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SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 March 2007, at 10 a.m.

President: Mr. DE ALBA (Mexico)

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The meeting was called to order at 10.15 a.m.

IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL” (agenda item 2)
(continued) (A/HRC/2/L.14 and 18; A/HRC/4/L.7/Rev.2, 12, 14, 15, 16, 17 and 25)

1. The PRESIDENT invited the Council to take action on the various draft proposals that had been submitted during the session.

Draft decision on human rights and unilateral coercive measures (A/HRC/2/L.14)

2. Ms. HERRERA CASEIRO (Cuba), introducing the draft decision on behalf of the Movement of Non-Aligned Countries, recalled that the draft text had originally been submitted at the second session. Similar texts had been adopted by the Commission on Human Rights and the General Assembly. She drew attention to editorial amendments updating the draft decision, which she hoped would receive the vote of all those committed to human rights.

3. The PRESIDENT said that the draft decision had no programme budget implications.

4. At the request of the representative of Germany, a recorded vote was taken on draft decision A/HRC/2/L.14, as orally revised.

In favour: Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Brazil, Cameroon, China, Cuba, Djibouti, Ecuador, Gabon, Ghana, Guatemala, India, Indonesia, Jordan, Malaysia, Mali, Mauritius, Mexico, Morocco, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Uruguay, Zambia.

Against: Canada, Czech Republic, Finland, France, Germany, Japan, Netherlands, Poland, Romania, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Republic of Korea.

5. Draft decision A/HRC/2/L.14, as orally revised, was adopted by 32 votes to 12, with 1 abstention.*

Draft resolution on the right to development (A/HRC/4/L.14)

6. Ms. HERRERA CASEIRO (Cuba), introducing the draft resolution on behalf of the Movement of Non-Aligned Countries, drew attention to two reversions to the text, which had originally been issued as document A/HRC/2/L.15. In paragraph 2 (a), the words “enshrined in the core human rights instruments” should be deleted. Paragraph 3 should be reworded to read: “Decides also to review the progress of the implementation of the present resolution as a matter

* The delegations of Nigeria and Tunisia subsequently informed the Council that they had intended to vote in favour of the draft resolution.

of priority in its future sessions". The draft resolution was the result of negotiations that could lead to a binding convention on the implementation of the right to development, which was an inalienable human right.

7. Draft resolution A/HRC/4/L.14, as orally revised, was adopted.

8. Ms. SIEFKER-EBERLE (Germany), speaking on behalf of the European Union, said that, committed as it was to the right to development, the European Union sought consensual, tangible outcomes from the work of the Working Group on the Right to Development and the high-level task force on the implementation of the right to development. It would welcome the elaboration of guidelines but not necessarily with the implication that they would lead to a legal international instrument of a binding nature. The recent publication by the task force of criteria for the periodic evaluation of global partnerships had, in contrast, yielded a tangible result. The European Union therefore encouraged the Working Group and the task force to explore other ways of ensuring implementation of the right to development. The introduction of a binding norm would lead to a politicized debate, whereas implementation of the right to development required international cooperation and accountability, and it was in that spirit that the European Union had joined the consensus on the draft resolution.

9. Ms. STUEWER (Canada) said that it was not appropriate for the Working Group and the task force to consider the elaboration of a binding document on the implementation of the right to development. Her delegation would therefore take paragraph 2 (d) of the draft resolution to mean that a binding norm was only one option to be considered among many others. Her delegation supported the continued focus by the Working Group and the task force on a practical approach to operationalizing the right to development by developing criteria for the periodic evaluation of global partnerships on a voluntary basis.

Draft decision on enhancement of international cooperation in the field of human rights (A/HRC/2/L.18)

10. Ms. HERRERA CASEIRO (Cuba), introducing the draft decision on behalf of the Movement of Non-Aligned Countries, drew attention to a number of revisions to the text which had originally been submitted at the second session. The words "and General Assembly resolution 61/168" should be inserted in the chapeau and the words "with the objective of ensuring respect for the principles of universality, objectivity and non-selectivity in the consideration of human rights issues and eliminating double standards and politicization" should be deleted in subparagraph (a). The words "before the end of 2007" had been inserted at the end of subparagraph (b). She hoped that the draft decision would, like its predecessors in the Commission on Human Rights, be adopted without a vote.

11. Draft decision A/HRC/2/L.18, as orally revised, was adopted.

Draft resolution on globalization and its impact on the full enjoyment of all human rights (A/HRC/4/L.16)

12. Mr. LA Yifan (China), introducing the draft resolution on behalf of the Like-Minded Group of States and South Africa, said that the benefits of globalization were far from evenly shared: the gap between the rich and the poor was widening. Accordingly, the draft resolution

highlighted the special difficulties faced by developing countries in meeting the challenges of globalization and emphasized that development should be at the centre of the international economic agenda. Two rounds of informal consultations had been held on the text, which had originally been issued at the second session as document A/HRC/2/L.23, and he hoped that delegations would show goodwill by adopting it by a large majority.

13. The PRESIDENT said that the draft resolution had no programme budget implications.

14. Ms. SIEFKER-EBERLE (Germany), speaking on behalf of the European Union, said that, although globalization could have a negative effect on the enjoyment of human rights, it could also provide new opportunities for the enjoyment of human rights throughout the world by bringing countries and peoples closer together. Like its predecessors, the draft resolution focused on the negative impact of globalization, suggesting that it adversely affected the enjoyment of all human rights. The text was thus unbalanced and sometimes inaccurate. She acknowledged the efforts of the main sponsor to provide an opportunity for an exchange of views but regretted that the Like-Minded Group had not been willing to give due weight to the positive aspects of globalization and requested that the draft text should be put to a vote.

15. At the request of the representative of Germany, a recorded vote was taken on draft resolution A/HRC/4/L.16.

In favour: Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Brazil, Cameroon, China, Cuba, Djibouti, Ecuador, Gabon, Ghana, Guatemala, India, Indonesia, Jordan, Malaysia, Mali, Mauritius, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Tunisia, Uruguay, Zambia.

Against: Canada, Czech Republic, Finland, France, Germany, Japan, Netherlands, Poland, Republic of Korea, Romania, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

16. Draft resolution A/HRC/4/L.16 was adopted by 34 votes to 13.

17. Mr. MIYAGAWA (Japan) said that the impact of globalization on the enjoyment of human rights merited further discussion. The draft resolution just adopted, however, focused on economic and developmental issues rather than human rights, which made it unsuitable for discussion in the Council. Although his delegation had voted against the draft resolution, it appreciated the efforts by the delegation of China to provide an opportunity for an exchange of views on globalization and looked forward to working with the sponsors to elaborate a consensual text in the future.

Draft resolution on strengthening of the Office of the United Nations High Commissioner for Human Rights (A/HRC/4/L.15)

18. Mr. LA Yifan (China), introducing the draft resolution on behalf of the Like-Minded Group of States and South Africa, said that while the draft text followed in the tradition of those which had formerly enjoyed broad support within the Commission on Human Rights, it nevertheless contained a few new elements in that it requested the High Commissioner for

Human Rights to provide all States with adequate financial and budgetary information relating to her Office and to take further measures to implement the recommendations of the Joint Inspection Unit with a view to improving the geographic balance of the staff of her Office at all levels.

19. His own delegation proposed that a new paragraph should be inserted after the eleventh preambular paragraph, which would read:

“Welcoming the decision of the Secretary-General of the United Nations in his note on the follow-up to the management review of the Office of the United Nations High Commissioner for Human Rights (A/61/115/Add.1) to the effect that ‘the report of the Joint Inspection Unit on the follow-up to the management review of OHCHR (JIU/REP/2006/3 contained in A/60/115) will therefore be submitted to the Human Rights Council’”.

20. The PRESIDENT said that the draft resolution had no programme budget implications.

21. Ms. SIEFKER-EBERLE (Germany), speaking on behalf of the European Union, said that the Office of the United Nations High Commissioner for Human Rights (OHCHR) played a vital role in the promotion and protection of human rights, and the Office’s independence was the key to preserving and strengthening that role. As the Fifth Committee of the General Assembly was responsible for administrative and budgetary matters, it was the appropriate body to address those particular issues. Certain elements of the draft resolution therefore fell more within the remit of the Fifth Committee.

22. The European Union welcomed both the interaction that had taken place between States and the High Commissioner during the current Council session and the open and constructive consultations which had been held on the draft text. Nevertheless that text, as orally revised, went beyond the compromises reached during those consultations. The States members of the European Union that were also members of the Council therefore requested that a vote should be taken on the draft resolution before the Council. They would abstain in that vote, although they hoped that, in the future, the consultative process would result in a text which was acceptable to all.

23. Ms. BLITT (Canada) said that despite the sincere efforts made by many Council members during the consultations on the draft resolution, the inflexibility shown by other members had stymied progress on the substantive and procedural issues raised by the text. Canada was pleased that the draft took into account the request made in General Assembly resolution 61/244 that the Secretary-General should present to the General Assembly, in consultation with OHCHR, proposals to address the imbalance in the geographic distribution of the Office’s staff. However, the draft resolution still gave rise to many concerns. Administrative and budgetary matters, including the question of geographic representation, should be dealt with by the body which had the requisite jurisdiction and expertise, namely the Fifth Committee of the General Assembly.

24. With regard to paragraph 7, she said that the Human Rights Council did not have a mandate to specify sources of funding: that was the province of the Fifth Committee. Similarly, although the goal of paragraph 14 was laudable, the draft resolution was not the appropriate vehicle for saying how an increase in regular budget funding should be spent. The draft

resolution duplicated efforts already being undertaken to address the issue. OHCHR had been established by the General Assembly, and the High Commissioner reported directly to the Secretary-General, a fact not reflected in several provisions of the draft text. It was not within the Council's jurisdiction to micromanage OHCHR, nor was it in the best interests of the promotion and protection of human rights to have the Office's independence circumscribed by the Council. For all of those reasons, her delegation would abstain.

25. Mr. LOULICHKI (Morocco) said that his delegation had been on the point of joining the sponsors of the draft resolution, but the oral revision which had been made at a very late stage gave rise to some qualms. The report of the Joint Inspection Unit (JIU/REP/2006/3) had been presented at the Council's second session; his delegation wondered, then, what the purpose of the proposed revision was. Quite apart from its content, on which his delegation required a number of clarifications, its late presentation had caused a stir, because delegations required a certain amount of time to peruse texts and proposed revisions. The situation was intolerable and should not be repeated.

26. Mr. LA Yifan (China), speaking on a point of order, asked whether the vote requested concerned only the amendment or the text of the draft resolution as a whole.

27. Ms. SIEFKER-EBERLE (Germany), speaking on behalf of the European Union, said that she had requested a vote on the entire text of the draft resolution, as orally revised.

28. At the request of the representative of Germany, a recorded vote was taken on draft resolution A/HRC/4/L.15, as orally revised.

In favour: Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Brazil, Cameroon, China, Cuba, Djibouti, Ecuador, Gabon, Ghana, India, Indonesia, Japan, Jordan, Malaysia, Mali, Mauritius, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Tunisia, Uruguay and Zambia.

Abstaining: Canada, Czech Republic, Finland, France, Germany, Guatemala, Netherlands, Poland, Romania, Switzerland, Ukraine and United Kingdom of Great Britain and Northern Ireland.

29. Draft resolution A/HRC/4/L.15, as orally revised, was adopted by 35 votes, with 12 abstentions.

30. Mr. MIYAGAWA (Japan) said that as his delegation fully agreed with the importance of strengthening OHCHR, it had voted in favour of the draft resolution. Nevertheless, the resources for promoting and protecting the right to development, to which reference was made in paragraph 9 of the text, had already been allocated to the Office. The text would therefore have been more accurate if the phrase "continue to" had been inserted before "devote".

31. It was his delegation's understanding that the request mentioned in paragraph 17 of the draft resolution was that contained in section XVII, paragraph 2, of General Assembly resolution 61/244. Japan regretted that owing to the last-minute submission of the revisions to the text, it had not been possible to adopt the draft resolution by consensus.

32. Mr. LOULICHKI (Morocco) said that in the light of its content, the draft resolution deserved to have been adopted by consensus. In the absence of any explanation of the logic behind the oral revisions, he wished to note that, had a separate vote been taken on the oral revision, his delegation would have abstained, as the implications of the new paragraph were not entirely clear.

Draft resolution on rectification of the legal status of the Committee on Economic, Social and Cultural Rights (A/HRC/4/L.17)

33. Mr. MONTWEDI (South Africa), introducing the draft resolution, said that if the draft was adopted, a process would be initiated to rectify the legal status of the Committee on Economic, Social and Cultural Rights with the aim of placing it on a par with other treaty-monitoring bodies. To that end the sponsors had thought it prudent first to seek the views, proposals and recommendations of the Committee itself. OHCHR was requested to ascertain the views of States and other stakeholders, including the Office of Legal Affairs. That process was completely different from OHCHR initiatives on treaty-body reform. The sponsors requested OHCHR to emphasize that fact when gathering the views of all concerned and when preparing its report.

34. Several delegations had queried the necessity of fixing something that wasn't broken. Although the effectiveness of the Committee on Economic, Social and Cultural Rights and the geographic distribution of its membership were unique, it was still important that the Committee should achieve parity with all other treaty bodies. The proposed initiative was complementary to the ongoing process of drawing up a comprehensive optional protocol to the International Covenant on Economic, Social and Cultural Rights, and his delegation wished to place on record its deep appreciation of the leadership provided by the Portuguese delegation in that process.

35. Once all the reports requested in the draft decision had been received, the Council would engage in an interactive dialogue with a view to determining future action to rectify the legal status of the Committee. South Africa had decided on the title of the draft resolution primarily because it believed that the historical imbalance in the treatment of the two covenants had to be corrected.

36. He wished to announce that France, the Islamic Republic of Iran, Senegal and Tunisia had joined in sponsoring the draft resolution.

37. Draft resolution A/HRC/4/L.17 was adopted.

Draft resolution on follow-up to the decision of 13 December 2006 adopted by the Human Rights Council at its fourth special session entitled "Situation of human rights in Darfur" (S-4/101) (A/HRC/4/L.7/Rev.2)

38. Mr. STEINER (Germany), introducing the draft resolution, said that the text on follow-up to Council decision S-4/101 was important for the Council's credibility and even more important for the protection of the human rights of the people in Darfur. Given the gravity of the human rights violations in Darfur, it was essential to focus on achieving tangible improvements on the ground. By adopting the draft resolution, the Council would give a group of special procedures under the leadership of the Special Rapporteur on the situation of human rights in the Sudan great responsibility for securing the implementation of the many existing human rights

recommendations on Darfur. However, since the primary responsibility for human rights situations lay with Governments, paragraph 8 of the draft resolution called upon the Government of the Sudan to fully cooperate with the group.

39. The draft text was the result of fruitful cooperation between the Group of African States and the European Union. Its adoption would prove that the Council was not shutting its eyes to the suffering of the people of Darfur.

40. Mr. JAZAÏRY (Algeria), speaking on behalf of the Group of African States, said that the Group of Arab States had joined in sponsoring the draft resolution. The sponsors were united by their concern for the victims of the serious human rights situation in Darfur and wanted the Council to address the crisis through dialogue and cooperation. The draft resolution reflected a consensus on a very complex subject. Being a compromise text it did not wholly satisfy anyone, but it would help to improve the plight of victims in the region. It was not necessary to reproduce the many resolutions, decisions and recommendations adopted by various United Nations human rights bodies in that area, but it was vital to promote their implementation and to address the needs of the Sudan.

41. The implementation strategy and mechanisms for monitoring it would be worked out by a group of thematic mandate-holders chaired by the Special Rapporteur on the situation of human rights in the Sudan, acting in close consultation with the Chairman of the Darfur-Darfur Dialogue and Consultation, who was expected to meet at least twice with the group of special rapporteurs in Geneva before the next session of the Council.

42. Notwithstanding the problems encountered between the Council's special session on Darfur and the current session, it was necessary to bear in mind the goodwill expressed by the Government of the Sudan, which had supported the special session, its outcome decision and the current draft resolution. The consensus achieved on the latter would enhance the Council's moral authority and restore its members' confidence at a time when the Council's institutional architecture was being finalized. It was to be hoped that the Council, by practising the values it preached, might become the conscience of the world rather than a battleground where national interests were aggressively pursued.

43. The PRESIDENT said that the consensus achieved on the draft resolution augured well for the Council's action in the future.

44. Mr. WARD (Office of the High Commissioner for Human Rights) said that adoption of the draft resolution would have programme budget implications in the form of additional costs under section 2 (General Assembly and Economic and Social Council affairs and conference management), section 23 (Human rights) and section 28E (Administration, Geneva) of the programme budget for the biennium 2006-2007 in the amount of US\$ 360,300. The Secretariat had sought to identify areas from which resources could be deployed to meet those requirements, and it was anticipated that they could be met from within resources already appropriated under the current programme budget.

45. Mr. MOHAMED KHEIR (Observer for the Sudan) said that his Government had again displayed its willingness to cooperate with the Council and its respect for the spirit of constructive dialogue among members of the Council. It had shown courage in supporting the

special session on the situation of human rights in Darfur and in welcoming the High-Level Mission. The Government had offered visas to all but one of its members, subject to a meeting between the Sudanese Minister for Foreign Affairs and the President of the Council. However, the Head of the Mission had refused to comply with the Government's request that she should delay her travel to Addis Ababa by 48 hours and had instead led the Mission to a destination other than the one prescribed in its mandate. The Sudanese Government had issued a note verbale explaining its position on the matter on 5 March 2007 (A/HRC/4/G/12); unfortunately, the Council secretariat had distributed it only two days previously. It was also unfortunate that his Government's sincere cooperation with the Council had been held against it by some countries, who had aligned themselves with those who stubbornly rejected any cooperation with the Council, thereby demonstrating the existence of double standards.

46. The Sudanese Government would prove that it was genuinely committed to cooperation, openness and constructive dialogue. He wished to assure the Council that the human rights embodied in the 1998 Constitution, the 2005 Comprehensive Peace Agreement for Southern Sudan and the 2006 Darfur Peace Agreement were being fulfilled. His delegation intended to distribute to the Council copies of the joint communiqué that had just been issued by the Deputy Special Representative of the Secretary-General and Humanitarian Coordinator for the Sudan and the Acting Minister for Foreign Affairs of the Sudan.

47. Draft resolution A/HRC/4/L.17/Rev.2 was adopted.

48. Mr. FERNÁNDEZ PALACIOS (Cuba) said that the situation in Darfur was complex and sensitive; its root causes lay, inter alia, in the region's colonial past and in the structural poverty engendered by centuries of exploitation. In order to accommodate the Government's stated desire to cooperate with the Council, it was essential to seek formulas that would both foster constructive dialogue and meet the needs of persons affected by the situation in Darfur. As a long-term development and cooperation strategy was also necessary, he regretted that the proposal to include the Special Rapporteur on the right to food in the group established by the draft resolution had been ignored. However, the next step was to focus on strengthening the Council's capacity to involve all parties in the process of implementation of the agreed mandates. That was the key to success and an effective alternative to the practice of naming and shaming that had discredited the Commission on Human Rights.

49. Mr. SHEN Yongxiang (China) said that China was deeply concerned about the gross human rights violations in Darfur and had therefore supported the Council's special session on the situation as well as the establishment of the High-Level Mission. However, while his delegation had joined in the consensus on draft resolution A/HRC/4/L.7/Rev.2, it wished to draw attention to certain shortcomings in the text. During the discussion of the High-Level Mission earlier in the current session, many delegations had questioned its legitimacy because only three of the five members had visited Chad and none of them had visited Darfur. Moreover, given that the Council had not considered the Mission's report, it was inappropriate to take note of it in the resolution. It was his delegation's understanding that the United Nations human rights institutions and other mechanisms mentioned in paragraph 7 did not include the High-Level Mission, and the resolutions and recommendations whose implementation was to be fostered did not include those contained in the Mission's report.

50. He called on the Government of the Sudan to cooperate with the Council and take firm action to improve the human rights situation in Darfur and to restore peace and stability.

51. Mr. LOSCHININ (Russian Federation) welcomed the agreement reached between the Group of African States and the European Union on a text dealing with the situation of human rights in Darfur that was acceptable to all members of the Council. He also noted with satisfaction that the representatives of the Sudan had participated in the process and expressed the hope that the resolution would be implemented in close cooperation with the Sudanese Government.

52. Although the Russian Federation had joined in the consensus on draft resolution A/HRC/4/L.7/Rev.2, it still took the view that the status of the High-Level Mission's report was questionable on account of the contradictions that had beset every stage of the Mission's work. Moreover, there was already a Special Rapporteur on the situation of human rights in the Sudan with a comprehensive mandate. The Council should have strengthened that mechanism to enhance its cooperation with the Sudanese Government instead of creating a group of special procedures. The Russian Federation did not consider that the creation of such a group set a precedent for the Council's work.

53. Mr. FUJISAKI (Japan) commended the efforts of all the parties who had been involved in producing a consensus. Japan would continue to follow the situation of human rights in Darfur closely. His delegation would have appreciated being informed at an earlier stage of the draft resolution's programme budget implications and hoped that the efficiency of the Council's activities would be enhanced in the future.

54. The PRESIDENT invited Council members to make general comments on the draft resolution that had just been adopted.

55. Mr. GODET (Switzerland) said that during the special session on the situation of human rights in Darfur, Switzerland had sought with other countries to foster a culture of dialogue so that the Council could develop consensus-based positions when it was necessary to take urgent action to address human rights violations. The adoption of draft resolution A/HRC/4/L.7/Rev.2 by consensus demonstrated that such a culture existed. The group of special procedures must now set to work to ensure the effective implementation of the various recommendations by the Council itself and by other United Nations human rights institutions. Switzerland called on the Government of the Sudan to cooperate fully with the group.

56. Mr. CHANG Dong-hee (Republic of Korea) said that the adoption of the draft resolution by consensus demonstrated the renewed spirit of cooperation in the Council and constituted a milestone in its short history. Instead of getting bogged down in technical controversy, the Council had taken a positive step towards addressing the human rights situation in Darfur. The group of special procedures should be convened and start work as soon as possible in order to improve the lives of people in Darfur. He urged the Government of the Sudan to cooperate fully with the group and to respond positively to all follow-up measures taken by the Council.

57. Mr. RIPERT (France) said that the draft resolution just adopted would enable the Council to ensure the effective implementation of all relevant United Nations resolutions and recommendations on the human rights situation in Darfur. It called on all parties to the conflict to

end violations and to cease attacks on the civilian population. In its follow-up activities, the Council would base itself on the work of tried and tested special procedures, which had demonstrated the indispensable role they could play on the ground.

58. He reiterated his Government's appeal to the Sudanese authorities to allow the immediate deployment of an international force based on the three-phase approach proposed by the Secretary-General in order to meet the security needs of the population in Darfur and address the deteriorating humanitarian situation. France also called on the Sudanese authorities to cooperate with the International Criminal Court in order to end the impunity of the perpetrators of the most serious human rights violations.

59. The Council had just demonstrated its ability to work together in a spirit of dialogue and understanding on a particularly difficult issue. He hoped that the lesson thus learned would not be forgotten.

Draft resolution on combating defamation of religions (A/HRC/4/L.12)

60. Ms. JANJUA (Pakistan), introducing the draft resolution on behalf of the Organization of the Islamic Conference (OIC), said that the text was based on Commission on Human Rights resolution 2005/3 and General Assembly resolution 61/164. Religions and their adherents had been the victims of discrimination, violence and defamation from time immemorial. Unfortunately, Islam and its adherents were now being targeted, as had been clearly recognized in the open-ended consultations held by OIC a few days previously. Manifestations of Islamophobia had been documented at the current session by three special rapporteurs and referred to by others. The Runnymede Trust in the United Kingdom had defined that phenomenon as, inter alia, perceiving Islam as being inferior to the West, barbaric, irrational, primitive and sexist, with hostility to Muslims accepted as being entirely normal.

61. The Durban Declaration recognized that victims of racism and racial discrimination could suffer multiple aggravated forms of discrimination based on other related grounds including religion. Since 11 September 2001, Muslims had suffered systematic discrimination as members of a global religious community. The acts of a few persons who professed to be Muslim were allowed to tar more than 1 billion Muslims with the brush of terrorism. Islam was the only religion equated with terrorism. Muslims were increasingly viewed as a security problem, a trend reflected not only in law and discriminatory judicial and administrative practices but also in the intellectual and ideological validation of Islamophobia. Such profiling of Muslims constituted racism and related intolerance and was therefore a human rights violation.

62. The draft resolution before the Council focused on Islam in the context of current realities. Its purpose was to compel the international community to acknowledge and address the phenomenon of defamation of religions, especially Islam, and the devastating impact of that phenomenon on the lives of individuals and to promote harmonious relations between different communities.

63. The sponsors had agreed to make a number of revisions to the draft resolution. In the sixth preambular paragraph, the phrase "in which he has given evidence of the upsurge in Islamophobia" had been deleted. A new preambular paragraph had been inserted immediately after that paragraph which read:

“Also welcoming the report by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance presented to the Human Rights Council at its fourth session (A/HRC/4/19), in which he draws the attention of Member States to the serious nature of the defamation of all religions and to promote the fight against these phenomena by strengthening the role of inter-religious and intercultural dialogue, promoting reciprocal understanding and joint action to meet the fundamental challenges of development, peace and the protection and promotion of human rights.”

The phrase “including through political institutions and organizations” had been inserted, within commas, in paragraph 7 after the word “dissemination”. Lastly, the word “regularly” had been deleted from paragraph 12 and the words “at its sixth session” had been inserted at the end of the paragraph.

64. She trusted that the draft resolution would be adopted by consensus.

65. The PRESIDENT said that the draft resolution had no programme budget implications.

66. Ms. SIEFKER-EBERLE (Germany) said that the European Union firmly believed in tolerance, non-discrimination, freedom of expression, freedom of thought and freedom of religion or belief. It was also strongly convinced that a continuing dialogue could help to overcome existing gaps in perceptions, concepts and ideas. It was therefore unfortunate that such a dialogue could not take place in the context of a draft resolution containing many elements that had led to lengthy and inconclusive negotiations in the past. While the European Union recognized the increased risk of stereotyping Muslims after the tragic events of 11 September 2001, it had publicly expressed its strong resolve to fight that phenomenon and had invited others to show a similar determination to combat other forms of religious intolerance. Discrimination based on religion or belief was not directed solely at followers of Islam. As the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had noted in his report (A/HRC/4/19), it also took the form of anti-Semitism, Christianophobia and hostility to spiritual and religious traditions of Asian origin, such as Hinduism and Buddhism, and of African origin, such as voodoo, candomblé and santería.

67. In the view of the European Union, defamation and discrimination were two different notions. Discrimination based on race, colour, sex, language or religion, political or other opinion, national or social origin, property, birth or other status fell within the scope of human rights, as demonstrated by Article 3 of the Charter of the United Nations and article 2 of the Universal Declaration of Human Rights. In addition, human rights law, especially the International Covenant on Civil and Political Rights, prohibited any form of incitement to religious hatred.

68. The European Union believed that a broader and more balanced rights-based text would best address the issues underlying the draft resolution. In its view, “defamation of religions” was not a valid concept in a human rights discourse. As noted by the Special Rapporteur on freedom of religion or belief, its use could be counterproductive since attention should focus on the rights and freedoms of individuals.

69. The European Union was willing to engage in a constructive dialogue with OIC and other interested parties to increase mutual understanding and find new ways to address the concerns of that organization. To that end, it would continue to support high-level events and round tables on religious issues in the context of the Council. However, it could not accept the draft resolution that had been submitted. Accordingly, it requested that the draft resolution should be put to a vote, and it would vote against it.

70. Mr. MARTÍNEZ ALVARADO (Guatemala), speaking in explanation of vote before the voting, said that Guatemala condemned the defamation of any religion whose principles and practices were compatible with human rights and fundamental freedoms and defended the principles of tolerance, non-discrimination and freedom of religion. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance had referred in his report to the “general increase” in defamation of religions and had explicitly mentioned other religions. His delegation therefore regretted that the draft resolution was unbalanced and focused on one religion. Many followers of other religions or beliefs all over the world were victims of human rights violations because their religion or belief was not that recognized by the State in which they lived. Consequently, Guatemala would vote against the draft resolution.

71. Ms. MAHAWAR (India) expressed firm opposition to the defamation or negative stereotyping of any religion. However, draft resolution A/HRC/4/L.12 focused on one religion, whereas the problem was faced in one way or another by all religions. The issue of defamation of religions fell under the rubric of either religious intolerance or abuse of freedom of expression to offend the sentiments of religious groups. Yet, the draft resolution envisaged no role for the Special Rapporteur on freedom of religion or belief or the Special Rapporteur on freedom of opinion and expression. It inappropriately sought to address the complex issue of defamation as a manifestation of racism. India would therefore abstain when the draft resolution was put to the vote.

72. Mr. MEYER (Canada) expressed the hope that the Council would adopt a consensus-building approach to cultural, linguistic, ethnic and religious diversity, focusing on dialogue, best practices and challenges. His delegation looked forward to participating in round tables or panels on such issues in the future. Moreover, Canada consistently opposed all forms of religious intolerance and called on all States to respect freedom of thought, conscience and religion, as guaranteed by article 18 of the International Covenant on Civil and Political Rights, and freedom of expression, as guaranteed by article 19. However, those elements were not properly reflected in the draft resolution; in addition, the text focused on the protection of religions, as opposed to the protection of the rights of adherents of religions, including members of religious minorities, and gave priority to the protection of a particular religion. His delegation also found it troubling that the issues of racism and religious intolerance were blended in a way that was not conducive to a better understanding of the relationship between the two. Racial and religious discrimination should be addressed through the implementation of existing obligations, inter alia under the International Covenant and the International Convention on the Elimination of All Forms of Racial Discrimination. Canada would therefore vote against the draft resolution.

73. At the request of the representative of Germany, a recorded vote was taken on draft resolution A/HRC/4/L.12, as orally revised.

In favour: Algeria, Azerbaijan, Bahrain, Bangladesh, Cameroon, China, Cuba, Djibouti, Gabon, Indonesia, Jordan, Malaysia, Mali, Mauritius, Mexico, Morocco, Pakistan, Philippines, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Tunisia.

Against: Canada, Czech Republic, Finland, France, Germany, Guatemala, Japan, Netherlands, Poland, Republic of Korea, Romania, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Argentina, Brazil, Ecuador, Ghana, India, Nigeria, Peru, Uruguay, Zambia.

74. Draft resolution A/HRC/4/L.12, as orally revised, was adopted by 24 votes to 14, with 9 abstentions.

75. Mr. FLORÊNCIO (Brazil) said that his delegation had abstained in the vote because it had serious reservations about paragraph 10. That paragraph included “respect for religions and beliefs” as a criterion for limiting freedom of expression, which was inconsistent with the provisions of article 19, paragraph 3, of the International Covenant on Civil and Political Rights. Despite the sponsors’ commendable efforts to revise the text on the basis of proposals from other delegations, that particular concern had not been addressed.

76. Mr. GARCIA (Philippines) said that his delegation had voted in favour of the draft resolution because it highlighted the need for the right to freedom of expression to be exercised with responsibility, subject to limitations as provided by law and where necessary to ensure respect for the rights of others. He hoped that due account would also be taken of the vital importance and potential of interfaith dialogue in combating defamation of religions and promoting peace and mutual understanding.

77. Ms. BERSET KOHEN (Switzerland) said that the non-derogable right to freedom of religion could be restricted only under exceptional circumstances set forth in international law. While Switzerland was aware of the difficulties faced by Muslims, especially after the attacks of 11 September 2001, it had not been in a position to support a draft resolution. Rather than defamation of religions, the draft should have addressed discrimination based on religion. Moreover, various provisions in the draft were incompatible with international law; paragraph 10 in particular was unclear and could lead to undue restrictions of the freedom of expression. Her delegation would have welcomed references to article 18 of the International Covenant on Civil and Political Rights and to the Special Rapporteur on freedom of religion or belief. Notwithstanding its reservations about the draft resolution, Switzerland believed in the need to condemn discrimination on the basis of religion and to promote tolerance, mutual understanding and peaceful coexistence between religious communities.

78. Mr. FUJISAKI (Japan) said that Japan firmly opposed the defamation of any religion and the association of a particular religion with violence or terrorism. Unfortunately, despite its laudable objective, the draft resolution focused on one religion only. Since its proposal to extend the scope of the draft resolution to include other religions had not been accepted, his delegation, much to its dismay, had been unable to support the text.

79. Mr. DUMONT (Argentina) said that given the importance of condemning all forms of religious intolerance, the failure to balance the right to freedom of expression with the right to freedom of religion in the draft resolution was disappointing. His delegation concurred with others as to the problematic nature of paragraph 10 and had put forward a proposal for a more balanced text, which, unfortunately, had not been retained. While recognizing the efforts made by the sponsors to accommodate certain concerns, his delegation had not been in a position to support the resolution as it stood and had therefore abstained.

80. Mr. CHOCANO BURGA (Peru) said that religious freedom and freedom of expression were not incompatible, but fundamental and interrelated human rights. His delegation had abstained in the voting on the draft resolution because the text failed to strike a balance between those rights and focused exclusively on a single religion.

81. Mr. CHANG Dong-hee (Republic of Korea) said that additional efforts were required at all levels to combat the rise of religious and racial intolerance. Such efforts must be conducted in accordance with human rights principles, with equal importance attached to all religions. Since the draft resolution contained elements that might lead to undue restriction of the right to freedom of expression and focused on a single religion, his delegation had been unable to support it.

82. Ms. JANJUA (Pakistan) thanked the supporters of the draft resolution on behalf of its sponsors. Delegations that had voted against the draft appeared to be surprisingly unaware of the magnitude of the problem, despite their ongoing efforts to rectify the situation in their own communities and the fact that special rapporteurs had reported extensively on human rights violations against Muslims. The Human Rights Council was mandated to address human rights violations and therefore had the duty to act. The sponsors of the resolution had done their utmost to take on board amendment proposals. Members of the Organization of the Islamic Conference would welcome reconsideration of the matter by the Council in future, in the hope that their concerns might receive the widest possible support.

Draft resolution on elimination of all forms of intolerance and of discrimination based on religion or belief (A/HRC/4/L.13)

83. Ms. SIEFKER-EBERLE (Germany), introducing the draft resolution on behalf of the European Union and more than 50 other sponsors, said that religious intolerance and discrimination based on religion or belief constituted a violation of fundamental human rights. Such discrimination was not confined to any specific religion or belief, or to any particular part of the world. Since the adoption of the Declaration on the Elimination of All Forms of

Intolerance and of Discrimination Based on Religion or Belief, the General Assembly and the Commission on Human Rights had regularly adopted resolutions reiterating the international community's resolve to eradicate all forms of religious intolerance.

84. The draft resolution made reference to the basis and relevance of the initiative and highlighted the need for the Council to incorporate the issue into its work. After consultation with interested delegations, it had been decided to delete the words "and subsequent" in paragraph 1. In paragraph 2, the word "regularly" should be deleted and the phrase "at its sixth session" added after "Human Rights Council".

85. Mr. REYES RODRÍGUEZ (Cuba) said that although his delegation had serious reservations about the content of the draft resolution, it would not block its adoption. The text was admittedly the fruit of prolonged consultations, and the sponsors had endeavoured to accommodate concerns expressed by other delegations. However, by requesting the Special Rapporteur on freedom of religion or belief to report to the Human Rights Council at its sixth session, the draft resolution prejudged the outcome of the review of mandates and anticipated the Council's programme of work. Thus far, no decisions had been taken regarding the continuation of the Special Rapporteur's mandate or the programme of work for future Council sessions. In the light of those considerations, his delegation wished to dissociate itself from the draft resolution and would not heed the recommendations contained therein.

86. Mr. MARTÍNEZ ALVARADO (Guatemala), supported by Mr. MAHAWAR (India), Mr. BOICHENKO (Russian Federation) and Mr. LA Yifan (China), said that any references to special procedures in resolutions adopted by the Council at the current session should not be interpreted as affecting or prejudging the outcome of the current review of all human rights procedures.

87. Draft resolution A/HRC/4/L.13, as orally revised, was adopted.

Draft resolution on incitement to racial and religious hatred and the promotion of tolerance (A/HRC/2/L.25)

88. Ms. JANJUA (Pakistan) said that at its second session the Council had decided to defer consideration of draft resolution A/HRC/2/L.25 to the current session. However, since draft resolution A/HRC/4/L.12, on combating defamation of religions, addressed most of the issues contained in A/HRC/2/L.25, the sponsors had decided to withdraw the draft.

Statements in exercise of the right of reply

89. Mr. CHIPAZIWA (Observer for Zimbabwe), speaking in exercise of the right of reply, said he wished to respond to the sharp criticism levelled at his country during the related debate held on the previous day. While Zimbabwe and other neighbouring countries had suffered brutal retribution for supporting the liberation movement in apartheid South Africa, neither the United Kingdom nor the United States of America, Germany or the Netherlands had ever imposed economic sanctions on the apartheid regime. In Pretoria, Japanese and rebel Taiwanese citizens as well as citizens of a certain African country had enjoyed the same honorary status as

white South Africans. The Council meetings of the previous day had brought back vivid memories of the past, with mostly white delegations raging against his country in what had appeared to be a special session on Zimbabwe in disguise.

At the extraordinary summit held on 29 March 2007, the Heads of State and Government of the Southern African Development Community had reaffirmed that all forms of sanctions against Zimbabwe should be lifted. They had further reiterated that the United Kingdom should honour its compensation obligations with regard to land reform and had called on the President of South Africa to facilitate dialogue between the opposition and the Zimbabwean Government.

The meeting rose at 12.55 p.m.