartial process established by law. But no one had an absolute right to be granted conscientious objector status, and unsuccessful applicants who refused to perform military service or other alternatives must be prepared to accept the consequences provided by law.

57. His delegation understood the granting of amnesties and restitution for those who had refused to undertake military service on grounds of conscientious objection to be limited to civil war situations and their aftermath.

58. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.55 (Elimination of all forms of religious intolerance) and proposal for an amendment to the draft resolution, contained in document E/CN.4/2004/L.111

59. Mr. DE JONG (Netherlands), introducing the draft resolution on behalf of the European Union and all the other sponsors, said that in it, the Commission reminded States of their obligations under the Charter of the United Nations to encourage universal respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion. The draft resolution also urged States to comply with the provisions of the Declaration on the Elimination of All Forms of Religious Intolerance and of Discrimination Based on Religion or Belief as well as with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Expressing deep concern at the serious instances of intolerance and

discrimination on the grounds of religion or belief that continued to occur in many parts of the world, and in particular the difficult situation faced by religious minorities and women as a result of religion or belief, as well as the rise of religious extremism in all parts of the world, the draft resolution stressed the importance of education and dialogue among religions in order to promote greater tolerance, respect and mutual understanding. It paid tribute to the efforts of human rights defenders and NGOs and encouraged the continuing efforts of the Special Rapporteur on freedom of religion or belief to continue his work and urged all Governments to cooperate fully with him and to respond favourably to his request to visit their countries.

60. The European Union expressed the hope that, as in previous years, the draft resolution would be adopted by consensus.

61. The CHAIRPERSON informed the Commission that there were 16 additional sponsors of the draft, but that 12 of them had withdrawn their names from the list of sponsors in order to introduce the amendment to the draft contained in document E/CN.4/2004/L.111. The draft resolution had financial implications, details of which were set out in a text which had been circulated.

62. Mr. CERDA, introducing the proposed amendment (E/CN.4/2004/L.111) to the draft resolution on behalf of the Group of Latin American and Caribbean countries, said that the amendment was simply to insert the word “Christianophobia” in the text of the draft, a word which had been approved by the General Assembly in resolution 58/160. His delegation hoped that the amendment would be adopted without a vote and incorporated into the draft resolution, in which case the 12 countries concerned would again join its sponsors.

63. Mr. SINGH PURI (India) asked to withdraw India from the list of sponsors of the draft resolution, because the amendment proposed by the Argentine delegation had led it to reconsider its position. His delegation would have preferred retaining in the text the words which had been added to the corresponding draft resolution at the fifty-ninth session of the Commission, namely anti-Semitism and Islamophobia. India was a country in which people of several religions – Hindus, Muslims, Christians, Sikhs, Buddhists and Jews – lived side by side harmoniously. All religions must face problems of intolerance and should therefore appear on an equal footing in any enumeration. For that reason, his delegation was not satisfied with the proposed amendment. However, it would not oppose it, and it would join the consensus on the draft resolution if there was one. However, India wished to have placed on record that it would review its position in the years ahead, given the tendency to add a new type of phobia to the draft resolution every year.

64. Mr. HUMER (Pakistan), speaking on behalf of the member States of the Organization of the Islamic Conference (OIC), said that Islamic countries had always supported everyone’s right to freedom of religion or belief. The exercise of that right was essential to attaining peace, social justice and friendly relations among peoples and States. The rise in religious intolerance and discrimination in many parts of the world not only was a violation of that fundamental right but also posed a threat to international peace and security. Hence the need for a concerted effort to put a rapid end to religious intolerance and discrimination. In that spirit, the Islamic countries had consistently supported the resolution on that issue in both the Commission and in the General Assembly.

65. The countries of the Organization of the Islamic Conference were concerned, however, that in the fourteenth preambular paragraph, anti-Semitism had been cited as motivating religious

intolerance. That was factually incorrect, because Semites were all those who spoke Semitic languages and whose ancestry could be traced to Shem, Noah's oldest son, namely Jews, Muslims and Christians. Thus, anti-Semitism was not a religious phenomenon, and therefore it did not belong in a resolution on the elimination of religious intolerance. The members of the Organization of the Islamic Conference had conveyed their concerns to the sponsors in informal consultations. However, in view of their firm commitment to eliminating religious intolerance, they would join the consensus on the draft resolution as amended by Argentina.

66. *The amendment to the draft resolution proposed by Argentina (E/CN.4/2004/L.111) was adopted without a vote.*

67. *The draft resolution, as amended, was adopted without a vote.*

Draft resolution E/CN.4/2004/L.56/Rev.1 (Extrajudicial, summary or arbitrary executions)

68. Ms. BORSIN BONNIER (Sweden), introducing the draft resolution on behalf of the Nordic countries and its sponsors, said that extrajudicial, summary or arbitrary executions were serious human rights violations with irrevocable consequences. That was why the international community had agreed that such acts were crimes under international law which must be investigated and that the perpetrators must be punished by the State. Since 1982, the special rapporteurs on that question had drawn attention to cases of persons who had been the victims of extrajudicial, summary or arbitrary executions carried out by State agents or persons acting with the explicit or implicit consent of the State. Unfortunately, over the years the list of persons who had been targeted for such executions had grown, and the Commission needed to draw attention to the fact that States were not doing enough to protect the right to life of such persons. Her delegation thanked the Special Rapporteur, Ms. Jahangiz, for her excellent work during the six years of her mandate, which she had discharged impartially, objectively and professionally.

69. Her delegation had held informal consultations on three occasions and had had numerous bilateral contacts with interested delegations and groups of countries, and it thanked the delegations of Pakistan, on behalf of the Organization of the Islamic Conference, Egypt, Saudi Arabia and Malaysia as well as all the other sponsors for their efforts to arrive at a compromise text. The draft resolution was the result of endeavours to accommodate all the concerns expressed. It was to be hoped that the Commission could adopt the draft resolution without a vote.

70. The CHAIRPERSON informed the Commission that there were 17 additional sponsors of the draft and that its financial implications were set out in a text which had been circulated.

71. Mr. UMER (Pakistan), speaking on behalf of the member States of the Organization of the Islamic Conference, said that the right to life, freedom and security was a fundamental right, and States must therefore ensure the exercise of that right for all their citizens without discrimination and combat the phenomenon of extrajudicial executions. Although the draft resolution met many of their concerns, the member States of the Organization of the Islamic Conference could not accept paragraph 6, which contained a questionable and non-exhaustive enumeration of categories of crimes and victims. They proposed, as an amendment, to delete paragraph 6 and asked that the amendment, and then the draft resolution as a whole, be put to a vote. They would vote to delete paragraph 6 and would abstain on the draft resolution.

72. Ms. WHELAN (Ireland) said that the European Union supported the draft resolution and the arguments put forward by the delegation of Sweden. The draft resolution underlined the importance for all States of criminalizing, investigating and punishing all cases of extrajudicial, summary or arbitrary executions, regardless of the victim or the perpetrator. The Commission needed a balanced draft resolution that could be adopted by consensus. The draft resolution must accurately reflect the current state of affairs as well as new developments and the concerns expressed by the Special Rapporteur in her reports. The establishment of the International Criminal Court was an historic step in the fight against the impunity of perpetrators of serious human rights violations. The Special Rapporteur on extrajudicial, summary or arbitrary executions had played a crucial role in raising awareness of those phenomena and working towards their elimination, and the European Union supported the extension of her mandate. The new Special Rapporteur should continue to undertake country visits and benefit from the cooperation of all States.

73. The member States of the European Union had spared no effort to make the draft resolution acceptable to all and hoped that it would receive broad support. If it was put to a vote, the member States of the European Union would vote against the proposed amendments and in favour of the text contained in document E/CN.4/2004/L.56/Rev.1.

74. In closing, she said that her comments had been agreed to by the European Union, the Acceding States of the European Union and the Candidate Countries Bulgaria and Romania.

75. The CHAIRPERSON invited the members of the Commission to express their views on whether to retain paragraph 6.

76. Ms. GORELY (Sweden), speaking in explanation of vote before the vote, said that paragraph 6 of the draft resolution aimed to prevent extrajudicial, summary or arbitrary executions. The enumeration of crimes and victims which it contained reflected the concerns expressed by the Special Rapporteur on extrajudicial, summary or arbitrary executions, States and the international community with regard to certain categories of victims or persons at risk of being targeted for extrajudicial, summary or arbitrary executions. The sponsors of the draft resolution, who had sought to show that States were not sufficiently protecting the lives of certain categories of persons, were of the view that the enumeration in paragraph 6 must be kept, because extrajudicial, summary or arbitrary executions would continue to occur, and they urged the members of the Commission to vote in favour of retaining paragraph 6.

77. *At the request of the representative of Pakistan, a recorded vote was taken on paragraph 6 of the draft resolution.*

In favour: Argentina, Armenia, Australia, Austria, Bhutan, Brazil, Chile, Costa Rica, Croatia, Dominican Republic, Ethiopia, France, Germany, Guatemala, Honduras, Hungary, India, Ireland, Italy, Japan, Mexico, Nepal, Netherlands, Peru, Republic of Korea, Sri Lanka, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Bahrain, Egypt, Indonesia, Pakistan, Qatar, Saudi Arabia, Sudan.

Abstaining: Burkina Faso, China, Congo, Eritrea, Gabon, Nigeria, Paraguay, Russian Federation, Sierra Leone, South Africa, Swaziland, Togo, Uganda, Zimbabwe.

78. *The amendment proposed by Pakistan to delete paragraph 6 was rejected by 30 votes to 7, with 14 abstentions.*

79. The CHAIRPERSON submitted draft resolution E/CN.4/2004/L.56/Rev.1 as a whole for adoption.

80. Ms. GOROVE (United States of America), speaking in explanation of vote before the vote, joined the sponsors of the draft resolution in condemning extrajudicial, summary or arbitrary executions. However, it was the position of the United States that the resolution should reflect the fact that the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions did not include challenging the legitimacy of capital punishment per se under international law or directly or indirectly promoting abolition of the death penalty where it currently existed. With regard to paragraph 11, in which the Commission appealed to all States to conform to the Standard Minimum Rules for the Treatment of Prisoners, her delegation noted that those Rules did not constitute a legally binding instrument, but rather a recommendation to States, as was the case with other General Assembly resolutions. As to paragraph 16, it was the view of her delegation that the Commission was not in a position to declare that the allegations in the Special Rapporteur's communications were always based on credible reports. Notwithstanding those comments, the United States would vote in favour of the draft resolution.

81. *At the request of the representative of Pakistan, 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, Eritrea, Ethiopia, France, Gabon, Germany, Guatemala, Honduras, Hungary, India, Ireland, Italy, Japan, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Russian Federation, South Africa, Sri Lanka, Swaziland, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: None.

Abstaining: Bahrain, Burkina Faso, China, Egypt, Indonesia, Pakistan, Qatar, Saudi Arabia, Sierra Leone, Sudan, Togo, Zimbabwe.

82. *The draft resolution was adopted by 39 votes to none, with 12 abstentions.*

Draft resolution E/CN.4/2004/L.57 (The incompatibility between democracy and racism)

83. Mr. DA ROCHA PARANHOS (Brazil), introducing the draft resolution on behalf of its sponsors, drew attention to a number of new provisions in the text. The Commission expressed concern with the increasing violence and racism that affected people from different ethnic or religious origins, as well as indigenous communities and migrants. It emphasized the importance of multicultural diversity in creating more inclusive societies and underlined the role of parliaments in preventing racism and xenophobia. It referred to the study on the issue of political platforms which promoted or incited racial discrimination, prepared by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and it encouraged States and other actors to take new measures to combat racism. It recommended the creation of institutions and monitoring procedures to contribute to preventing and reducing racial, ethnic or religious tensions, and it encouraged political leaders, civil society and the media to

remain vigilant against the penetration of racist and xenophobic ideas in the political platforms of democratic parties.

84. As in 2000, when the draft resolution on the incompatibility between democracy and racism had been submitted for the first time, the purpose of all those recommendations was to reaffirm that political parties which included racist or xenophobic ideas in their platforms could not be regarded as truly democratic. Democracy presupposed respect for all human beings and for diversity, and it rejected racism and xenophobia in the public debate. His delegation called upon the members of the Commission to adopt the draft resolution by consensus.

85. The CHAIRPERSON informed the Commission that there were 29 additional sponsors of the draft resolution, which did not have financial implications.

86. Mr. MARTABIT (Chile), speaking on behalf of the Organization Group of the Community of Democracies (Chile, the Czech Republic, India, Mali, Mexico, Poland, Portugal, the Republic of Korea, South Africa and the United States of America) and the guest countries (Italy, Peru and Romania), noted with satisfaction that the draft resolution focused on the elimination of all forms of discrimination and intolerance and on respect for diversity. It urged States to reinforce their commitment to promote tolerance, human rights and the fight against racism, racial discrimination, xenophobia and related intolerance as a way of strengthening democracy, the rule of law and transparent and accountable governance. He was also pleased that, in the draft resolution, the Commission urged States to ensure that their political and legal systems reflected the multicultural diversity within their societies and that it encouraged States to consider conducting public information, awareness-raising and education campaigns with a transdisciplinary approach so as to combat racial prejudice, all of which was essential to democratic governance. Accordingly, his delegation and the Organization Group of the Community of Democracies supported the draft resolution under consideration.

87. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.58 (Arbitrary detention)

88. Mr. KESSEDJIAN (France), introducing the draft resolution, said that to implement article 9 of the Universal Declaration of Human Rights, pursuant to which no one could be subjected to arbitrary arrest, detention or exile, the international community had several legal instruments and the support of the Working Group on Arbitrary Detention. The draft resolution reminded States of their basic obligations with regard to preventing arbitrary detention and encouraged them to promote and protect the right of habeas corpus and the right to have access to remedies. It also encouraged the Working Group to continue its task, which could not be carried out unless States cooperated with it fully and implemented its recommendations. His delegation hoped that the draft resolution, which had been sponsored by a very large number of States, would be adopted by consensus.

89. The CHAIRPERSON informed the Commission that there were 30 additional sponsors of the draft. The draft resolution had financial implications, details of which were set out in a text which had been circulated.

90. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.59 (Enforced or involuntary disappearances)

91. Mr. KESSEDJIAN (France), introducing the draft resolution on behalf of its numerous sponsors, who had been joined by Switzerland, said that it dealt with the work of the Working Group on Enforced or Involuntary Disappearances and of the intersessional working group entrusted with elaborating a draft legally binding instrument for the protection of all persons from enforced disappearance. As the mandate of the Working Group was to be renewed, it must be very clear that it was for three years, the Secretariat having estimated the financial implications on that basis. With regard to the drafting of a legally binding instrument on enforced disappearances, the draft resolution undertook to speed up the work so that the instrument could be submitted, if possible, to the 2005 session of the Commission and the sixtieth session of the General Assembly.

92. Unfortunately, enforced disappearances were not confined to one region or period, and it was everyone's duty to work to put an end to the phenomenon. His delegation hoped that the draft resolution under consideration would be adopted by consensus.

93. The CHAIRPERSON informed the Commission that there were 35 additional sponsors of the draft resolution and that its financial implications were not yet available.

94. Mr. PEAY (United States of America) said that the United States delegation had actively participated in the negotiations of the open-ended intersessional working group to elaborate a legally binding instrument to protect all persons from enforced disappearances, and the draft – quite appropriately – referred to the substantial progress made at the working group's second session. The United States was of the view, however, that the negotiation of the new instrument should not be unduly rushed, nor should it require an extended period of years to complete. What was most important was that the final instrument be carefully crafted, comprehensively analysed, consensus-based and by no means subject to arbitrary timeframes for its completion. Only if those guiding principles were respected could the final instrument expect to win universal acceptance. With those considerations in mind, the United States joined the consensus on the draft resolution.

95. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.61** (Torture and other cruel, inhuman or degrading treatment or punishment)

96. Mr. IVERSEN (Observer for Denmark), introducing the draft resolution, drew attention to a minor drafting correction in the French version of the text, where, in the first sentence of paragraph 27, the words “*du corps*” should be deleted. The draft resolution condemned all forms of torture, and it called upon all States parties to consider signing and ratifying the Optional Protocol to the Convention against Torture. The mandate of the Special Rapporteur on torture was renewed for a period of three years, and Governments were called upon to give serious consideration to responding favourably to the Special Rapporteur's request to visit their countries and to enter into a constructive dialogue with him with respect to the follow-up to his recommendations. His delegation hoped that the draft resolution would be adopted without a vote.

97. The CHAIRPERSON informed the Commission that there were 15 additional sponsors of the draft. The draft resolution had financial implications, details of which were set out in a text which had been circulated.

98. *The draft resolution, as corrected, was adopted without a vote.*

Draft resolution E/CN.4/2004/L.65 (The right to freedom of opinion and expression)

99. Mr. FERGUSSON (Observer for Canada), introducing the draft resolution on behalf of its sponsors, said that it had been revised and updated in order to keep it focused on important aspects of the promotion and protection of the right to freedom of opinion and expression and to take into account some of the issues raised in the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/2004/62 and Add. 1 to 4). Thus, the draft resolution highlighted the importance of the exercise of the right to freedom of expression for democracy as well as for the prevention and treatment of HIV/AIDS. It underscored the need to ensure greater protection for all media professionals and to promote a pluralistic approach to information. It called upon States to refrain from imposing restrictions on the right to freedom of expression which were not consistent with the International Covenant on Civil and Political Rights, and it stressed the importance of the active participation of the Special Rapporteur and the High Commissioner for Human Rights in the second phase, including preparatory meetings of the World Summit on the Information Society, to be held in Tunis in November 2005. His delegation hoped that the draft resolution, which was the result of a transparent negotiation process, would be adopted by consensus.

100. The CHAIRPERSON informed the Commission that there were 24 additional sponsors of the draft. The draft resolution had financial implications, details of which were set out in a text which had been circulated.

101. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.66 (Human rights in the administration of justice, in particular juvenile justice)

102. Ms. ELLISON-KRAMER (Austria), introducing the draft resolution, said that its purpose was to improve the administration of justice worldwide and to make a number of recommendations to that end. The sponsors had decided to retain in the text elements from earlier draft resolutions on the question, notably a reference to the negative impact of racism, racial discrimination, xenophobia and related intolerance on the administration of justice as well as the special need for national capacity-building in the field of the administration of justice, in particular to establish and maintain stable societies and the rule of law in post-conflict situations. They had also wanted to retain provisions urging States to ensure that neither capital punishment nor life imprisonment was imposed on persons below 18 years of age and that any measure taken by States to combat terrorism complied with their obligations under international law.

103. The new elements were based on the High Commissioner's recommendations on the role and needs of judges in the promotion and protection of human rights, and in that context, the draft resolution drew attention to the Vienna Declaration on the Role of Judges in the Promotion and Protection of Human Rights and Fundamental Freedoms adopted at a symposium held to mark the tenth anniversary of the 1993 World Conference on Human Rights and submitted to the General Assembly on the occasion of International Human Rights Day. Her delegation and the

more than 50 sponsors of the draft resolution hoped that, as in previous years, it could be adopted without a vote.

104. The CHAIRPERSON informed the Commission that there were 14 additional sponsors of the draft, which did not have financial implications.

105. Ms. GOROVE (United States of America) proposed as an amendment to delete paragraph 11 of the draft resolution. Although the Supreme Court would be reviewing the question of whether the execution of juvenile offenders was consistent with United States law, she stressed that the United States was under no treaty obligation nor was it obligated under international law to proscribe capital punishment for persons who were under 16 or 17 years of age at the time of the offence.

106. *At the request of the representative of Austria, a recorded vote was taken on the amendment proposed by the United States of America to delete paragraph 11 of the draft resolution.*

In favour: United States of America.

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

Abstaining: Bahrain, Burkina Faso, Egypt, Gabon, Honduras, India, Qatar, Uganda.

107. *The amendment proposed by the United States of America was rejected by 43 votes to 1, with 8 abstentions.*

108. The CHAIRPERSON submitted draft resolution E/CN.4/2004/L.66 as a whole for adoption.

109. Ms. GOROVE (United States of America) said that her delegation had difficulty with paragraph 11, which the Commission had decided to retain, as well as with paragraphs 2, 7 and 12. With regard to paragraph 2, in which the Commission reaffirmed the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice, paragraph 7, in which it called upon States to implement the Plans of Action for the implementation of the Vienna Declaration on Crime and Justice, and paragraph 12, which made reference to international law, including relevant international standards on human rights in the administration of justice, her delegation noted that most of the standards and the Plans of Action were set forth in General Assembly resolutions that were no more than recommendations and thus non-binding. Accordingly, her delegation would not join the consensus on the draft resolution, but would not stand in the way of its adoption.

110. *The draft resolution was adopted without a vote.*

Draft resolution E/CN.4/2004/L.80 (Human rights and terrorism)

111. The CHAIRPERSON informed the Commission that there were four additional sponsors of the draft, which did not have financial implications.

112. Mr. DEMBRI (Observer for Algeria), introducing the draft resolution, said that, far from declining, terrorist acts had seen a terrible upsurge. As pointed out in the April 2004 issue of *Le Monde diplomatique*, those heinous acts had been perpetrated in areas which until now had been spared (Bali, Saudi Arabia, Morocco, Turkey, the European Union), and in Madrid they had now struck students and workers, including many immigrants. The draft resolution had a number of new elements compared to the one in 2003. In the fourteenth preambular paragraph, the Commission expressed alarm at the resurgence of terrorism; in the nineteenth preambular paragraph, it stressed the importance of a comprehensive approach to combat terrorism; in the twentieth preambular paragraph, it welcomed the launch of the Global Programme against Terrorism by the United Nations, and in the twenty-seventh preambular paragraph, it referred to the work of the Sub-Commission on the Promotion and Protection of Human Rights on the issue of terrorism.

113. In paragraph 2, the Commission reaffirmed that every person had a right to protection from terrorism; in paragraph 5, it welcomed the view expressed by the Secretary-General that terrorism by itself was a violation of human rights; in paragraph 6, it rejected the identification of terrorism with any religion, nationality or culture; in paragraph 11, it urged States and the Office of the United Nations High Commissioner for Refugees to review, with full respect for legal safeguards, the validity of a refugee status decision if there was well-founded suspicion that the person in question was implicated in the commission of terrorist acts; in paragraph 14, it requested the Office of the High Commissioner to circulate the reports of the Special Rapporteur on human rights and terrorism; and in paragraph 15, it requested the Office of the High Commissioner to adopt a comprehensive and balanced approach to the impact of terrorism on the enjoyment of human rights.

114. The sponsors regretted that a number of delegations continued to refuse to recognize the responsibility of non-State actors in human rights violations despite the evolution of international humanitarian law and the case law of the International Criminal Court, which had ruled that there was individual responsibility in cases of crimes against humanity and war crimes. They also reaffirmed that the fight against terrorism must be waged with full respect for fundamental human rights, as stressed in the seventeenth and twenty-second preambular paragraphs, and that the draft must on no account be perceived as infringing the legitimate and inalienable rights of peoples under colonial domination or foreign occupation.

115. He urged the Commission to adopt the draft resolution by consensus.

116. Mr. MARTABIT (Chile) said that acts of terrorism constituted a violation of human rights to the extent that they were attributable to a State or its agents when they acted with the consent of the authorities of that State. Thus, although it condemned all forms of terrorism in the strongest terms, his delegation would abstain in the vote on the draft resolution, in which it was in effect stated that terrorist groups could violate human rights, a notion to which Chile could not subscribe. He drew attention in that context to the opinion of the Inter-American Commission on Human Rights, pursuant to which terrorist organizations and States could not be placed on an equal footing with regard to international responsibility. As to the Inter-American Court of

Human Rights, it had ruled that a State must bear international responsibility for human rights violations.

117. Ms. WHELAN (Ireland) said that the European Union unequivocally condemned all acts of terrorism without any exception and that the fight against terrorism remained one of its priorities. As confirmed by the Security Council, acts of terrorism could also constitute acts of aggression which threatened international peace and security, and the European Union strongly believed that efforts to combat terrorism must at all times be carried out with full respect for human rights and fundamental freedoms. However, it could not subscribe to the assertion that terrorist acts, as such, constituted human rights violations. A distinction must be made between individual criminal acts and acts attributable to States. As States alone could be parties to international human rights instruments, they were under an obligation to protect human rights. Nevertheless, the European Union considered that acts of terrorism were criminal acts that aimed at the destruction of human rights and fundamental freedoms.

118. The European Union welcomed the Non-Aligned Movement's commitment to combat terrorism, but had reservations about the inclusion in the text of the outcome of the XIIIth Conference of the Heads of State and Government of the Non-Aligned Movement, and for that reason it had requested the deletion of that reference. The Commission must continue to ensure that the fight against terrorism was carried out with full respect for human rights and fundamental freedoms, and that idea was best reflected in the draft resolution submitted by Mexico under agenda item 17, which the European Union would support. The European Union appreciated the friendly discussions which it had had with Algeria, but regretted that its concerns had not been addressed. For that reason, it called for a vote on the draft resolution and would vote against it.

119. In closing, she said that her comments had been agreed to by the European Union as well as by the Acceding States and by the Candidate Countries Bulgaria and Romania.

120. Mr. DUPONT (Argentina) reaffirmed that his delegation condemned all forms of terrorism with the greatest firmness, but it would abstain on the draft resolution because it contained elements contrary to Argentina's position with regard to responsibility for violations of human rights. For Argentina, such responsibility could be incumbent solely on States and their agents.

121. Mr. DELAURENTIS (United States of America) said that the United States had a strong commitment to combating the evil of terrorism, and to that end, it cooperated with the appropriate mechanisms established by the international community. By equating the conduct of terrorists and terrorist organizations with that of States, the draft resolution granted a measure of legitimacy to such organizations. The function of the Commission was to set human rights standards that were binding for States and to review States' compliance with those standards. Terrorists were not State actors. They were criminals who bore individual criminal responsibility for their actions. For those reasons, the United States would vote against the draft resolution.

122. Mr. SINGH PURI (India) urged the Commission to be consistent. He recalled that the Commission had unanimously approved the statement by the Chairperson on the situation of human rights in Colombia, in which the Commission strongly condemned all acts of terrorism committed by all illegal armed groups. In the same statement, the Commission made an appeal to all illegal armed groups to respect international humanitarian law. That was tantamount to equating them with States. For that reason, his delegation would vote against the draft resolution.

123. *At the request of the representative of Ireland, a registered vote was taken on the draft resolution.*

In favour: Bahrain, Bhutan, Burkina Faso, China, Congo, Costa Rica, Cuba, Egypt, Eritrea, Ethiopia, Gabon, Honduras, India, Indonesia, Mauritania, Mexico, Nepal, Nigeria, Pakistan, 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, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Armenia, Brazil, Chile, Dominican Republic, Guatemala, Paraguay, Ukraine.

124. *The draft resolution was adopted by 31 votes to 14, with 8 abstentions.*

Draft decision 4 (E/CN.4/2004/2-E/CN.4/Sub.2/2003/43, chap. I) recommended by the Sub-Commission on the Promotion and Protection of Human Rights for adoption (Terrorism and human rights)

125. The CHAIRPERSON informed the Commission that the draft decision had financial implications, details of which were set out in a text which had been circulated.

126. *At the request of the representative of the United States of America, a registered vote was taken on the draft decision.*

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, 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: None.

127. *The draft decision was adopted by 38 votes to 15.*

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEM 12

Draft decision E/CN.4/2004/L.46 (Integrating the human rights of women throughout the United Nations system)

128. The CHAIRPERSON informed the Commission that there were four additional sponsors of the draft decision, which did not have financial implications.

129. Mr. MARTABIT (Chile), introducing the draft decision, said that its sponsors welcomed the report of the Secretary-General on integrating the human rights of women throughout the United Nations system (E/CN.4/2004/64), which stated that, although progress had been made, it had not been at the same pace in all treaty bodies, resolutions and mechanisms.

130. Having regard to the recommendations formulated in paragraph 2 (b) of document E/CN.4/2003/118, the sponsors undertook to consider the issue of integrating the human rights of women throughout the United Nations system on a biennial basis and requested the Secretary-General to update his report for the sixty-first session of the Commission, taking into account the outcome of the review and appraisal of gender mainstreaming that would be undertaken at the substantive session of the Economic and Social Council in July 2004.

131. *The draft decision was adopted without a vote.*

Draft resolution E/CN.4/2004/L.60 (Trafficking in women and girls)

132. The CHAIRPERSON informed the Commission that there were three additional sponsors of the draft resolution, which did not have financial implications.

133. Mr. A. MANALO (Observer for the Philippines), introducing the draft resolution, said that it focused on the need to ensure protection and assistance to the victims of human trafficking and punish traffickers. It took note of the various regional mechanisms and initiatives to address the problem of trafficking, including the most recent meetings held in Bali, Cancún and Maastricht. It called upon Governments to take the necessary measures to combat the various aspects of the problem. His delegation expressed appreciation to all the delegations which had participated in the consultations, thereby helping to enhance the content of the draft, and it also thanked the sponsors. For technical reasons, it had not been possible to include Indonesia among the original sponsors. It was to be hoped that the draft resolution would be adopted by consensus.

134. *The draft resolution was adopted without a vote.*

Draft decision E/CN.4/2004/L.62 (Special Rapporteur on trafficking in persons, especially in women and children)

135. The CHAIRPERSON informed the Commission that there were 46 additional sponsors of the draft. The draft decision had financial implications, details of which were set out in a text which had been circulated.

136. Mr. STEINER (Germany), introducing the draft decision, said that its sponsors, responding to the appeal of the Acting High Commissioner for Human Rights on behalf of the hundreds of thousands of young women who were forced into prostitution, slavery or slavery-like practices in different parts of the world, proposed the establishment of a special rapporteur on trafficking in persons, whose mandate would focus on the human rights aspects highlighted in draft resolution E/CN.4/2004/L.60, which the Commission had just adopted.

137. His delegation expressed gratitude to the Ambassador of the Philippines for his tireless efforts to forge a consensus on that important text.

138. Mr. SINGH PURI (India) said that the problem of trafficking in human beings was very serious, but wondered whether it was really necessary to establish a new post of special

rapporteur, which would cost the United Nations about US\$ 70,000 a year, although the list of bodies and institutions which, in paragraph 7 of draft resolution E/CN.4/2004/L.60, the Commission had mandated to continue addressing the problem was already long. However, his delegation would not stand in the way of the adoption of the draft decision.

139. *The draft decision was adopted without a vote.*

Draft resolution E/CN.4/2004/L.63 (Elimination of violence against women)

140. The CHAIRPERSON informed the Commission that there were 30 additional sponsors of the draft resolution, which did not have financial implications.

141. Ms. WALKER (Observer for Canada), introducing the draft resolution, said that it stressed the obligation of States to exercise due diligence to prevent violence against women and girls and to punish perpetrators. Canada thanked all the sponsors and interested delegations and NGOs for their contribution to the elaboration of the draft resolution, which it hoped would be adopted by consensus as in past years.

142. A number of editing changes needed to be made in the operative part of the text. Paragraph 1 (c) should read: "The initiatives of the United Nations Development Fund for Women to combat violence against women at the international, regional and national levels, and encourages the continued efforts of all United Nations bodies, funds and programmes within their mandates, including the United Nations Children's Fund, the World Health Organization, the United Nations Population Fund, the United Nations International Research and Training Institute for the Advancement of Women and the United Nations Office for the Coordination of Humanitarian Affairs, and regional organizations, as well as non-governmental organizations, including women's organizations, in their work in this area". In paragraph 7, the words "health services" in the English version should be replaced by "health care services", and in paragraph 17, the words "with appreciation" should be deleted, and the end of the sentence should be changed to read: "...urges continued efforts towards its full implementation". Paragraph 25 should be reworded to read: "Bearing in mind the need to develop, with full participation of all member States, an international consensus on indicators and ways to measure violence against women, calls on the Special Rapporteur to recommend proposals for indicators on violence against women and on measures taken to eliminate violence against women, for the use by, inter alia, member States".

143. Ms. GOROVE (United States of America) said that her delegation appreciated the flexibility shown by the sponsors of the draft resolution during the negotiations, but would like to propose two amendments. In paragraph 7, the word "services" should be deleted, because it might be interpreted as alluding to abortion. The second part of paragraph 18, in which States were urged to ratify or accede to the Rome Statute, should also be deleted. Every State had the right to decide, in full sovereignty, whether or not to ratify the Statute. Her delegation requested that the two proposed amendments be considered separately.

144. Mr. GONZALEZ-SANZ (Costa Rica) said that for his delegation, paragraphs 7 and 8 of the draft resolution could on no account be interpreted as directly or indirectly allowing abortion. Costa Rica was of the view that abortion was a violation of the right to life which was enshrined in its Constitution. That being said, his delegation would support the draft resolution.

145. Mr. FERNANDEZ PALACIOS (Cuba) said that the word “urges” in the second part of paragraph 18 should be replaced by “requests”, but if the sponsors rejected that proposal, the delegation would not ask for a vote on the draft.

The meeting rose at 6 p.m.