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ECONOMIC AND SOCIAL COUNCIL

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PROVISIONAL SUMMARY RECORD OF THE 45th MEETING

Held at the Palais des Nations, Geneva,  
on Wednesday, 23 July 2003, at 10 a.m.

President: Ms. RASI (Finland)  
(Vice-President)

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In the absence of Mr. Rosenthal (Guatemala), Ms. Rasi (Finland),  
Vice-President, took the Chair.

The meeting was called to order at 10.05 a.m.

ECONOMIC AND ENVIRONMENTAL QUESTIONS: (agenda item 13) (continued)

(a) SUSTAINABLE DEVELOPMENT (continued) (E/2003/L.40 and L.41)

Draft decision on support for the New Partnership for Africa's Development (E/2003/L.40)

Draft decision on preparations for an international meeting to review the implementation of the  
Programme of Action for the Sustainable Development of Small Island Developing States  
(E/2003/L.41)

Mr. BENMELLOUK (Observer for Morocco), speaking on behalf of the Group  
of 77 and China, introduced the draft decisions.

SOCIAL AND HUMAN RIGHTS QUESTIONS: (agenda item 14) (continued)

(g) HUMAN RIGHTS (E/2003/22, 23 (Part I), 73,78,79 and 92; E/2003/L.31)

(h) PERMANENT FORUM ON INDIGENOUS ISSUES (E/2003/43 and 72;  
E/2003/CRP.3)

Mr. RAMCHARAN (Deputy High Commissioner for Human Rights) introduced  
the report of the United Nations High Commissioner for Human Rights (E/2003/73), focusing on  
a number of key issues of particular interest to the Council. In the first place, with regard to the  
Millennium Development Goals (MDGs), the Council's attention was drawn to the general  
comments by the human rights treaty bodies which could, at a future session, be reviewed by the  
Council with a view to incorporating them into its efforts to promote international economic and  
social cooperation in the spirit of Article 55 of the Charter of the United Nations.

On poverty reduction, the Committee on Economic, Social and Cultural Rights had  
recently defined poverty, from a human rights perspective, as a human condition characterized  
by sustained chronic deprivation of the resources, capabilities, choices, security and power  
necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic,  
political and social rights. The Council might wish to take account of that definition in its future  
work and deliberations.

Key elements of a human rights approach to health included a focus on human dignity; addressing the situation of vulnerable groups; addressing gender inequalities; ensuring non-discrimination and equality in access to health care; encouraging the participation of beneficiaries in decision-making processes, establishing explicit links with human rights norms and standards; and articulating Governments' obligations and identifying benchmarks and indicators for measuring the implementation of those obligations. Such an approach also envisaged human rights as a framework for assessing and addressing the implications of health-related policies, programmes and legislation.

People affected by HIV/AIDS were often vulnerable to discrimination in health services, education, and at work, thereby worsening the impact of the disease. At the same time, a general lack of respect for human rights made certain people more vulnerable to HIV infection and to the social and economic effects of the disease. In particular, gender inequalities compounded the disproportionate impact of HIV/AIDS on women. On the other hand, proper respect for human rights helped to reduce vulnerability to HIV infection and thus alleviated the negative impact of the epidemic. The Council could perhaps devise a human rights approach to tackling the problem.

Education, according to the Committee on Economic, Social and Cultural Rights, was an essential ingredient in sustainable development and the primary vehicle by which economically and socially marginalized adults and children could raise themselves out of poverty and participate fully in their communities.

The right to adequate food, recognized in several international instruments, had been reaffirmed in the final documents of the two World Food Summits in 1996 and 2002. The perspective of the right to food should be pre-eminent in international economic and social cooperation as well as in strategies of governance.

The Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Human Settlements Programme (UN-HABITAT) had established the joint United Nations Housing Rights Programme in 2002, focusing on five areas: advocacy, outreach

and learning from partners; support for United Nations housing rights mechanisms; monitoring progress towards realizing the right to housing; research on issues relating to housing rights; and relevant capacity-building and training. One important objective of the programme was to encourage the development of rights-based approaches to housing and human settlements.

On the issue of disability, it should be remembered that over two thirds of the world's disabled people lived in developing countries. Awareness had grown in recent years that disabled people had rights. OHCHR suggested that the Council should adopt an approach to the rights of the disabled that was based on dignity, autonomy, equality and the ethic of solidarity.

Human trafficking was one of the most serious challenges on the international human rights agenda, since it represented a negation of the whole spectrum of the human rights. Yet trafficking was still seen as a "law and order" problem, and OHCHR solicited the Council's help in changing that perception.

Lastly, by linking the norms and standards of international human rights law to the processes of globalization and trade liberalization, a human rights approach placed the human rights of individuals and groups at the heart of economic processes, thereby ensuring that globalization and trade could be of benefit to all. A key response to globalization and trade was to strengthen international human rights machinery, improve links between human rights bodies and bodies dealing with trade and globalization issues, and promote international cooperation and assistance as a means of safeguarding human rights and fundamental freedoms, and thus human development.

Mr. SIV (United States of America) said that the United States set the highest priority on the protection of human rights and fundamental freedoms. His Government welcomed the steps taken by a number of countries towards democracy and a culture of human rights. At the same time, however, many other Governments continued to roll back progress. The United States strongly urged Member States to support and advance the work of the Council's relevant functional commissions by continuing to hold countries accountable to their citizens and to international human rights law.

Positive developments could be observed in Timor-Leste, Sri Lanka, Afghanistan, the Sudan, Kenya and Iraq, whose citizens were finally free of tyrannical dictatorship for the first time in decades thanks to the efforts of the international community and their own desire. Many problems still remained, however: the people of Cuba continued to suffer under the oppressive dictatorship of a government-for-life. Unable freely to elect or change their leadership, they were denied the right to due and humane judicial processes. Their freedom of movement and freedom of association were restricted. The Cuban Government constantly interfered in the private lives of its citizens.

In Chechnya, the Russian military continued to commit serious human rights abuses, including extrajudicial killings and disappearances. His Government hoped to work with the Russian authorities to bring human rights violators to account.

The human rights records of the authorities in Belarus, Turkmenistan, the Democratic People's Republic of Korea and Zimbabwe were still dismal. In China, Tibetans were still denied the freedom to practise and teach their religion. All over the world, the human rights of powerless and voiceless people were being trampled underfoot. The United States strongly condemned the actions of oppressive Governments and urged the Council to hold them to account.

Mr. SKURATOVSKYI (Ukraine) said that the promotion and protection of human rights were central priorities of his Government, which was systematically proceeding towards European and Euro-Atlantic integration. Ukraine aimed at bringing its legislation into line with European standards; thus it had abolished capital punishment and was about to ratify the Rome Statute of the International Criminal Court.

The activities of the special procedures mandate holders were extremely important in reinforcing the status of the Commission on Human Rights as the leading body for the protection of human rights in the United Nations system. The fifty-ninth session of the Commission had yielded a number of positive and innovative initiatives that deserved to be supported and encouraged by the international community. Universal adherence to and full implementation of legal instruments in the field of human rights remained a sine qua non for effective protection and promotion of human rights and freedoms.

Member States should also strengthen their cooperation with the treaty monitoring bodies, especially with regard to the practical implementation of those bodies' concluding recommendations after the consideration of periodic reports. A number of interesting and valuable ideas for rationalizing the work of the treaty monitoring bodies had recently been mooted, all of which deserved to be appropriately followed up.

Mr. ZHEGLOV (Russian Federation) said that his delegation recognized the important role of OHCHR and hoped that it would promote human rights as a unifying factor in a diverse world while simultaneously working to depoliticize the issue. Greater emphasis should be placed on technical assistance and advisory services in building up the human rights capacity of individual States. The proposal to devolve power to OHCHR field offices was an interesting one, but any such attempt at decentralization must be purely voluntary and carried out with the consent of the country concerned.

His Government welcomed the clearer focus on social, economic and cultural rights, and hoped that such a commitment would be backed up by practical actions taking account of the specific interests of defined groups of countries. On the negative side, subjects of continuing concern were the prevailing management culture at OHCHR, the inequitable geographical distribution of posts, and the Office's over-reliance on voluntary contributions.

His Government agreed that the human rights situation in any given country could legitimately be a cause of concern for the international community, but categorically rejected any attempt to exploit human rights as a lever to meddle in a country's internal affairs. Nor could his delegation accept the simplistic distinction between "good" and "bad" Governments, as outlined by the representative of the United States of America. Before lecturing other States about democracy, the United States would do well to reflect on the progress which those States had made towards democracy and the rule of law, and also on its own human rights shortcomings. The abusive recourse to country-specific resolutions in the Commission on Human Rights had transformed that body into an unhelpful theatre of confrontation, whereas the more sensible and productive course of action would be to engage in dialogue.

Mr. SHA Zukang (China) said that the Commission on Human Rights had played a historic role in formulating international instruments to support the realization of the right to self-determination and combat the large-scale violations of human rights caused by foreign aggression and occupation, colonialism, racism and apartheid. However, its work had always been and continued to be bedevilled by politics, and the Commission's potential to be an instrument for the genuine promotion and protection of human rights around the world had yet to be realized.

Confrontation between East and West had been replaced by confrontation between North and South. Every year, Western countries proposed a number of country-specific resolutions targeted at developing countries. Most of the resolutions were characterized by political confrontation and double standards. The former colonial powers were merely seeking to bully their former colonies, thereby displaying a kind of twisted nostalgia.

International instruments such as the Vienna Declaration and Programme of Action stated that civil and political rights, on the one hand, and economic, social and cultural rights and the right to development, on the other, were equally important. Yet there remained a glaring imbalance in the Commission's treatment of the two categories of rights. The right to development was an empty slogan and many developing countries had become increasingly disillusioned with the Commission. If the right to development was not addressed, other human rights would never be fully realized in the developing countries.

Another persistent problem was that the Commission was plagued by an overloaded agenda and chronically disorganized proceedings. In a bid to boost efficiency, some worthwhile organizational initiatives had been launched at the most recent session, but much remained to be done.

It was imperative that the Commission discontinue the practice of considering country-specific situations, which were almost always an exercise in political grandstanding. Confrontation must give way to dialogue and cooperation based on equality. The diversity of the world was a fact that needed to be frankly acknowledged. Prejudice and confrontation could never make a contribution to human rights or a culture of peace. In that connection, the

statement by the representative of the United States to the effect that Tibetans in China were not free was a big lie. Being a super-Power did not give a country the right to tell lies or interfere in other countries' internal affairs.

Mr. KHAFIF (Observer for the Syrian Arab Republic) said that his Government applauded the efforts made by the Commission on Human Rights to promote and protect human rights and to elaborate human rights norms and standards. Nevertheless, human rights violations continued to occur and accusations were often levelled at specific countries. The whole subject of human rights should be addressed in a spirit of objectivity and transparency. Generally speaking, his Government was opposed to the politicization of human rights questions and their use as a pretext to intervene in the internal affairs of States. Every effort should be made to reduce tension through dialogue.

Mr. REYES RODRÍGUEZ (Cuba) said that his Government deplored the policy of confrontation pursued by the dictatorial regime of President Bush, the sole purpose of which was to extend the geopolitical hegemony of the United States. The President of the United States, the representative of a rabidly conservative and reactionary clique, had come to power through rigged elections. Having stripped his own citizens of their rights, he had embarked on a similar policy towards the rest of the world, as evidenced by the recent colonial war of conquest against the people of Iraq. His Government called upon the international community to prosecute the United States military personnel responsible for war crimes in Iraq, and urged the Government of the United States to restore control of Iraq's natural resources to the Iraqi people. The delegation of the United States should be reminded that persons illegally detained at Guantánamo were human beings with certain rights.

Furthermore, the international community should exert pressure on the United States to end its genocidal blockade against the Cuban people and to respect the Cuban people's right to self-determination. It was clear to any unbiased observer that one of the driving forces behind United States foreign policy was to annex the island of Cuba and overthrow the constitutional order accepted by the Cuban people in a nationwide referendum.



His delegation welcomed the appointment of the High Commissioner for Human Rights as head of the United Nations operations in Iraq and his stated commitment to monitor human rights in that country, and hoped that his mandate would not be frustrated by the continuing United States military occupation.

Mr. CHIPAZIWQ (Zimbabwe), speaking in exercise of right of reply, said that the representative of the United States of America had unfavourable characterized his Government. Yet the anger against his Government was a reflection of the frustration experienced by the United States and its allies. Their designs had been foiled by the legitimate and democratic expression of the people of his country. Zimbabwe's biggest detractors championed human rights to disguise their own heinous record of oppression and annihilation of indigenous peoples and people of colour. There was nothing they could teach the people of Zimbabwe.

Ms. AL-HAJJAJI (Libyan Arab Jamahiriya), speaking in her capacity as chairperson of the fifty-ninth session of the Commission on Human Rights, said that the quality of debate at that session of the Commission had been damaged by the severe time constraints under which it had had to operate. The session had also taken place against the background of events in Iraq, which had been discussed to some extent when the Commission was considering the report by the Special Rapporteur on the situation of human rights in Iraq and the resolution on the same subject.

She drew attention to a number of innovations in the Commission's working methods, including the introduction of a high-level segment, interactive dialogues with the special procedures and the early election of the Bureau, which had had a beneficial effect on the Commission's work. Strict application by the Secretariat of the Secretary-General's instruction on documentation had resulted in a smaller number of pages - though not of documents - than in previous years.

Among the most notable outcomes of the session had been the establishment of a new working group to consider a possible optional protocol to the International Covenant on Economic, Social and Cultural Rights, while the mandate of the Working Group on Structural Adjustment had been terminated. There had been a noticeable trend to consider country

situations under the agenda item dealing with technical assistance rather than under the one dealing with human rights violations. Intersessional work, including preparations by the Expanded Bureau to prepare for the next session of the Commission, had become increasingly important. The Commission had considered and endorsed a number of important decisions submitted to it by the Sub-Commission on the Promotion and Protection of Human Rights, including decisions to convene a second social forum and to carry out studies on human rights and small arms and discrimination in the criminal justice system.

Despite those achievements, the Commission had had to face a considerable amount of criticism and there remained a perception that it could be more efficient and effective in fulfilling its mandate. In that context, the Expanded Bureau would continue to reflect on matters such as the politicization of the Commission, its agenda, the role of non-governmental organizations (NGOs) and country-specific work. A review of its recent sessions would reveal a long list of solid achievements which had enhanced the effectiveness of the Commission's work, such as the introduction of limits on the tenure of special procedures or the innovation of having the Bureau work solely in its expanded format. Nevertheless, the reform process depended greatly on the support and guidance of the Council.

Mr. HERNANDEZ BASAVE (Observer for Mexico), speaking also on behalf of Bolivia, Brazil, Chile, Costa Rica, Cuba, Ecuador, Guatemala, Paraguay and Peru, paid tribute to the activities of the Working Group on Indigenous Populations, which could count among its many achievements the preparation of the draft declaration on the rights of indigenous peoples and the establishment of the Permanent Forum on Indigenous Issues. He wished to stress that there was no duplication of work between the Permanent Forum, the Working Group and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people.

The Permanent Forum was above all an advisory body providing the Council with recommendations on all aspects of the development of indigenous peoples and on the integration and coordination of activities concerning indigenous peoples within the United Nations system. The Working Group had a mandate to follow up and develop norms in the area of indigenous issues and to examine all developments with a bearing on the promotion and protection of the

human rights and fundamental freedoms of indigenous peoples. The task of the Special Rapporteur was to promote and protect those rights by means of mechanisms designed to bring about cooperation between States and the people concerned; the Special Rapporteur was the only mechanism that dealt with individual communications and had a mandate to visit countries at the request of the Government of the country concerned.

There was thus a clear distinction and complementarity between the mandates of the various United Nations mechanisms dealing with indigenous issues. The Council should not limit its review to those three mechanisms, but should also consider all other United Nations mechanisms, procedures and programmes dealing with indigenous matters. In doing so, it should bear in mind, first and foremost, the implications of its decisions for the economic and social development of indigenous peoples and respect for their human rights.

Mr. LOUFTY (Egypt) said that he agreed fully with the analysis contained in the report of the United Nations High Commissioner for Human Rights (E/2003/73) on the roles of the various human rights bodies within the United Nations system in implementing the outcome of the Millennium Summit. More resources should be made available to OHCHR and to developing countries to fund technical cooperation activities.

In his own country, the task of promoting a human rights culture fell to the National Human Rights Council, which cooperated closely with the United Nations treaty bodies. In the context of that cooperation, his Government had received a visit earlier in the year from the independent expert on the right to development, who had offered advice on the elimination of poverty, highlighting the challenges facing developing countries.

States must realize that their rights and responsibilities were not limited to their own citizens; it was vital that the international community should provide economic and material assistance to help ensure the implementation of the right to development.

He agreed with the comments in the High Commissioner's report about education, the importance of civil and political rights and the right to food, as well as on the need to consolidate cooperation between the treaty bodies while respecting their independence.

Mr. ESCUDERO MARTÍNEZ (Ecuador) said that his Government attached the utmost importance to indigenous issues and was in favour of retaining the Working Group on Indigenous Populations, as it did not interfere with or duplicate the work of any other mechanism and had, indeed, been instrumental in setting up the Permanent Forum on Indigenous Issues. His Government also believed that a second international decade of the world's indigenous people should be proclaimed for the purpose of reviewing and achieving the objectives that had not yet been reached.

Ms. NASCIMBENE de DUMONT (Argentina) said that the High Commissioner's report (E/2003/73) paid insufficient attention to the right to development, which was a crucial issue for the vast majority of the members of the international community. The work of the Working Group on the Right to Development and the independent expert on the right to development deserved more than a passing mention. Another issue that had not received the attention it deserved was trade liberalization: there was a reference to it in paragraph 57, but there was no mention of the previous High Commissioner's report on globalization and its impact on the full enjoyment of human rights (E/CN.4/2002/54), which examined, among other things, the impact on world trade of agricultural subsidies in the developed countries. That issue should be kept under review, given that the elimination of barriers to agricultural trade was of vital importance to developing countries.

Mr. MAGGA (Chairperson of the Permanent Forum on Indigenous Issues) said that indigenous peoples were among the most marginalized and poorest people in the world, and were likely to suffer from poor health, poor schools, unemployment and forced displacement. Despite all that, indigenous peoples were not just seeking assistance from the Council, they also had much to offer it. For example, the Forum had soon realized that one of the main obstacles facing policy makers in the field of indigenous issues was the lack of reliable, disaggregated data, and so planned to hold an expert workshop on data collection and disaggregation before its third session. The Forum had also provided input to the ministerial declaration on rural development adopted by the Council at its high-level segment, although he was disappointed that the term "indigenous people", rather than "indigenous peoples", had been used in the final text.

In its working methods, the Forum had been guided by the Council's practice of holding high-level panels and interactive dialogues. It had selected the theme of "indigenous women" for its next high-level debate, which would allow the Forum to make an active contribution to the 10-year review of the Fourth World Conference on Women. It was also prepared to offer its considered advice to the Council on the theme for a future high-level segment of the Council on indigenous issues.

Given that part of its mandate was to integrate and coordinate indigenous issues in the United Nations system, it was vital that the Forum should participate in important meetings of relevance to its mandate, and he was pleased to report that a growing number of invitations to such meetings were being received. The Forum was aware of the unique and challenging mandate entrusted to it by the Council and particularly welcomed the various opportunities for the members of its Bureau to meet the Bureau of the Council.

Lastly, he said that the Permanent Forum supported the wish, expressed by the indigenous peoples generally, to have a second decade of the world's indigenous peoples proclaimed by the General Assembly.

Mr. DEER (Indigenous World Association), speaking on behalf of the Caucus of Indigenous Peoples present at the twenty-first session of the Working Group on Indigenous Populations, said that indigenous peoples were part of ancient and complex societies, the distinct identities of which remained unrecognized in many parts of the world. They continued to face extreme discrimination, racism and marginalization and, the challenge that lay ahead was to strengthen their rights in conventions and standards. Those rights included territorial rights and land ownership, the protection of traditional knowledge, culture and heritage rights, trade rights, the right to participate in the private sector and the right to peace.

The Working Group, which provided an opportunity for indigenous peoples, Governments and others to meet, enhance partnerships and further the development of human rights, had become a centre for authoritative discourse on the rights of indigenous peoples. Instead of being penalized for its success, it should be given the support it needed to achieve even more.

The Working Group had a legislative function, while the Permanent Forum on Indigenous Issues had a much broader agenda. The two bodies should complement each other. The elimination of either would be tantamount to curtailing a political system.

Like all the participants in the twenty-first session of the Working Group, the Caucus was strongly in favour of instituting a second international decade for indigenous peoples, particularly as the desired outcomes of the current decade had not been met and were unlikely to be met by 2004.

Ms. FRANK (Netherlands Centre for Indigenous Peoples), speaking also on behalf of the Adivasi Coordination Committee-Germany, Almaciga, the Committee in Solidarity with Indigenous Peoples of the Americas, Incomindios-Switzerland, the Institute for Ecology and Action Anthropology (INFOE), the International Work Group for Indigenous Affairs (IWGIA), the Support Group for Indigenous Peoples (KWIA) and the Society for Threatened Peoples, endorsed the statement made by the representative of the Indigenous World Association on behalf of the Caucus of Indigenous Peoples.

Several States apparently considered that the recent establishment of the Permanent Forum on Indigenous Issues made the Working Group on Indigenous Populations redundant, despite the fact that the two bodies had different mandates and should be complementary and mutually supportive. The Permanent Forum's role as an advisory body to the Economic and Social Council should be recognized, respected and strengthened. The report of the Secretary-General on information concerning indigenous issues requested by the Economic and Social Council (E/2003/72) should be submitted to the Forum at its third session, thus enabling it to provide expert advice and recommendations to the Council on that important issue.

Ms. BIRRAUX-ZIEGLER (Indigenous Peoples' Centre for Documentation, Research and Information) said that each of the bodies within the United Nations system devoted to indigenous issues had a distinct mandate. Her organization was therefore in favour of maintaining the Working Group on Indigenous Populations. Nevertheless, the creation of forums within the United Nations to address issues relating to indigenous peoples was not enough. The indigenous peoples had to be able to participate in them in a constructive way. As most of them lacked the technical and financial means, civil society should create an

infrastructure that would permit them to participate with dignity. In that context, her Centre provided them with logistical services, translation and interpreting services, computers and other facilities free of charge. Other Swiss-based NGOs helped to provide them with free or cheap accommodation.

Mr. LONN (International Youth and Student Movement for the United Nations (ISMUN)) said that the right of peoples to peace was a fundamental human right recognized by the General Assembly and support for the right to peace had recently been manifested in the massive popular anti-war demonstrations held throughout the world. The International Covenants on Human Rights both affirmed the right of all peoples to self-determination (art. 1) and there could be no doubt that military occupation by foreign forces constituted the gravest breach of those provisions. The armed attack on Iraq in violation of the Charter of the United Nations had resulted in death and destruction and serious human rights violations.

In that connection, draft decision 25, recommended by the Commission on Human Rights for adoption by the Council, gave cause for concern. It extended the mandate of the Special Rapporteur on the situation of human rights in Iraq but in terms whereby the Special Rapporteur was virtually requested to turn a blind eye to the human rights violations resulting from the war and occupation and focus only on past violations by the former regime, although all people should receive the protection of the United Nations human rights machinery, no matter how powerful the perpetrator of the violations might be.

Mr. ORTIZ (Legal Commission for the Self-Development of the Native Andean Peoples), summarizing a statement delivered by the Caucus of Indigenous Peoples at the twenty-first session of the Working Group on Indigenous Populations, said that, although some significant progress had been made with regard to the specific rights of indigenous peoples, there was still no recognition of the fact that different treatment was needed to accommodate different identities. Furthermore, despite the efforts of the specialized agencies of the United Nations, States were still not doing enough to respect the right to land or to protect the traditional knowledge, culture and heritage of indigenous peoples.

The Working Group on Indigenous Populations had a legislative function, whereas the Permanent Forum on Indigenous Issues should be seen as having an executive role. Although their mandates were different, the two bodies should complement each other.

It was important to review the achievements, strengths and weaknesses of the International Decade of the World's Indigenous Peoples and ensure the necessary follow-up by instituting another decade so that the progress made in terms of promoting the economic, social and political development of indigenous peoples would continue.

Draft resolution on the enhancement of the functioning of the Office of the United Nations High Commissioner for Human Rights in regard to the operation of the mechanisms of the Commission on Human Rights (E/2003/L.37)

Ms. BORZI COMMACCHIA (Italy), introducing the draft resolution on behalf of the European Union, the acceding countries of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia and the associated countries of Bulgaria and Romania, said that the aim of the draft resolution was to address the practical implications of Commission on Human Rights decision 2003/113. That decision impinged on the mandate of the Council as a parent body of both the Commission on Human Rights and the Commission on the Status of Women. The Council had established the current practice of sharing information between the two Commissions in its resolution 1983/27 and had reaffirmed its position on that issue at its substantive session in 2002, namely that the current practice of sharing confidential communications between the two Commissions was not only acceptable, but to be expected.

Secondly, at its 2003 session, the Commission on the Status of Women had requested the Secretary-General to prepare a report, seeking the views of Member States, to enable it to consider the future work of its Working Group on Communications on the Status of Women. Endorsement by the Council of decision 2003/113 would pre-empt the consideration by the Commission on the Status of Women of those issues and render pointless the views that Member States had been asked to provide to the Secretary-General. It would also pre-empt the Council's consideration in 2004 of the recommendation by the Commission on the Status of Women regarding its communication procedure.



Thirdly, the proposal contained in decision 2003/113 to require written authorization for urgent appeals of the special procedures would have a negative impact on the working methods of the Commission on Human Rights and, if endorsed by the Council, would seriously impair the effectiveness of the special procedures.

The PRESIDENT invited the Council to take action on the draft resolution and draft decisions under sub-item 14 (g) contained in chapter I of the report of the Commission on Human Rights on its fifty-ninth session (E/2003/23 (Part I)), the programme budget implications of which were set out in document E/2003/L.31.

Draft resolution on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mr. DE LAURENTIS (United States of America) said that his delegation continued to have strong conceptual difficulties with the focus of much of the Commission resolution on which the draft resolution on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health was based. It took an entitlement approach, rather than an enabling and progressive one, to the issue of access to health care. Furthermore, neither the Council nor the Commission had the authority to recommend international years; such proposals should be submitted directly to the General Assembly, as outlined in General Assembly resolution 53/199. His delegation, therefore, would like to hold a roll-call vote on the draft resolution and would vote against its adoption.

Ms. DE BORBA MACIEL (Brazil), speaking as a member of the delegation that had submitted the original draft resolution to the Commission on Human Rights, explained that its purpose was to incorporate violence prevention into the topic of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Its proposals had been based on the findings of the World Report on Violence and Health, launched by the World Health Organization in 2002. The report, the first of its kind to address violence from a health point of view, showed how violence could severely hamper the right to health and drew the attention of the international community to the lack of a comprehensive approach to prevent violence by addressing its root causes at the local level. The international community should

seize the opportunity created by the release of the report and build on it. Her delegation had, consequently, called on the General Assembly to declare 2007 the United Nations Year for Violence Prevention. She urged the Council to adopt the draft resolution.

At the request of the representative of the United States of America, a vote was taken by roll-call on the draft resolution.

Japan, having been drawn by lot by the President, was called upon to vote first.

In favour: Argentina, Benin, Bhutan, Brazil, Burundi, Chile, China, Congo, Cuba, Ecuador, Egypt, Ethiopia, Ghana, Guatemala, Iran (Islamic Republic of), Jamaica, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mozambique, Nepal, Nicaragua, Nigeria, Pakistan, Peru, Qatar, Republic of Korea, Russian Federation, Saudi Arabia, South Africa, Uganda, Zimbabwe.

Against: United States of America.

Abstaining: Andorra, Australia, Finland, France, Georgia, Germany, Greece, Hungary, India, Ireland, Italy, Netherlands, Portugal, Romania, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland.

The draft resolution was adopted by 33 votes to 1, with 17 abstentions.

Mr. REYES RODRIGUEZ (Cuba), speaking on a point of order, said that, in view of the fact that no electronic voting system was in place, delegations should at very least be provided with tally sheets so that they could keep their own records of the voting process.

The PRESIDENT said that tally sheets would be distributed as soon as possible.

Draft decision on the human rights situation of the Lebanese detainees in Israel (draft decision 1)

Mr. DE LAURENTIS (United States of America) said that the draft decision stemmed from a series of resolutions considered by the Commission on Human Rights aimed at Israel, a nation with a democratic, freely-elected, representative Government. Israel had an independent judiciary that guaranteed due process and was a nation whose citizens enjoyed freedom of worship, freedom of speech and freedom of assembly. His delegation could not

endorse the draft decision because the Commission on Human Rights resolution on which it was based was imbalanced, factually wrong and inappropriate. His delegation called for a roll-call vote on the draft decision and it would vote against its adoption.

Mr. LEVY (Observer for Israel) said that Israel had withdrawn its forces from Lebanon, in accordance with Security Council resolution 425 (1978), on 24 May 2000. The Security Council and the General Assembly had subsequently confirmed that withdrawal and that resolution 425 (1978) had been complied with. His Government had also handed over maps of the minefields in southern Lebanon to the United Nations Interim Force in Lebanon (UNIFIL). However, the Government of Lebanon had failed to fulfil its responsibility to maintain control over the minefields on its territory. The absence of decisive Lebanese action to assert its authority in the area, which allowed Hezbollah to continue to mount attacks against Israel, should be taken into account with regard to Israeli counter-actions in southern Lebanon.

There were always glaring omissions in debates and resolutions concerning the Middle East region. The draft decision on the human rights situation of the Lebanese detainees in Israel was no different. He drew attention to the situation of Israeli detainees in Lebanon and elsewhere, which had never been discussed by the Council. On 11 June 1982, three Israeli soldiers had been captured in Lebanon, and remained unaccounted for. In October 2000, Hezbollah had abducted four Israeli citizens, three of whom had died from the injuries sustained during their capture, while the other remained in captivity in southern Lebanon.

By allowing such activities to continue on its territory, the Government of Lebanon was failing to fulfil its obligations under international law. In particular, it had failed to comply with Security Council resolution 1373 (2001), by refusing to freeze the assets or shut down the infrastructure of Hezbollah or other terrorist groups that continued to operate freely in Beirut.

At the same time, all 13 Lebanese citizens previously held under administrative detention in Israel had been released. Five illegal Hezbollah combatants, including three Lebanese citizens, were being detained, with respect for due legal process. The detainees were fully entitled to legal counsel, as well as to visits from delegates of the International Committee of the

Red Cross (ICRC). No State other than Israel would be singled out for condemnation in relation to the legitimate detention of illegal combatants. He urged members to vote against the draft decision, which constituted an attempt to distort reality.

Mr. SMITH (Australia) said that, while his delegation was concerned about the situation of Lebanese detainees, the draft decision was an unbalanced one, because it failed to take into account Israel's withdrawal from Lebanon. He would therefore abstain from voting on it.

Ms. NOUREDDINE (Observer for Lebanon) said that Lebanese citizens had been abducted and detained without trial in Israeli prisons, to be used as hostages in future bargaining. She called upon Israel to respect international humanitarian law, and allow the detainees to be visited regularly by ICRC delegates. One such detainee had recently died in prison at the age of 70 years.

The hundreds of thousands of landmines left by Israel in Lebanese territory caused enormous disruption to the lives of ordinary civilians. She urged Israel to supply all the maps of minefields to assist with mine clearance. In accordance with Security Council resolution 1461 (2003), her Government had deployed its armed forces with a view to enhancing security in southern Lebanon. Her country neither harboured nor supported terrorist organizations.

At the request of the representative of the United States of America, a vote was taken by roll-call on the draft decision.

Uganda, having been drawn by lot by the President, was called upon to vote first.

In favour: Argentina, Benin, Bhutan, Brazil, Burundi, Chile, China, Congo, Cuba, Ecuador, Egypt, India, Iran (Islamic Republic of), Jamaica, Kenya, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Uganda, Zimbabwe.

Against: Georgia, United States of America.

Abstaining: Andorra, Australia, Ethiopia, Finland, France, Germany, Ghana, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Mozambique, Nepal, Netherlands, Nicaragua, Peru, Portugal, Republic of Korea, Romania, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland.

The draft decision was adopted by 26 votes to 2, with 24 abstentions.

Mr. LEVY (Observer for Israel), speaking in exercise of right of reply, called upon the Government of Lebanon to provide the same access to ICRC delegates to Israeli detainees as Lebanese citizens enjoyed in Israel. He reiterated that the five Hezbollah combatants detained in Israel were fully entitled to lawyers and to visits from the ICRC.

Ms. NOUREDDINE (Observer for Lebanon), speaking in exercise of right of reply, said it was regrettable that the representative of Israel was attempting to hide the truth concerning the Lebanese detainees.

Draft decision on the situation of human rights in Myanmar (draft decision 2)

The draft decision was adopted.

Ms. BORZI COMMACCHIA (Italy), supported by Mr. TOMITA (Japan), and speaking on behalf of the European Union, the acceding countries of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, and the associated countries of Bulgaria, Romania and Turkey, expressed deep concern at the rapidly deteriorating situation in Myanmar, in view of the rising number of politically motivated arrests, such as that of Daw Aung San Suu Kyi. The Union urged the authorities there to release her and other members of the National League for Democracy (NLD) immediately, and to allow NLD offices to be reopened throughout the country. Those responsible for the attacks on Daw Aung San Suu Kyi and her colleagues must be held to account.

The Union called for a substantial and meaningful dialogue to take place between the authorities and the NLD, with a view to relaunching the process of national reconciliation and the transition to democracy. The United Nations, and particularly the Special Envoy of the Secretary-General for Myanmar, and the Special Rapporteur of the Commission on Human Rights, had a vital role to play in bringing about positive political change in that country.

Mr. SIV (United States of America), supported by Mr. SMITH (Australia), said that the draft decision sadly failed to reflect current realities, in view of the dramatic deterioration in the situation in Myanmar since the last session of the Commission on Human Rights. His delegation was deeply concerned by the outrageous events of 30 May 2003, when thugs linked to the Government had carried out a violent attack on the caravan of opposition leader Daw Aung San Suu Kyi, leaving a number of people either wounded or dead. The continued detention of Daw Aung San Suu Kyi and her colleagues on grounds of safety and security was an unacceptable violation of their human rights.

He also drew attention to the appalling human rights situation faced by the country's 50 million inhabitants. Not only did they lack basic freedoms of speech, association and travel, they also suffered from a variety of abuses, perpetrated by their own Government. Ethnic minorities were especially vulnerable to extrajudicial killings, forced relocation, forced labour, and rape by members of the armed forces. The ruling State Peace and Development Council (SPDC) had refused to respond to repeated appeals from the international community for an improvement in the situation, and failed to cooperate with the Special Rapporteur. He called for an equally strong response from the international community, to make it clear to the regime that it had no option but to restore democracy.

Mr. THAN (Observer for Myanmar) said that some irrelevant comments had been made regarding the human rights situation in his country. It was inconsistent with the practice of the Council to raise issues concerning specific country situations, without a special request from one of the specialized agencies. The Council was required to take note of, and adopt, decisions and resolutions recommended by the Commission on Human Rights, but it was not supposed to reopen substantive debates. Furthermore, there was no justification for singling out Myanmar, when flagrant human rights violations occurred in other parts of the world.

The Council should remain impartial and objective in dealing with human rights issues, as it had been clearly instructed in the Vienna Declaration. He categorically rejected the irrelevant comments made, which were part of a politically motivated attempt to exert undue pressure on his Government. All issues should be considered in the appropriate forums, in accordance with established procedure and practice.

His Government was determined to bring about national reconciliation. Having achieved the reintegration of 17 armed groups into the legal fold, it was continuing to seek ways for legal political parties to expand their activities. To that end, there had been a total of 12 meetings between senior government representatives and Daw Aung San Suu Kyi of the NLD. The authorities were currently reviewing individual cases of detainees, and had already released 91 persons, including many NLD members. Nevertheless, it had been forced to take temporary measures to ensure the safety of Daw Aung San Suu Kyi and some of her colleagues. She was completely unhurt, and was being held in secure conditions.

While some Western countries were trying to use sanctions as a political weapon, sanctions would only be counterproductive and cause unnecessary distress to ordinary people. Only a more cooperative approach could produce positive results. His Government pledged to continue its policy of transition to democracy in a systematic, step-by-step manner.

The meeting rose at 1.05 pm.